

202[] No. 0000

HARBOURS, DOCKS, PIERS AND FERRIES

The Poole Harbour Revision Order 202[]

Made - - - - 202[]

Laid before Parliament 202[]

Coming into force 202[]

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The Poole Harbour Commissioners have applied for a harbour revision order in accordance with section 14(2)(a) of the Harbours Act 1964(a) (“the Act”).

The Secretary of State, as the appropriate Minister for the purposes of that section, has by an Order(b) made under section 42A of the Act(c) delegated the functions of the appropriate Minister under section 14(d) to the Marine Management Organisation(e).

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- (a) 1964 c. 40. Section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4(1) and 14 and section 40 and Schedule 12 (Part II), by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 1, by S.I. 2006/1177, regulation 2 and the Schedule (Part I), by the Planning Act 2008 (c. 29), section 36 and Schedule 2, paragraphs 8 and 9, by S.I. 2009/1941, article 2 and Schedule 1, paragraph 12 and by the Criminal Justice Act 1982 (c. 48), sections 37 and 46. Section 54 (orders and regulations) was amended by the Transport Act 1981 (c. 56), sections 18 and 40 and Schedules 6 and 12 (Part II) and by the Marine and Coastal Access Act 2009 (c. 23), section 315 and Schedule 21, paragraphs 1 and 3(2).
- (b) S.I. 2010/674.
- (c) Section 42A was inserted, in relation to England and Wales, by section 315 of, and paragraphs 1 and 3(1) of Schedule 21 to, the Marine and Coastal Access Act 2009 (c. 23).
- (d) For the definition of “the Minister”, see section 57(1) of the Harbours Act 1964 (c. 40).
- (e) The Marine Management Organisation was established by section 1 of the Marine and Coastal Access Act 2009 (c. 23). The head office address of the Marine Management Organisation is located at Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH.

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b), and in exercise of the powers conferred by section 14(1) and (3) of the Act, makes the following Order.

PART 1 PRELIMINARY

Citation, commencement and extent

1.—(1) This Order may be cited as the Poole Harbour Revision Order 202[] and shall come into force on [DATE].

(2) The Poole Harbour Orders 1999 to 2015 and this Order may be cited together as the Poole Harbour Orders 1999 to 202[].

(3) This Order extends to England and Wales.

Interpretation

2.—(1) In this Order—

“the Act of 1964” means the Harbours Act 1964(a);

“the Act of 1995” means the Merchant Shipping Act 1995(b);

“the Order of 1999” means the Poole Harbour Revision Order 1999(c);

“the Order of 2012” means the Poole Harbour Revision Order 2012(d);

“the Order of 2015” means the Poole Harbour (Works) Revision Order 2015(e);

“aids to navigation” includes lights, buoys, beacons and signals including sound and electronic signals and any structure required to house the same;

“ashore” means all those parts of the harbour which are not constituted of land covered by water at the level of low water;

“commercial refuelling activities” includes recharging or emptying (in whole or part) a vessel with fuel in exchange for financial payment or other valuable consideration;

“the Commissioners” means the Poole Harbour Commissioners;

“electronic communications network” has the meanings given by section 32 of the Communications Act 2003(f) (meaning of electronics communications networks and services);

“functions” means the powers and duties at and in connection with the harbour authorised by this Order and the Poole Harbour Orders 1999 to 2015;

“general direction” means a direction given under article 13 (power to make general directions as to the use of harbour, etc.);

“harbour” means Poole harbour as defined in article 4 (area of harbour) of and Schedule 1 (harbour limits) to the Order of 2012;

“the Harbour Advisory Group” means the body or bodies established in accordance with article 21 (advisory bodies);

“the harbour master” means any person appointed as such by the Commissioners, and includes the duly authorised deputies and assistants of the harbour master and any other person for the

(a) 1964 c. 40.
(b) 1995 c.21.
(c) S.I. 1999/403.
(d) S.I. 2012/1777.
(e) S.I. 2015/1390.
(f) 2003 c. 21.

time being authorised by the Commissioners to act, either generally or for a specific purpose, in the capacity of harbour master;

“harbour operations” includes—

- (a) the marking, lighting or dredging of the harbour or any part thereof;
- (b) the berthing, mooring, dry docking or storage of a vessel;
- (c) the laying and maintenance of moorings or other similar apparatus in the harbour;
- (d) the warehousing, sorting, weighing or handling of goods;
- (e) the movement of goods and vehicles (including parking, designated and prohibited areas, speed limits, removal from the harbour);
- (f) the towing, or moving of a vessel;
- (g) the loading or unloading of goods, or embarking or disembarking of passengers;
- (h) energy generation or storage;
- (i) the control of use of the harbour by members of the public and other third parties (including movement, conduct, authorised activities, designated and prohibited areas) but not so as to cause an interference with any public right of way;

“harbour premises” has the same meaning as in article 2(1) of the Order of 2012;

“harbour premises plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Poole harbour premises plan referred to in the Poole Harbour Revision Order 202[]”, one copy of which is deposited at the offices of the Marine Management Organisation^(a) and the other at the harbour office^(b) of the Commissioners;

“the harbour undertaking” means the undertaking carried on by the Commissioners at and in connection with the this Order and the Poole Harbour Orders 1999 to 2015;

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“land” includes land covered by water;

“the level of high water” means the level of mean high water spring tides;

“the level of low water” means the level of mean low water spring tides;

“master”, in relation to a vessel, means any person having or taking command, charge, management or conduct of the vessel for the time being;

“operator” has the meaning given by paragraph 2 of Schedule 3A to the Communications Act 2003(the electronic communications code);

“Poole Harbour Orders 1999 to 2015” means the Order of 1999, the Order of 2012 and the Order of 2015;

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for any of the purposes of the Town and Country Planning Act 1990^(c);
- (b) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949^(d) (coast protection authorities);
- (c) any operator of an electronic communications network;

“Trinity House” means the Corporation of Trinity House of Deptford Strond^(e);

(a) The Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH.

(b) Poole Harbour Commissioners, 20 New Quay Rd, Poole, BH15 4AF.

(c) 1990 c. 8.

(d) 1949 c. 74, section 1 was amended by the Local Government Act 1972 (c. 70), Schedule 30.

(e) The Corporation of Trinity House, Tower Hill, London, EC3N 4DH.

