

202[] No. 0000

HARBOURS, DOCKS, PIERS AND FERRIES

The Littlehampton Harbour Revision Order 202[]

<i>Made</i> - - - -	202[]
<i>Laid before Parliament</i>	202[]
<i>Coming into force</i>	202[]

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The Littlehampton Harbour Board has 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) under section 42A of the Act(c) delegated the functions of the appropriate Minister under section 14(d) to the Marine Management Organisation(e).

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.

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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.

PART 1

PRELIMINARY

Citation, commencement and extent

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

(2) The Littlehampton Harbour Acts and Orders 1927 to 2015 and this Order may be cited together as the Littlehampton Harbour Acts and Orders 1927 to 202[].

(3) This Order extends to England and Wales.

Interpretation

2.—(1) In this Order—

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(a);

“the Act of 1927” means the Littlehampton Harbour and Arun Drainage Outfall Act 1927(b);

“the Act of 1966” means the Docks and Harbours Act 1966(c);

“the Act of 1972” means the West Sussex County Council Act 1972(d);

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

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

“the Order of 1986” means the Littlehampton Harbour Order 1986(g);

“the Order of 1988” means the Littlehampton (Pilotage) Harbour Revision Order 1988(h);

“the Order of 2015” means the Littlehampton Harbour Revision Order 2015(i);

“ABM” means the Annual Board Meeting to be held by the Commissioners in accordance with the provisions of section 20 of the Act of 1927 (first and annual meeting of Harbour Board);

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

“the Board” means the Littlehampton Harbour Board incorporated under section 11 of the Act of 1927 (incorporation of Harbour Board);

“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 undertaking;

“Chief Executive” means the person for the time being appointed as Chief Executive of the Commissioners, or if no such person is appointed the harbour master;

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

“the Commissioners” means the Littlehampton Harbour Commissioners as named by article 5 (change of name of the Board of Commissioners) and constituted by article 6 (constitution of the Commissioners);

(a) 1847 c. 27.

(b) 17 & 18 Geo. 5 Ch. lxvii.

(c) 1966 c. 28.

(d) 1972 c. 1.

(e) 1964 c. 40.

(f) 1995 c. 21.

(g) S.I. 1986/124.

(h) S.I. 1988/2157.

(i) S.I. 2015/1387.

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

“enactment” means any enactment whether public general or local and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“the harbour” means Littlehampton Harbour the limits of which are described in article 3 of the Order of 2015 (the harbour limits);

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

“harbour functions” includes the powers and duties at and in connection with the harbour, including those authorised by the Littlehampton Harbour Acts and Orders 1927 to 2015 (to the extent that those Acts and Orders relate to the harbour) and this Order;

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

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

“harbour premises” means the premises defined in article 3(1)(b) of the Order of 2015;

“the harbour undertaking” means the undertaking carried by the Commissioners at and in connection with the harbour authorised by the Littlehampton Acts and Orders 1927 to 2015 (to the extent that those Acts and Orders relate to the harbour) and this Order;

“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;

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

“the Littlehampton Harbour Acts and Orders 1927 to 2015” means the Act of 1927, the Act of 1972, the Order of 1986 and the Order of 2015;

“the new constitution date” means the date 12 weeks after the date on which this Order comes into force;

“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);

“statutory undertaker” means —

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

“tidal work” means so much of any work within the harbour as is on, under or over tidal waters of land below the level of high water;

(a) 2003 c. 21.

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

(c) Littlehampton Harbour Office, Pier Road, Littlehampton, BN17 5LR.

(d) 1990 c. 8.

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

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

“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^(b), boat, houseboat, raft or craft of any description, however propelled or moved, and includes non-displacement craft, 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) In this Order longitude and latitude are stated by reference to the World Geodetic System (WGS84), revised in 1984 and further revised in 2004.