“vehicle” includes any vehicle propelled on rails, any machinery on wheels or caterpillar tracks, trailers, caravans, bicycles, and mobile homes and includes a hovercraft or any other amphibious vehicle;

“vessel” includes a ship^(a), boat, houseboat, raft or craft of any description, however propelled or moved, and includes non-displacement craft, a watercraft, a hydrofoil vessel, or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily);

“watercraft” means any type of craft which—

- (a) is capable of moving under its own mechanical power;
- (b) is used, navigated or situated wholly or partially in or on water; and
- (c) is capable of being used to carry one or more persons,

but does not include a ship or fishing vessel within the meanings given in section 313(1) of the Act of 1995.

(2) All situations, points, directions, distances, lengths, dimensions, areas and other measurements stated in this Order shall be construed as if the words “or thereabouts” were inserted after each such situation, point, direction, distance, length, dimension, area or other measurement.

(3) References in the Order of 1999, Order of 2012 and Order of 2015 to the “harbour undertaking” shall be construed as having the same meaning as “harbour undertaking” as defined in article 2(1) of this Order.

Incorporation of provisions of the Commissioners Clauses Act 1847

3.—(1) Sections 41 to 47, 53, 60 and 99 to 101 of the Commissioners Clauses Act 1847^(b) (so far as applicable to the purposes and not inconsistent with the provisions of this Order), is incorporated with this Order subject to the modifications stated in paragraphs (2) and (4) below.

(2) References to—

- (a) ‘the clerk’ shall be construed as references to the ‘Chief Executive’;
- (b) ‘monthly meetings’ shall be construed as references to meetings held in accordance with paragraphs 6 and 14 to 19 of Schedule 2 to this Order.

(3) In section 40 (commissioners to hold annual and monthly meetings), ‘the prescribed time and place’ shall mean any time or place as may be decided by the Commissions from time to time for the purpose of carrying out the annual meetings of the Commissioners under that section.

(4) Section 60 (commissioners not to be personally liable for acts done in the capacity of a commissioner. commissioners to be indemnified for acts done in the execution of their office) shall apply to officers of the Commissioners as it applies to Commissioners.

PART 2

CONSTITUTION OF THE COMMISSIONERS

Incorporation and Constitution of the Commissioners

4.—(1) The Commissioners are and shall continue to be incorporated as a body corporate with perpetual succession and a common seal.

(2) Subject to articles 7 (terms of office of subsequent commissioners) and 9 (declaration to be made by commissioners) the Commissioners shall consist of—

- (a) ten Commissioners appointed by the selection panel;

(a) As defined in section 57 (Interpretation) of the Harbours Act 1964 (c. 40).

(b) 1847 c. 16.

- (b) the Chief Executive for the time being; and
- (c) an officer of the Commissioners, not being the Chief Executive, appointed by the chair after consultation with the Chief Executive.

(3) Each Commissioner appointed under paragraph (2)(a) must be a person who appears to the selection panel to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Commissioners of their functions including in particular (but without limitation to) special knowledge, experience or ability in one or more of the following matters—

- (a) commerce;
- (b) maritime activities;
- (c) health and safety;
- (d) management;
- (e) public relations and community issues;
- (f) knowledge and understanding of the Poole Harbour area;
- (g) industrial relations;
- (h) harbour operations, shipping, fishing or cargo handling;
- (i) accountancy or financial management;
- (j) boating and other water related leisure activities;
- (k) environmental matters affecting harbours;
- (l) any other skills and abilities considered from time to time by the Commissioners to be relevant to the discharge by the Commissioners of their functions,

and the selection panel must secure, so far as reasonably practicable, that the persons appointed by it will, 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 the Commissioners' functions.

(4) In making an appointment under paragraph (2)(a), or article 10 (casual vacancies), the selection panel must act in accordance with any guidance issued by the Secretary of State from time to time with respect to the exercise of such functions.

Selection Panel

5.—(1) The selection panel shall consist of—

- (a) the chair;
- (b) two persons appointed by the chair, at least one of which must not be a Commissioner.

(2) The Chief Executive shall not be a member of the selection panel but may advise the selection panel.

(3) The selection panel must—

- (a) have regard to the advice of the Chief Executive; and
- (b) consult with the Commissioners,

before making any appointment.

Transitional provisions

6. Subject to article 11 (disqualification or removal of a commissioner) and paragraphs 7 and 10 of Schedule 2 (incidental provisions relating to the commissioners)—

- (a) the chair who holds the office at the date of the coming into force of this Order ('the existing chair') shall continue in office until the end of their current term;
- (b) the vice chair who holds the office at the date of the coming into force of this Order ('the existing vice-chair') shall continue in office until the end of their current term;

- (c) the other Commissioners appointed under article 4(1)(b), (c) and 4(2) of the Poole Harbour Revision Order 2001(a) shall continue in office until the end of their current terms.

Terms of office of subsequent Commissioners

7.—(1) A person appointed under article 4(2)(a) or (c), other than a person referred to in article 6 (transitional provisions), shall, unless appointed to fill a casual vacancy and subject to articles 9 (declaration to be made by commissioners) and 11 (disqualification or removal of a commissioner) and paragraph 10 of Schedule 2 (incidental provisions relating to the commissioners), hold office for—

- (a) a period of three years following their appointment; or
- (b) for such lesser period as the Chief Executive and chair may specify for the purposes of ensuring that no more than four terms end in any calendar year.

Additional Commissioners

8. Notwithstanding article 5 (selection panel) the Commissioners if they see fit may at any time appoint up to two additional Commissioners at any time for a fixed term of up to twelve months.

Declaration to be made by Commissioners

9. No person shall act as a Commissioner until they have made the declaration set out in Schedule 1 to this Order (or a declaration to that effect); and a person shall cease to be a Commissioner if they fail to make that declaration within three months of the date of their appointment.

Casual vacancies

10.—(1) A casual vacancy arising in the office of a Commissioner appointed by the selection panel must, unless it is not reasonably practicable to do so, be filled by the appointment of a Commissioner by the selection panel in accordance with the requirements of article 4(3) and (4).

(2) A person appointed to fill a casual vacancy under this article must, subject to articles 9 (declaration to be made by commissioners) and 11 (disqualification or removal of a commissioner) and paragraph 10 of Schedule 2 (incidental provisions relating to the commissioners), hold office for the remainder of the term for which the Commissioner in whose place that person has been appointed.

Disqualification or removal of a Commissioner

11.—(1) If the Commissioners are satisfied that a Commissioner—

- (a) has without the permission of the Commissioners been absent from the meetings of the Commissioners—
 - (i) for a period during which three such meetings have been held,
 - (ii) for a period of four consecutive monthswhichever of these periods is the longer,
- (b) become bankrupt or made an arrangement with that person's creditors;
- (c) is incapacitated by physical or mental illness from discharging the functions of a Commissioner; or
- (d) is otherwise unable, unwilling or unfit to discharge the functions of a Commissioner,

(a) S.I. 2001/2820.

the Commissioners may declare the office of that person as a Commissioner to be vacant and thereupon that person's office shall become vacant.

Incidental provisions relating to Commissioners

12. On and after the new constitution date the provisions of Schedule 2 shall have effect with respect to the Commissioners and each Commissioner.

PART 3

GENERAL DIRECTIONS

Power to make general directions as to the use of harbour, etc.

13.—(1) The Commissioners may, in accordance with the requirements of article 14 (procedure for giving, amending or revoking general directions), give a direction for—

- (a) the ease, convenience or safety of navigation;
- (b) the safety of persons;
- (c) the protection of property, flora or fauna;
- (d) the ease, convenience or safety of harbour operations ashore,

within the harbour.

(2) A direction under this article may apply—

- (a) to all vessels or to a class of vessels;
- (b) to all vehicles or to a class of vehicle;
- (c) to persons designated in the direction;
- (d) to the whole of the harbour or to a part;
- (e) at all times or at certain times or at certain states of the tide,

and every direction must specify the extent of its application including its geographical extent in relation to the matters referred to in sub-paragraphs (a), (b), (c), (d) and (e).

(3) The Commissioners may amend or revoke a direction given under paragraph (1).

(4) The Commissioners must keep and make available for inspection at the harbour office and on the Commissioners' website a public register of all in force general directions^(a).

Procedure for giving, amending or revoking general directions

14.—(1) Subject to paragraph (7), if the Commissioners propose to give, amend or revoke a general direction, they must—

- (a) give notice in writing of the proposal and a plan of the area over which the proposal applies to the "designated consultees" them being—
 - (i) the Chamber of Shipping,
 - (ii) the Royal Yachting Association,
 - (iii) the Harbour Advisory Group, and
 - (iv) such other persons or organisations as they consider appropriate for the purposes of the application of this provision,

(a) The public register of all in force directions may be inspected during office hours at the harbour office located at Poole Harbour Commissioners, 20 New Quay Rd, Poole BH15 4AF and available via the Commissioners' website at www.phc.co.uk.

- (b) place a notice of the proposal on the Commissioners' website and in prominent locations at the harbour on the same date as the notice given in accordance with sub-paragraph (a) and keep that notice on display for a minimum of 6 weeks;
 - (c) consult with the designated consultees upon the proposal and allow a period of not less than 6 weeks beginning with the date of the notice given in accordance with sub-paragraphs (a) and (b) for written representations to be made by the designated consultees and any other persons to the Commissioners regarding the proposal;
 - (d) have regard to all representations made during consultation;
 - (e) give notice in writing to the designated consultees, and to those other persons that have provided a consultation response, following consultation as to whether the Commissioners propose to proceed with the proposal and, if so, specifying whether they are making any modifications to the proposal and their reasons for so doing; and
 - (f) if the Commissioners propose to proceed with the proposal and a designated consultee has made representations against the proposal, invite that designated consultee to confirm in writing whether they maintain their objection to the proposal within 28 days beginning with the date of the notice given in accordance with sub-paragraph (e), or such longer period as the Commissioners may specify.
- (2) Where the Commissioners have complied with paragraph (1), they may proceed to give, amend or revoke a general direction if—
- (a) none of the designated consultees have made representations against the proposal;
 - (b) none of the designated consultees which made representations against the proposal have confirmed in writing that they are maintaining their objection to the proposal in accordance with paragraph (1)(f); or
 - (c) where a designated consultee has maintained an objection in accordance with paragraph (1)(f), the requirements of paragraph (3) have been complied with.
- (3) Where a designated consultee has confirmed in writing to the Commissioners that they maintain their objection to a proposal—
- (a) the issue must be referred to an independent person ("the adjudicator") appointed—
 - (i) by agreement between the Commissioners and each designated consultee maintaining an objection in accordance with paragraph (1)(f) ("the parties"), or
 - (ii) failing agreement, by the President of the London Maritime Arbitrators Association on the application of any of the parties,
 - (b) so far as is reasonably practicable within 12 weeks beginning with the date of the referral, the adjudicator must—
 - (i) provide a reasonable opportunity for the parties to make representations to or be heard by the adjudicator at a hearing, and
 - (ii) make a written report to the parties with findings and recommendations on the issue, and
 - (c) the Commissioners must decide whether to exercise the power to give, amend or revoke the general direction having regard to the adjudicator's report (but they are not bound to give effect to any recommendations) and, once they have decided, must give notice in writing to the designated consultees and to any other person that provided a consultation response of their decision and the reasons for that decision.
- (4) Except as otherwise provided for in paragraph (3), the adjudicator may determine the procedure for the making of representations and the conduct of any hearing.
- (5) The costs incurred by the adjudicator and the parties from a referral under paragraph (3) are to be paid by one or more of the parties as the adjudicator may direct.
- (6) If the Commissioners wish to exercise the power to give, amend or revoke a general direction in a form materially different from both the form notified to the designated consultees under paragraph (1)(e), and where paragraph (3) applies, the form recommended by the

adjudicator under paragraph (3)(b), they must proceed, as if the proposal is a new proposal to which paragraph (1) applies.

(7) Paragraphs (1) to (6) do not apply where in the interests of navigational safety, or safety of persons the Commissioners propose to give or amend a general direction—

- (a) in an emergency; or
- (b) relating to an intended activity or operation within the harbour if—
 - (i) the intended activity or operation is expected to commence within 16 weeks of the Commissioners having been notified or otherwise becoming aware of the intended activity or operation,
 - (ii) the intended activity or operation is to last less than 28 days, and
 - (iii) the Commissioners consider that the giving or amending of a general direction in relation to the intended activity or operation is required, taking into account other activities or operations in the harbour which may be affected.