Incorporation of provisions of the Commissioners Clauses Act 1847

3.—(1) Sections 1 to 4, 39, 53, 56, 58 to 65, 69 to 74, and 96 to 102, 109 to 111 (all inclusive) of The Commissioners Clauses Act 1847^(c) (so far as applicable to the purposes and not inconsistent with the provisions of this Order and the Act of 1927 respectively), are incorporated with this Order and the Act of 1927 respectively.

Incorporation of the provisions of Harbours, Docks and Piers Clauses Act 1847

4.—(1) The Act of 1847 (except sections 6 to 20, 22 to 26, 28 to 32, 35, 37, 38, 41, 42, 49, 50, 54, 55, 59 to 62, 66, 67, 69 to 73, 75, 77, 84 to 92 and 97 to 102), so far as applicable to the purposes and not inconsistent with the provisions of this Order and the Act of 1927 respectively, is incorporated with this Order and the Act of 1927 respectively subject to the modifications stated in paragraphs (2) to (6) below, and any existing incorporation of the Act of 1847 into the Act of 1927 shall cease to have effect.

(2) Section 53 of the Act of 1847 (penalty on shipmasters not complying with directions of the harbour master) shall have effect subject to the modification that for the words “level 2” there are substituted the words “level 4”.

(3) Section 33 of the Act of 1847 (harbour dock and pier free to the public on payment of rate) shall only apply in respect of vessels up to 24 metres in length. In respect of all other vessels section 33 does not apply.

(4) Section 63 of the Act of 1847 (penalty on vessels lying near the entrance of harbour or dock without permission) shall have effect subject to the modification that for the words from “liable to” to the end of the section there are substituted the words “guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

(5) Section 74 of the Act of 1847 (owner of vessel answerable for damage to works) shall have effect subject to the modification that the words—

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

(b) As defined in section 57 (interpretation) of the Harbours Act 1964 (c. 40).

(c) 1847 c. 16.

- (a) “or person having the charge”; and
 - (b) “provided always” to the end of the section,
- are omitted.

(6) In construing the provisions of the Act of 1847 as incorporated with this Order and the Act of 1927 respectively—

- (a) the expression “the special Act” means this Order and the Act of 1927 respectively;
- (b) the expression “the undertakers” means until the new constitution date the Board and from the new constitution date the Commissioners;
- (c) the expression “the harbour, dock, or pier” shall mean the harbour and includes those docks, piers, berths, quays, landing places, wharves and other structures forming part of the harbour premises;
- (d) for the definition of the word “vessel” in section 3 of the Act of 1847 (interpretation) there shall be substituted the definition of that word in article 2(1) of this Order;
- (e) the reference in section 53 of the Act of 1847 (penalty on shipmasters not complying with directions of the harbour master) to notice of a direction by the harbour master served upon a vessel shall not be construed as requiring the notice to be in writing if in the circumstances it is not reasonably practicable for the harbour master to serve a written notice on the master, and in such circumstances the said reference may be construed as including the communication of the notice orally or otherwise.

PART 2

CONSTITUTION OF COMMISSIONERS

Change of name of the Board to the Commissioners

5.—(1) From the new constitution date the name of the Littlehampton Harbour Board will be changed to the Littlehampton Harbour Commissioners.

(2) The change of name of the Board will not affect any rights or obligations of it or render defective any legal proceedings by or against it.

(3) Any legal proceedings that might have been continued or commenced against the Board may be continued or commenced against it in the name of the Commissioners.

(4) From the new constitution date references in the Littlehampton Acts and Orders 1927 to 2015 and the Order of 1988 to—

- (a) the “Littlehampton Harbour Board” shall be construed as the “Littlehampton Harbour Commissioners”;
- (b) “the Board” or “the harbour board” shall be construed as “the Commissioners”.

(5) Between the date of this Order and the new constitution date, references to the Commissioners in article 2, excluding the definition of “the Commissioners”, articles 14 to 25 and articles 27 to 51 shall be construed as references to “the Board”.