(8) Where the Commissioners proceed to give or amend a general direction in accordance with paragraph (7), they must—

- (a) as soon as is reasonably practicable give notice of the direction or amendment to those persons who would have been designated consultees had paragraph (1)(a) applied; and
- (b) if the direction or amendment is intended to continue in force for more than 12 weeks, apply the procedure under paragraphs (1)(c) to (f) and (2) to (6) to the direction or amendment with the following modifications—
 - (i) a reference to the ‘proposal’ in those paragraphs is to be read as a reference to the direction or amendment,
 - (ii) in paragraph (1)(c), for “sub-paragraphs (a) and (b)” substitute “paragraph (8)(a)”, and
 - (iii) a reference to the Commissioners ‘proceeding’ with a proposal is to be read as a reference to the Commissioners determining that the direction or amendment should remain in force.

Publication of general directions

15.—(1) Subject to paragraph (4), the Commissioners must publish a notice of the giving, amendment or revocation of a general direction as soon as reasonably practicable on one occasion in a newspaper circulating in the area of the harbour and electronically on the Commissioners’ website for the period of 28 days from the date of publication of the notice in the newspaper.

(2) The notice must state a place at which copies of the general direction may be inspected.

(3) The Commissioners must display notices of general directions that apply to harbour premises at prominent locations within the harbour.

(4) In an emergency, the Commissioners may give notice of the giving or amendment of a general direction in any manner which they consider to be appropriate.

Failure to comply with general directions

16.—(1) A person who fails to comply with a general direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) In any proceedings for an offence under paragraph (1) it shall be a defence for the person charged to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Master’s responsibility in relation to directions

17. The giving of a general 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 the vessel, to persons on board the vessel, to the cargo or any other person or property.

Boarding of vessels and vehicles

18. A duly authorised officer of the Commissioners may, on producing their authority if so required, enter and inspect a vessel or vehicle in the harbour for the purposes of any enactment relating to the harbour (including any enactment so relating contained in subordinate legislation) or of any byelaw, special direction or general direction of the Commissioners relating to the harbour, including the enforcement of any such enactment or byelaw, special direction or general direction.

Saving for existing directions, byelaws etc.

19. Any general direction, special direction, byelaw, regulation, licence, lease, consent or other agreement made, issued, entered into or granted by the Commissioners in relation to the harbour undertaking and in force on or immediately before or on the date on which this Order comes into force, shall, notwithstanding the amendments set out in articles 36 (amendment of the Order of 1999) and 37 (amendment of the Order of 2012) and the repeals and revocations set out in article 38 (revocation / repeal) and Schedule 3 (revocation / repeal), continue to have effect.

PART 4

MISCELLANEOUS AND GENERAL

Harbour premises

20.—(1) The harbour premises shall be deemed to be operational land within the meaning and for the purposes of the Town and Country Planning Act 1990(a).

(2) The extent of the harbour premises at the date of this Order is shown for illustrative purposes shaded yellow on the harbour premises plan.

(3) In the event of any discrepancy between the description of the boundaries of the harbour premises and the boundaries shown on the harbour premises plan, the description shall prevail over the said plan.

(4) The Commissioners must keep and make available, for inspection at the harbour office and on the Commissioners’ website from the day on which this Order comes into force, an illustrative plan.

(5) The Commissioners must update the illustrative plan to reflect any alterations to the extent of the harbour premises within the period of 30 days beginning with the day on which the alterations are made.

(6) In this article “illustrative plan” means a plan showing, for illustrative purposes only, the harbour premises.

Advisory bodies

21.—(1) The Commissioners must establish one or more advisory bodies which the Commissioners must (except in an emergency) consult on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.

(a) 1990 c. 8; “operational land” is defined in section 263, which section is subject to section 264.

(2) The Commissioners must make arrangements for every such advisory body to meet not less than twice a year.

(3) The Commissioners must take into consideration within a reasonable period any matter, recommendation or representation which may from time to time be referred or made to it by such an advisory body whether or not that advisory body has been consulted by the Commissioners on the matter, recommendation or representation so referred or made.

(4) Any advisory body established under this article must consist of such number or numbers of persons appointed by the Commissioners as the Commissioners from time to time consider appropriate.

(5) Appointments to any such advisory body must be made by the Commissioners in accordance with a scheme prepared by them for that purpose and the scheme must provide for the appointment of persons who, in the opinion of the Commissioners, are representative of persons having an interest in the functioning of the harbour.

(6) Any such advisory body may determine its own quorum and procedure and must appoint a chair.

(7) An individual member of any such advisory body may hold office for the period of three years from the date of their appointment and at the end of that period shall be eligible for reappointment.

(8) A member of any such advisory body may resign their office at any time by notice in writing given to the Commissioners.

Other commercial activities

22.—(1) The Commissioners may, in addition to any other powers conferred on the Commissioners—

- (a) carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person;
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a company, for carrying on any part of the harbour undertaking or carrying on at any place a trade or business of any kind,

provided that it is conducive to the improvement, maintenance, operation or management of the harbour in an efficient and economical manner.

(2) Except as is otherwise provided by any enactment, the powers of a company referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Commissioners would not themselves have the power to do that thing.

(3) The powers of the Commissioners under this article are additional to the powers of the Commissioners under section 37 of the Docks and Harbours Act 1966^(a) (powers of harbour authorities to acquire a harbour business or shares in a harbour business).

Power to delegate functions

23. Subject to paragraph 9B of Schedule 2 to the Act of 1964 (functions which cannot be delegated under a power conferred by a harbour revision order), the Commissioners may delegate the performance of any of their functions to be carried out by any such company as is referred to in article 22(1)(b) of this Order or in article 53 of the Order of 2012 (development, etc., of land).

(a) 1966 c. 28; section 37(3) was repealed by the Transport and Works Act 1992 (c.42), Schedule 4 (Part II).

Bunkering

24.—(1) The Commissioners may from time to time grant to a person with or without conditions a licence to carry out commercial refuelling activities related to vessels in the harbour.

(2) Nothing in any licence granted under paragraph (1) shall entitle a person to carry out commercial refuelling activities from or on land not owned or leased by that person or by the Commissioners or in which that person has no interest.

(3) Any licence granted under paragraph (1) shall be valid only for a period of one year commencing with the date on which it is granted.

(4) The Commissioners may charge for a licence granted under paragraph (1) such reasonable fee as the Commissioners may from time to time prescribe.

(5) Any person who without reasonable excuse carries out or permits a commercial refuelling activity related to a vessel in the harbour except in accordance with a licence issued by the Commissioners under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Aids to navigation

25.—(1) In addition to its powers under section 201 of the Act of 1995 (powers of harbour authorities as local lighthouse authorities) but subject to obtaining any necessary interest in or over land, the Commissioners may erect or place, alter, discontinue or remove aids to navigation in any place adjacent to the harbour.

(2) The Commissioners must not exercise the powers of paragraph (1) without the approval of Trinity House.

Power to dredge

26.—(1) The Commissioners may, as appears to them to be necessary or desirable for the purposes of the harbour undertaking, may deepen, widen, dredge, scour, cleanse, alter and improve the harbour below the level of high water.

(2) Subject to paragraph (3), all materials dredged up or removed by the Commissioners in exercise of the powers of this article shall be the property of the Commissioners and may be used, sold, deposited or otherwise disposed of as the Commissioners may think fit.

(3) No such materials shall be laid down or deposited in contravention of the provisions of any enactment as respects to the disposal of waste.

Repair of landing places, etc.

27.—(1) In this article, “relevant feature” means any landing place, jetty, wall, pontoon, pile, embankment, bridge, structure, groyne or other work in the harbour or on land immediately adjoining the waters of the harbour other than one under the control or management of the Commissioners.

(2) The Commissioners may by notice require the owner, lessee or occupier of a relevant feature which in the opinion of the Commissioners is, or is likely to become, by reason of its insecure condition or want of repair—

- (a) dangerous to persons or vessels using the harbour; or
- (b) a hindrance to the navigation of the harbour,

to remedy its condition to the Commissioners’ reasonable satisfaction within a reasonable time, not being less than 21 days, specified in the notice.

(3) If a person to whom notice is given under this article fails without reasonable excuse to comply with the notice within the time stated in the notice or such other time as the Secretary of State on an appeal may substitute therefor—

- (a) that person shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and
 - (b) the Commissioners may carry out the work required by the notice and may recover the reasonable expenses of so doing from the person on whom the notice was served.
- (4) A notice under this article must have annexed to it a copy of this article.
- (5) A person aggrieved by a notice served by the Commissioners under this article may, during the period of 21 days beginning with the date on which the notice was served, appeal to the Secretary of State against the notice.
- (6) An appeal under paragraph (5) must be made by notice in writing stating the grounds of the appeal.
- (7) A person who appeals under paragraph (5) must give to the Commissioners notice of the appeal accompanied by a copy of the statement of appeal; and the Commissioners shall, within 21 days of receipt of the notice, be entitled to furnish to the Secretary of State its observations on the appeal.
- (8) On an appeal under paragraph (5), the Secretary of State shall either quash the notice, modify its requirements or dismiss the appeal.
- (9) In this article “owner”, “lessee” and “occupier”, in relation to a relevant feature, means the person who was the “owner”, “lessee” or “occupier” of the relevant feature at the date the notice is served, or if the “owner”, “lessee” or “occupier” of the relevant feature is not readily identifiable, the “owner”, “lessee” or “occupier” of the land on which the relevant feature is situated at the date the notice is served.

Restriction of works and dredging

28.—(1) Subject to paragraph (3), no person other than the Commissioners shall, on, under, in or over tidal waters or land below the level of high water in the harbour—

- (a) construct, alter, renew or extend any works, unless that person is licensed to do so by a works licence and except on the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved under article 30 (licensing of works);
- (b) dredge, unless that person is licenced to do so by a dredging licence and except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved under article 31 (licence to dredge).

(2) The Commissioners may by notice require a person who contravenes this article to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates and to restore the site thereof to its former condition; and if that person fails to comply with the notice, the Commissioners may carry out the works so required and may recover from that person the cost of so doing.

(3) Nothing in this article shall apply to—

- (a) any operations or works specifically authorised by any enactment;
- (b) any operations or works of a statutory undertaker;
- (c) any operations or works authorised by a moorings licence granted under article 10 of the Order of 2012 (licensing of moorings).

(4) Any person who without reasonable excuse contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Control of certain operations and works of statutory undertakers

29.—(1) This article applies to any operations or works in the harbour of a statutory undertaker on, under, in or over tidal waters or land below the level of high water, not being operations or works which are specifically authorised by an enactment.

(2) Subject to paragraph (3), a statutory undertaker must not carry out any operations or works to which this article applies unless it has given notice of its intention to do so to the Commissioners and has supplied the Commissioners with such particulars as they may reasonably require.

(3) Where, in an emergency, it is impracticable to give notice as required by paragraph (2), the statutory undertaker must inform the Commissioners of the operations or works as soon as reasonably practicable.

(4) Any operations or works to which this article applies shall be carried out subject to any general direction or special direction which may from time to time be given by the Commissioners to the statutory undertaker, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of such operations or works.

(5) Any person who, without reasonable excuse, contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Licensing of works

30.—(1) The Commissioners may upon such terms and conditions as they think fit grant to any person a licence to construct, retain, alter, renew or extend any works in the harbour on, under, in or over tidal waters or land below the level of high water, notwithstanding that the works as constructed, altered, renewed, or extended interfere with the public right of navigation or any other public right.

(2) An application for a works licence must be made in writing to the Commissioners and must—

- (a) be accompanied by plans, sections and particulars of the works to which the application relates; and
- (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable the applicant to enjoy the benefits of the licence and, if not, the action taken to enable the applicant to obtain such rights if the licence is granted,

and, in granting a licence, the Commissioners may require modifications in the plans, sections and particulars so submitted.

(3) The Commissioners may require an applicant for a works licence, on making the application, to pay a reasonable fee in respect of the administrative expenses of dealing with the application.

(4) As a condition of the granting of a licence, the Commissioners may require a licensee, being an applicant to whom a licence has been granted or the applicant's successor, where works are to be constructed in accordance with the licence, to pay such reasonable fees in respect of the Commissioners' administrative expenses and overheads in supervising or inspecting where necessary the construction or maintenance of the works.

(5) Where the Commissioners refuses to grant a works licence which has been applied for they must give reasons in writing for their refusal.

(6) Where the Commissioners grants a works licence upon terms or conditions or require any modification in the plans and particulars, they must give reasons in writing for the terms and conditions imposed or the modifications required.

(7) If within 16 weeks from the receipt of the application under paragraph (2) the Commissioners do not grant a works licence, they shall be deemed to have refused the application.

(8) When carrying out operations pursuant to a works licence, the holder of the licence must not—

- (a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or
- (b) do anything which obstructs or impedes any work relating to the inspection or repair of any such apparatus,

without the consent of the statutory undertaker concerned.

Licence to dredge

31.—(1) The Commissioners may upon such terms and conditions as they think fit grant to any person a licence to dredge in any part of the harbour.