Constitution of the Commissioners

6.—(1) From the new constitution date, the Commissioners shall consist of—

- (a) eight persons appointed by the Commissioners;
- (b) one person appointed by West Sussex County Council;
- (c) one person appointed by Arun District Council; and
- (d) the Chief Executive for the time being of the Commissioners.

(2) Each person appointed under paragraph (1)(a), (b) and (c) must be a person who appears to the Commissioners or the Councils to have special knowledge, experience or ability appropriate to

the efficient, effective and economic discharge by the Commissioners of their harbour 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 Littlehampton area;
- (g) industrial relations;
- (h) 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 them of their harbour functions,

and each appointing body must secure, so far as reasonably practicable, that the persons appointed by them, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by them of the Commissioners' harbour functions.

(3) In making an appointment under paragraph (1)(a), (b) and (c) or article 10 (casual vacancies), each appointing body 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.

(4) Prior to appointing a person under paragraph (1)(b) or (c) ('**a prospective appointee**'), the appointing Council must request the approval of the Commissioners of the prospective appointee (such approval not to be unreasonably withheld or delayed). If the prospective appointee is not approved by the Commissioners, the Commissioners must provide the Council with reasons for its decision and the appointing Council must select another prospective appointee.

Appointment and terms of office of first Commissioners

7.—(1) The first appointments under article 6(1)(a), (b) and (c) must be made on, or as soon as reasonably practicable after the date of this Order and in any event before the new constitution date.

(2) The Board must appoint the persons who are, at the date when they make the first appointments under paragraph (1), the chair and vice-chair of the Board to be two of the first of such appointed Commissioners and they must hold office as Commissioners from the new constitution date until the date of the third ABM held after the new constitution date; and from the new constitution date must be the chair and vice-chair respectively of the Commissioners in accordance with the provisions of Schedule 2 (incidental provisions relating to the Commissioners).

(3) Of the remaining first such Commissioners appointed by the Board—

- (a) three must hold office from the new constitution date until the date of the first ABM held after the new constitution date; and
- (b) three must hold office from the new constitution date until the date of the second ABM held after the new constitution date,

as the Board shall specify when they make each of those appointments.

(4) Of the Commissioners appointed by the Councils—

- (a) one must hold office from the new constitution date until the date of the second ABM held after the new constitution date; and

(b) one must hold office from the new constitution date until the date of the third ABM held after the new constitution date,
as the Board shall specify when the Councils make each of those appointments.

Terms of office of subsequent Commissioners

8. A Commissioner appointed under article 6(1)(a), (b) or (c), other than a Commissioner appointed under article 7 (appointment and terms of office of first Commissioners), must, unless appointed to fill a casual vacancy and subject to articles 9 (declaration to be made by Commissioners) and 11 (disqualification or removal of Commissioners), and paragraph 10 of Schedule 2 (incidental provisions relating to the Commissioners), hold office for the period of three years from the ABM at which the Commissioner was appointed.

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 (form of declaration) (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 Commissioners or the Councils must, unless it is not reasonably practicable to do so, be filled by the appointment of a Commissioner by the Commissioners or the Councils, as the case may be, in accordance with the requirements of article 6(2), (3) and (4).

(2) A Commissioner 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 Commissioners), and paragraph 10 of Schedule 2 (incidental provisions relation to the Commissioners), hold office for the remainder of the term of the Commissioner in whose place that person has been appointed.

Disqualification or removal of Commissioners

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, or
 - (ii) for a period of four consecutive months,whichever of these periods is the longer,
- (b) has become bankrupt or made an arrangement with that person's creditors;
- (c) is incapacitated by physical or mental illness from discharging their duties as a Commissioner;
- (d) has acted in a manner which has seriously impeded or prejudiced the Commissioners in the performance of their harbour functions;
- (e) has failed to declare an interest or to comply with the standards of behaviour required for members of the Commissioners;
- (f) has acted in a manner which may bring the Commissioners into disrepute or which is inappropriate having regard to the harbour functions of the Commissioners; or
- (g) is otherwise unable, unwilling or unfit to discharge the harbour functions of a Commissioner,

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

(2) A person whose office as a Commissioner has been declared vacant in accordance with paragraph (1), is not eligible for reappointment as a Commissioner in the future, unless that person receives prior written authority from the Commissioners authorising that person to apply to be reappointed as a Commissioner.

Indemnity insurance for Commissioners

12. The Commissioners may enter into, and pay premiums for, a contract of insurance to indemnify the Commissioners jointly or severally against personal liability arising from any act or omission of the Commissioners or of any of them not being an act or omission which the Commissioner or Commissioners in question knew to be a breach of their duty or, concerning which, the Commissioner or Commissioners in question were reckless as to whether it was such a breach.

Incidental provisions relating to Commissioners

13. From the new constitution date the provisions of Schedule 2 (incidental provisions relating to the Commissioners) shall have effect with respect to the Commissioners and each Commissioner.

PART 3

GENERAL FUNCTIONS AND INFRASTRUCTURE FUND

General functions

14.—(1) The Commissioners may, subject to the provisions of this Order, take all such steps from time to time as they consider necessary or desirable for the maintenance, operation, management and improvement of the harbour and the harbour facilities provided within the harbour or in connection with the harbour undertaking, and for the conservation of the harbour's flora, fauna and geological and physiographical features of special interest.

(2) For those purposes and without limiting the scope of paragraph (1), the Commissioners may—

- (a) improve, maintain, retain, regulate, manage, mark and light the harbour and provide harbour facilities therein;
- (b) subject to holding the necessary rights in or over land—
 - (i) execute and place in and over the harbour such structures, works and equipment as are required, and
 - (ii) operate, maintain, renew, alter, extend, demolish and reconstruct structures, harbour facilities, works and equipment in the harbour (including those executed or placed in accordance with sub-paragraph (i)),
- (c) acquire land;
- (d) invest any sums not immediately required for the purposes of the harbour undertaking and turn their resources to account so far as not required for those purposes;
- (e) do all other things which in their opinion are expedient to facilitate the operation, improvement or development of the harbour undertaking.

(3) The Commissioners must, from time to time, formulate, publish and review a business plan or business plans (“Harbour Business Plan”)(a) in relation to their maintenance, conservation, operation, management and improvement of the harbour undertaking, which they must have regard to when performing their harbour functions.

(a) The Harbour Business Plan may be inspected during office hours at the harbour office at Littlehampton Harbour Office, Pier Road, Littlehampton, BN17 5LR and available via the harbour website at www.littlehampton.org.uk.

- (4) In the exercise of the powers of sub-paragraph (2)(b), the Commissioners must not—
- (a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker;
 - (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.

(5) This article is without limitation of the powers of the Commissioners under or by virtue of any other enactment.

Infrastructure fund

15.—(1) The Commissioners may establish an infrastructure fund in respect of the harbour undertaking by setting aside such amount as they may think reasonable (and if they choose to, investing the same) until the fund amounts to the maximum infrastructure fund value for the time being prescribed by the Commissioners.

(2) Whether or not the prescribed maximum has been reached, the infrastructure fund may be applied towards the payment of the cost of the construction, renewal, improvement or extension of any works, building, machinery, plant or conveniences forming part of the harbour undertaking or otherwise for the benefit thereof.

(3) If the infrastructure fund is at any time reduced, it may be restored to the prescribed maximum again from time to time as often as such reduction occurs.

PART 4

CHARGES

Charges other than ship, passenger and goods dues

16. The Commissioners may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig, or floating platform, or any other vessel, not being a ship as defined by section 57(1) of the Act of 1964, entering, using, within or leaving the harbour such reasonable charges, including in relation to any goods or passengers carried, as they 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 of the Act of 1964 (repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them).