(2) An application for a dredging licence must be made in writing to the Commissioners and must be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence, and in granting any such licence the Commissioners may require modifications in the plans, sections and particulars so submitted.

(3) Paragraphs (3) to (8) of article 30 (licensing of works) shall apply in relation to a dredging licence as they apply in relation to a works licence.

(4) Any materials, other than wreck within the meaning of Part IX of the Act of 1995 (salvage and wreck), taken up or collected by means of dredging pursuant to a dredging licence—

- (a) shall be the property of the holder of the licence; and
- (b) the holder of the licence may use, sell or otherwise dispose of or remove or deposit the materials as they think fit provided that no such material shall be laid down or deposited in any place within the harbour below the level of high water except —
 - (i) in such positions as may be approved by the Commissioners, and
 - (ii) subject to such conditions as may be imposed by the Commissioners.

(5) If it appears to the holder of the dredging licence that the Commissioners have unreasonably withheld or refused its approval under paragraph (4) or that any condition imposed by the Commissioners under that paragraph is unreasonable, that person may within 28 days from the date on which the Commissioners notify the applicant of their decision appeal to the Secretary of State whose decision shall be binding upon the parties.

(6) Paragraphs (2) to (5) of article 32 (appeals in respect of works or dredging licences) shall apply in relation to any appeal made under paragraph (5).

Appeals in respect of works or dredging licences

32.—(1) An applicant for a works licence or a dredging licence who is aggrieved by—

- (a) a refusal of the Commissioners to grant a licence;
- (b) any terms or conditions subject to which the licence is granted;
- (c) any modifications required by the Commissioners in the plans, sections and particulars submitted by the applicant,

may, within 28 days from the date on which the Commissioners notifies the applicant of their decision or the date on which the Commissioners are, under article 30(7), deemed to have refused the application, appeal to the Secretary of State.

(2) An appeal under paragraph (1) must be made by notice in writing stating the grounds of the appeal.

(3) The appellant must send to the Commissioners a copy of the notice of the appeal; and the Commissioners may, within 28 days of the receipt of the notice, furnish to the Secretary of State their observations on the appeal.

(4) The Secretary of State may confirm, vary or revoke the decision appealed against and may make such consequential amendments as the Secretary of State may specify.

(5) The Secretary of State may direct the Commissioners to give effect to the decision, and the Commissioners must forthwith comply with any direction given.

Notices

33.—(1) Except where this Order expressly provides otherwise, a notice or other document required or authorised to be served for the purposes of this Order, or any direction given under this Order, must be in writing and must be served by first class post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) Where a person on whom a notice or other document is to be served has agreed in writing that service may be by email, or other electronic means, the Commissioners may provide notices by that means until such time as the person informs them in writing that they are no longer willing to receive notices or documents by email or by such other electronic means.

(4) For the purposes of section 7 of the Interpretation Act 1978(a) (references to service by post) as it applies for the purposes of this article, the proper address of a person in relation to the service on them of a notice or document under paragraph (1) is, if they have given an address for service that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body;
- (b) in any other case, their last known address at the time of service.

(5) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person whose name and address cannot be ascertained after reasonable inquiry—

- (a) in the case of a notice or document to be served on a person as having an interest in or as the occupier of, any land, it may be served by—
 - (i) addressing it to them by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it), and
 - (ii) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land,
- (b) in the case of a notice or document relating to a vessel (including a wreck), it may be served by exhibiting it in a conspicuous position on or near the vessel (unless it would not be reasonably practicable to exhibit the notice or document in this manner or if the notice or document would not be likely to be seen if it were so exhibited) or by handing it to a member of the crew; and
- (c) in the case of any other notice or document or a notice or document that is not capable of being served in accordance with sub-paragraph (b) it may be served by displaying it at the harbour office for the period of its duration.

Saving for Trinity House

34. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.

Crown Rights

35.—(1) Nothing in this Order shall—

- (a) prejudicially affect any estate, right, power, privilege, authority or exemption of the Crown;
- (b) authorise the Commissioners or any licensee to take, use, enter upon or in any manner interfere with any land or interests in land or any rights of whatsoever description

(a) 1978 c. 30.

(including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) belonging to—

- (i) His Majesty in right of His Crown and under the management of the Crown Estate Commissioners, without the consent in writing of the Crown Estate Commissioners,
- (ii) a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

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

Amendment of the Order of 1999

36.—(1) The Order of 1999 is amended as follows.

(2) In article 2(1) (interpretation) for the definition of “harbour” substitute—

““harbour” means Poole harbour as defined in article 4 (area of harbour) of and Schedule 1 (harbour limits) to of the Poole Harbour Revision Order 2012;”.

(3) In article 8 (works to be deemed part of harbour undertaking) omit “authorised by the Poole Harbour Acts and Orders 1756 to 1981”.

Amendment of the Order of 2012

37.—(1) The Order of 2012 is amended as follows.

(2) In article 2(1) (interpretation)—

(a) in the appropriate places insert the following definitions—

““charges” means the charges, rates, tolls and dues which the Commissioners are for the time being authorised to demand, take and recover in relation to the harbour;”;

““harbour facilities” includes, but is not limited to, shipping, fisheries, marine, energy, recreational, leisure, tourism and retail facilities (including buildings);”;

(b) in the appropriate place insert the definition of “watercraft” contained in article 2(1) of this Order;

(c) omit the definition of “personal watercraft”;

(d) for the definition of “vessel” substitute the definition of “vessel” contained in article 2(1) of this Order;

(e) for the definition of “harbour premises” substitute—

““the harbour premises” means the quays, piers, landing places and all other works, lands and buildings for the time being vested in, or occupied or administered by, the Commissioners as part of their harbour undertaking, and occupied wholly or mainly for the purpose of activities there carried on;”.

(3) In article 3(1) (incorporation of the Harbours, Docks and Piers Clauses Act 1847) insert “51,” immediately before “52”.

(4) After article 29 (charges for services or facilities) insert—

“Charges other than ship, passenger and goods dues

29A. The Commissioners may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig, or floating platform or a chain ferry, or any vessel, not being a ship as defined by section 57(1) of the 1964 Act, entering, using, within or leaving the harbour such reasonable charges, including in relation to any goods or passengers carried, as it may determine, and sections 30 (duty of harbour and local lighthouse authorities to make available for inspection, and to keep for sale, copies of lists of certain charges) and 31 (right of objection to ship, passenger and goods dues) of the Act of 1964 shall with all necessary modification apply to the charges authorised by this article as they

may apply to ship, passenger and goods dues demanded under section 26 (repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them) of the 1964 Act.”.