Charges for services or facilities

17. In addition to articles 16 (charges other than ship, passenger and goods dues) and 18 (charges for debt recovery, administration and commercial activities) of this Order and their power to demand ship, passenger and goods dues under section 26 of the Act of 1964 (repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them), the Commissioners may demand, take and recover such reasonable charges for services and facilities (including pontoons) provided by the Commissioners at the harbour or in connection with the harbour undertaking as they may from time to time determine.

Charges for debt recovery, administration and commercial activities

18. In addition to articles 16 (charges other than ship, passenger and goods dues) and 17 (charges for services and facilities) of this Order and their power to demand ship, passenger and goods dues under section 26 of the Act of 1964 (repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them), and without limitation to those articles and powers, the Commissioners may demand, take and recover such reasonable

charges for debt recovery (including interest on late payments or payments by instalment), administration, commercial and other incidental activities undertaken by the Commissioners as they may from time to time determine.

Payment of charges

19.—(1) The charges which the Commissioners are for the time being authorised to demand, take and recover in respect of vessels and goods or otherwise under any enactment—

- (a) are payable before the removal from the harbour of any vessel or goods in respect of which they are payable;
- (b) may be demanded, taken and recovered—
 - (i) by such persons,
 - (ii) at such places,
 - (iii) at such times,
 - (iv) under such terms and conditions,as the Commissioners may from time to time specify in their published list of charges.

(2) Charges payable to the Commissioners in respect of—

- (a) a vessel, shall be payable by the owner or master; and
- (b) goods, shall be payable by the owner, consignee or shipper of the goods.

(3) Where charges payable to the Commissioners may be recovered from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

(4) Without limitation to the scope of paragraph (1), the terms and conditions as to the payment of charges which the Commissioners may from time to time specify may include the time when a charge falls due for payment and may require such information to be given to the Commissioners by the owner or master of a vessel or a person using a service or facility of the Commissioners as the Commissioners may require in connection with the assessment or collection of a charge.

(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.

Compounding arrangements and rebates

20.—(1) The Commissioners may confer total or partial exemptions from, or allow rebates to or make compositions with any person with respect to charges, and may vary or extinguish any such exemption, rebate or composition.

(2) Nothing in section 30 of the Act of 1964 (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.

Deposit for charges

21.—(1) The Commissioners may, if they think fit, require a person who incurs or is about to incur a charge to deposit with them, or to guarantee, such sum of money as is, in the opinion of the Commissioners, reasonable having regard to the amount or probable amount of the charge.

(2) Where such a person fails to deposit or guarantee the sum of money required the Commissioners may detain in the harbour the vessel or goods in respect to which the charge relates, or refuse entry to, or require removal from the harbour in respect of the vessel or goods, until the requirement has been complied with or the charge paid.

Liens for charges

22.—(1) A person who by agreement with the Commissioners collects charges on their behalf and who pays or gives security for the payment of charges on goods in that person's possession shall have a lien on those goods for the amount paid or security given in respect thereof.

(2) A wharfinger or carrier who is not themselves liable for the payment of charges may pay or by agreement with the Commissioners give security for charges on goods in their custody, and in that event that person must have a like lien on the goods for the amount of those charges as they would have in respect of their charges for safe custody or carriage of the goods, as the case may be.

Refusal to pay charges for a landing place etc.

23. The harbour master may prevent a vessel from entering the harbour or using a landing place, mooring or other facility provided by the Commissioners, if the master of the vessel refuses to pay the charges for such use.