(5) In article 30 (payment of charges) after paragraph (4) insert—

“(5) Where charges payable to the Commissioners have not been paid by the time they fall due for payment, the Commissioners may detain within or refuse entry to, or require removal from the harbour of—

- (a) the vessel or goods to which the charges relate; and
- (b) any other vessels or goods that the owner or master of the vessel or goods to which the charges relate is also the owner or master of,

until such charges have been paid in full.”.

(6) In article 31 (compounding arrangements and rebates)—

(a) immediately after “31.” insert “—(1)”; and

(b) after paragraph (1) insert—

“(2) Nothing in section 30 of the 1964 Act (duty of harbour and local lighthouse authorities to make available for inspection, and to keep for sale, copies of lists of certain charges) shall require the Commissioners to include in the list of ship, passenger and goods dues, as required by subsection (1) of that section, ship, passenger and goods dues—

- (a) reduced by a total or partial exemption;
- (b) subject to a compounding arrangement or rebate.”.

(7) In article 45 (application of revenue)—

(a) immediately after “45.” insert “—(1)”; and

(b) after paragraph (1) insert—

“(2) The Commissioners may apply any part of the revenues not used for the purposes set out in (1)(a) to (c) to a reserve fund established under article 42 (reserve fund).”.

(8) In Schedule 2 (purposes for which byelaws may be made), in paragraph 23 for “personal water craft” substitute “watercraft”.

Revocation / Repeal

38. On the date of this Order the enactments mentioned in the first and second columns of Schedule 3 (revocation / repeal) shall be revoked or repealed (as appropriate) to the extent specified in the third column of that Schedule.

Signed by authority of the Marine Management Organisation

Tom McCormack
Chief Executive Officer

Date

An authorised employee of the Marine Management Organisation

SCHEDULES

SCHEDULE 1

Article 9

FORM OF DECLARATION

POOLE HARBOUR COMMISSIONERS
POOLE HARBOUR ACTS AND ORDERS 1999 to 20[X]

I, [FULL NAME] do solemnly declare:

(1) that I will faithfully and impartially, according to the best of my skill and judgement, execute all the powers and authorities vested in me as a Commissioner by virtue of the Poole Harbour Acts and Orders 1999 to [20[X];

(2) that I have read and understood the notes entitled “[Note for Guidance of Commissioners on the Disclosure of Financial and Other Interests”] and [“Duties of Commissioners”] and that I will comply with the requirements as to disclosure of such interests, laid down by paragraph 16 of Schedule 2 to the Poole Harbour Revision Order 20[X], and in particular that:

(a) I have disclosed to the Chief Executive details of every financial and other interest as is mentioned in those notes;

(b) I will in future notify the Chief Executive as soon as reasonably practicable of any alteration in those interests, or any new interest such as mentioned in those notes, which I may acquire.

Made and signed at Poole Harbour on the

.....day of)

signature:.....

.....)

Witnessed by the Chief Executive

.....)

signature:.....

as a Commissioner.

Note: Where the declaration is to be made by the Chief Executive the references to the Chief Executive above shall be read as references to the Chair.

INCIDENTAL PROVISIONS RELATING TO THE COMMISSIONERS

Appointment of chair and vice-chair of the Commissioners

1. Subject to article 6(2), there shall be a chair of the Commissioners who shall be appointed by those of the Commissioners who are appointed under article 4(2)(a) or article 10 (casual vacancies) from among their number.

2. Subject to paragraph 7, and unless they resign their office as chair or cease to be a Commissioner, the existing chair shall continue in office as chair until their current term of office as chair has expired.

3. Subject to paragraph 7, every chair appointed under paragraph 1 above shall, unless they resign their office as chair or ceases to be a Commissioner hold office for a period of three years.

4. Subject to article 6(3), there shall be a vice-chair of the Commissioners who must be appointed by those of the Commissioners who are appointed under article 5(2)(a) or article 10 (casual vacancies) from among their number.

5. Subject to paragraph 7, and unless they resign their office as vice-chair or cease to be a Commissioner, the existing vice chair shall continue in office as vice-chair until their current term of office as vice-chair has expired.

6. Subject to paragraph 7, every vice-chair subsequently appointed under paragraph 4 shall, unless they resign their office as vice-chair or cease to be a Commissioner, hold office for a period of one year.

7. If the Commissioners are satisfied that the chair or vice-chair should cease to hold their office as such, they may terminate that person's office as such and appoint another Commissioner chair or vice-chair during the remainder of the term for which the former chair or vice-chair was appointed.

8.—(1) On a casual vacancy occurring in the office of chair or vice-chair of the Commissioners, the vacancy must be filled by those of the Commissioners who are appointed under article 4(2)(a), or 10 at a meeting held as soon as reasonably practicable after the vacancy occurs.

(2) A Commissioner appointed under this paragraph to fill a casual vacancy in the office of chair or vice-chair shall, unless that person resigns that office or ceases to be a Commissioner, hold that office during the remainder of the term for which the chair or vice-chair whom they replace was appointed.

Meetings of the Commissioners

9.—(1) The first meeting of the Commissioners after the date of this Order must be convened as soon as reasonably practicable by the Chief Executive for such date as the Chief Executive may fix; and the Chief Executive shall make arrangements for notice of that meeting to be sent by post or email to each of the other Commissioners.

(2) The Commissioners shall meet at least six times a year.

Vacation of office by Commissioner

10. A Commissioner (other than the Chief Executive) may resign their office at any time by notice in writing given to the chair of the Commissioners or, if that Commissioner is the chair, the vice-chair.

Reappointment of Commissioners

11.—(1) Subject to the provisions of this Schedule, a vacating Commissioner shall be eligible for reappointment by the selection panel as a Commissioner unless that person has been disqualified from office under article 11 (disqualification or removal of a commissioner).

(2) A vacating appointed Commissioner shall not be eligible for reappointment as a Commissioner where, immediately before the date in question, that person has held office for two consecutive terms unless they are the chair of the Commissioners, or in respect of the third consecutive term, following public advertisement of the role and a competitive appointment process.

(3) A chair of the Commissioners who is an appointed Commissioner shall not be eligible for reappointment as a Commissioner where, immediately before the date in question, that person has held office as a Commissioner for three consecutive terms, or in respect of the fourth consecutive term, following public advertisement of the role and a competitive appointment process.