Exemptions from ship, passenger and goods dues

24. Except insofar as may be agreed between the Commissioners and the government department or person concerned the Commissioners shall not be entitled to demand ship, passenger and goods dues from, or in respect of—

- (a) a vessel—
 - (i) in the service of HM Revenue and Customs or the Secretary of State for Defence in the execution of their core duties and not carrying persons or goods for reward,
 - (ii) belonging to or used by a lifeboat service whilst employed in or in connection with the core functions of that service, or
 - (iii) in the service of a police force or other emergency service in the execution of their core duties and not carrying persons or goods for reward,
- (b) HM Revenue and Customs or any officer or other person employed in their service in execution of their core duties in respect of a vessel or goods under customs seizure, or in respect of goods or other articles belonging to, or in the care or service of, HM Revenue and Customs;
- (c) an officer of HM Revenue and Customs or any other person employed in their service while in the execution of their core duties;
- (d) a person employed by the Secretary of State for Defence while in the execution of their core duties; or
- (e) Officers of the Department for Transport in the execution of their core duties.

Recovery of charges

25.—(1) In addition to any other remedy given by this Order and by the Act of 1847 as incorporated with this Order, the Commissioners may recover any charges payable to them as a debt in any court of competent jurisdiction.

(2) Where the master of a vessel in respect of which a charge is payable to the Commissioners refuses or neglects to pay the same or any part thereof, paragraph (1) applies whether or not the Commissioners' collector has gone on board the vessel and demanded the charge under section 44 of the Act of 1847 (recovery of tonnage rates by distraint of ship and tackle).

Harbour master may prevent sailing of vessels

26. The harbour master may prevent the removal or sailing from the harbour of any vessel until evidence has been produced to the harbour master of the payment of any charges payable in respect of—

- (a) the vessel;
- (b) passengers on the vessel;
- (c) goods imported, exported or carried on the vessel.

PART 5

REGULATION OF MOORINGS, WORKS AND DREDGING

Power to lay moorings

27.—(1) The Commissioners may provide, place, lay down, maintain, retain, renew, use or remove such moorings in the harbour as they consider necessary or desirable for the convenience of vessels—

- (a) on land owned or leased by them; and
- (b) with the consent in writing of the owner and any lessee thereof, on any other land in the harbour.

(2) The Commissioners may make reasonable charges in respect of any vessel using any moorings provided under this article.

(3) In this article and articles 28 (licensing of moorings) and 29 (offences as to moorings etc.), “mooring” includes any buoy, pile, post, chain, pillar, pontoon or like apparatus or convenience used or capable of being used for the mooring of vessels.

Licensing of moorings

28.—(1) The Commissioners may from time to time grant a licence to any person to place, lay down, maintain, retain, renew and use moorings for vessels in the harbour.

(2) A licence—

- (a) may be granted for such a period and on such terms and conditions as the Commissioners think fit;
- (b) may relate to one mooring, or to several moorings.

(3) In respect of moorings already lawfully laid down in the harbour at the date this Order comes into force (‘an original mooring’), a moorings licence under paragraph (1) must be obtained by the owner or user of the mooring within 12 weeks of that date and thereafter renewed prior to its expiry.

(4) In considering an application for a moorings licence under paragraph (1) made in respect of an original mooring the Commissioners must not refuse to grant a licence to retain the original mooring in the same location as situated at the date of this Order unless they are satisfied that the placing, laying down, maintenance, retention, renewal or use of the original mooring to which the application relates would constitute a danger to or interfere with the navigation of vessels in the harbour.

(5) The Commissioners may make reasonable administrative charges for the grant of a licence under this article.

Offences as to moorings etc.

29.—(1) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Commissioners in setting out moorings in the harbour;
- (b) intentionally and without lawful authority pulls up or removes any mooring or any part of any mooring in the harbour;
- (c) places, lays down, maintains, retains or renews any mooring not provided under article 27 (power to lay moorings) or licensed under article 28 (licensing of moorings);
- (d) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided under article 27 (power to lay moorings) or licensed under article 28 (licensing of moorings) or at a quay, jetty or other work provided for the mooring of vessels; or
- (e) without reasonable excuse causes or permits a vessel to be moored at a mooring provided under article 27 (power to lay moorings) or licensed under article 28 (licensing of moorings) which the person concerned is not entitled to use,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) If any person commits an offence under paragraph (1)(c) the Commissioners may remove the mooring in question and recover from that person the expenses incurred in doing so as a debt.