(4) For the purposes of this paragraph, “term” does not include the remainder of a term during which the Commissioner was appointed to fill a casual vacancy under article 10 (casual vacancies); or

(5) In this paragraph “appointed Commissioner” means a Commissioner appointed under article 4(2)(a).

(6) The officer appointed under article 4(2)(c) shall hold office as a Commissioner for a term of three years unless the officer shall previously cease to hold the office held by them at the time of their appointment, and shall be eligible for reappointment for as long as they continue to be an officer of the Commissioners.

Reappointment of chair

12.—(1) A chair of the Commissioners shall not be eligible for reappointment as the chair where, immediately before the date in question, that person has served as chair for three consecutive terms.

(2) For the purposes of this paragraph, “term” does not include the remainder of a term during which the Commissioner was appointed to fill a casual vacancy in the office of chair under paragraph 8; or

(3) If a chair’s term of office as a Commissioner would have expired before their term of office as chair their term of office as a Commissioner shall be extended until the date upon which their term of office as chair expires or (if earlier) the date upon which they otherwise ceases to be the chair.

Committees

13. The Commissioners may, consistently with their duties and subject to such conditions as they think fit, delegate any of their functions, other than the functions set out in subparagraphs (a) to (f) of paragraph 9B of Schedule 2 to the Act of 1964, to a committee of the Commissioners.

Proceedings of the Commissioners and committees

14. The acts and proceedings of the Commissioners, or of any committee of the Commissioners, 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 Commissioner, or as chair or vice-chair, of the Commissioners or committee.

15. The quorum required for a meeting of the Commissioners shall be five.

16.—(1) If a Commissioner has any interest, direct or indirect—

- (a) in any contract or proposed contract to which the Commissioners is or would be a party or where a Commissioner is a director of a company or body with which the contract or proposed contract is made or proposed to be made; or

- (b) in any other matter with which the Commissioners are concerned,

that person must declare that interest.

(2) If a Commissioner is present at a meeting of the Commissioners or of any committee of the Commissioners at which a contract or other matter in which that person has an interest is to be considered that person must—

- (a) as soon as is practicable after the commencement of that meeting disclose their 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 Commissioners present by resolution require that person to do so, and
 - (ii) while a decision on that contract or matter is being made.

(3) This paragraph shall not apply to any interest—

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

17. The person for the time being holding office as vice-chair shall have and may exercise in the absence or incapacity of the chairman all the functions of the chair.

18. If at any meeting of the Commissioners neither the chair nor the vice-chair are present the Commissioners present at the meeting shall choose one of their number to be the chair of the meeting.

19.—(1) Every question at a meeting of the Commissioners or of a committee of the Commissioners shall be decided by a majority vote of the Commissioners present and voting.

(2) If at any meeting of the Commissioners or of a committee of the Commissioners there is an equality of votes on any question the chair of the meeting shall have a second or casting vote which the chair may exercise for or against the status quo.

Authentication of seal and other documents

20.—(1) The application of the seal of the Commissioners shall be authenticated by the signature of the chair of the Commissioners or some other Commissioner authorised by the Commissioners to authenticate the application of the seal, and of the Chief Executive or some person authorised by the Commissioners to act in the Chief Executive's place in that behalf.

(2) The Commissioners 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.

(3) Any notice, licence or other document given or issued by the Commissioners shall, unless the contrary intention is expressed, be sufficiently authorised if signed by the Chief Executive or a duly authorised officer of the Commissioners.

Remuneration of Commissioners

21. The Commissioners may pay to the chair and other Commissioners such salary, allowances and expenses as the Commissioners from time to time determines.

General

22. Subject to the provisions of this Schedule, the procedure and business of the Commissioners and of any committee of the Commissioners shall be regulated in such manner as the Commissioners may from time to time determine.

23. The Commissioners may appoint a Chief Executive and such other persons as from time to time they think necessary or desirable for and incidental to the performance of their functions and pay to them such remuneration as the Commissioners think fit.

SCHEDULE 3

Article 38

REVOCATION / REPEAL

Table 1

<i>Number</i>	<i>Short Title</i>	<i>Extent of Revocation/Repeal</i>
4 & 5 Geo. 5. Ch. clv.	Poole Harbour Act 1914	Whole Act.
1999 No. 403	The Poole Harbour Revision Order 1999	Articles 1(2), 6(3) and 16.
2001 No. 2820	The Poole Harbour Revision Order 2001	Whole Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made on the application of the Poole Harbour Commissioners modernises and consolidates the statutory harbour powers applying in relation to Poole Harbour and provides for:

(1) The incorporation of the Commissioners (article 4) and related constitutional provisions (articles 5 to 12 and Schedules 1 and 2).

(2) Powers of general direction for the Commissioners for the regulation and management of the harbour (articles 13 to 16). This Order creates an offence of failing to comply with general directions, the penalty for which is a fine on summary conviction not exceeding level 4 on the standard scale (article 16). A defence of due diligence is available to a person charged under article 16(1).

(3) The clarification of the responsibility of Masters in relation to directions (article 17), the power for a duly authorised officer of the Commissioners to enter and inspect a vessel or vehicle for the purposes of any enactment relating to the harbour or any byelaw or general direction, including enforcement of such (article 18), and savings for existing directions and byelaws (article 19).

(4) Clarification of the jurisdiction of the Commissioners as statutory harbour authority and the extent of harbour premises, including a requirement for the Commissioners to publish and maintain an illustrative plan of the harbour premises (article 20).

(5) The establishment of one or more advisory bodies consisting of harbour stakeholders with which the Commissioners are required to consult on material matters (article 21).

(6) Powers relating to other commercial activities (article 22) and the power to delegate functions (article 23), bunkering (article 24), aids to navigation (article 25), the power to dredge (article 26), and the repair of landing places (article 27).

(7) Powers relating to the control and licensing of works and dredging (articles 28 to 32).

(8) Provisions relating to notices (article 33).

(9) Savings for Trinity House (article 34) and Crown Rights (article 35).

(10) To facilitate that above, the Order repeals and revokes the Acts and Orders set out in article 38 and Schedule 3 to the Order and amends the Order of 1999 and the Order of 2012 as set out in articles 36 to 37.

An impact assessment has not been prepared for this Order as there is no, or no significant, impact predicted on businesses, charities, voluntary bodies or the public sector.

An Explanatory Memorandum together with a copy of the harbour premises plan is available alongside the instrument on the UK legislation website at www.legislation.gov.uk.