(3) Subject to paragraph (6), if any person commits an offence under paragraph (1)(d) or (1)(e) the Commissioners may—

- (a) remove the vessel, including any tackle with the vessel;
- (b) sell or otherwise dispose of the vessel and tackle; and
- (c) recover out of the proceeds of sale—
 - (i) any unpaid charge payable under article 27 (power to lay moorings),
 - (ii) any unpaid licence fee payable under article 28 (licensing of moorings), and
 - (iii) the expenses of removal and disposal under this paragraph.

(4) If the proceeds of sale under paragraph (3)(b) are sufficient to allow the Commissioners to recover all amounts permitted by paragraph (3)(c), the Commissioners must hold any surplus proceeds of sale on trust for the owner.

(5) If the proceeds of sale under paragraph (3)(b) are insufficient to allow the Commissioners to recover all amounts permitted by paragraph (3)(c), or there is no sale of the vessel, the Commissioners may recover the amounts referred to in paragraph (3)(c) net of any proceeds of sale from the owner as a debt.

(6) The Commissioners must not exercise its power to remove a vessel under paragraph (3) unless—

- (a) they have given to the owner seven clear days' notice in writing of their intention to do so; or
- (b) it is an emergency.

(7) Where paragraph (6)(b) applies, the Commissioners must notify the owner that they have removed the vessel as soon as reasonably practicable afterwards.

Aids to navigation

30.—(1) In addition to their powers under section 201 of the Merchant Shipping Act 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

31.—(1) The Commissioners may, as appears to them to be necessary or desirable for the purposes of the harbour undertaking, 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.

32.—(1) In this article, “relevant feature” means any landing place, jetty, wall, pontoon, pile, embankment, bridge, structure, groyne, aids to navigation 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;
- (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 therefore—

- (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 their 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 their observations on the appeal.

(8) On an appeal under paragraph (5), the Secretary of State must 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

33.—(1) Subject to paragraph (3), no person other than the Commissioners shall, on, under 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 upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved under article 35 (licensing of works);
- (b) dredge, unless that person is licensed 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 the plans, sections and particulars approved under article 36 (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 28 (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

34.—(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

35.—(1) The Commissioners may upon such terms and conditions as they think fit grant to any person a licence to construct, alter, renew or extend any works in the harbour on, under 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;
- (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 their 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 Commissioner's administrative expenses and overheads in supervising or inspecting where necessary the construction or maintenance of the works.

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

(6) Where the Commissioners grant 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

36.—(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 35 (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 their approval under paragraph (1) or that any condition imposed by the Commissioners under that paragraph are 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 37 (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

37.—(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 notify the applicant of their decision or the date on which the Commissioners are, under article 35(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.

PART 6

MISCELLANEOUS AND GENERAL

Power to make byelaws

38.—(1) The Commissioners may make such byelaws as they think fit for the efficient management and regulation of the harbour.

(2) Without limitation to the scope of paragraph (1), the Commissioners may make byelaws under this article for any of the purposes set out in Schedule 3 (purposes for which byelaws may be made) but such byelaws shall not come into operation until the same have received the confirmation of the Secretary of State which shall be sufficient for all purposes.

(3) In Schedule 3 (purposes for which byelaws may be made) “signals” includes sound signals.

(4) Byelaws made under this article may—

- (a) provide for imposing upon a person offending against them, or against any condition, requirement or direction imposed, made or given thereunder, a fine not exceeding level 4 on the standard scale on summary conviction;
- (b) relate to the whole of the harbour or to any part thereof;
- (c) make different provisions for different parts of the harbour or in relation to different classes of vessels or vehicles;
- (d) otherwise make different provision for different circumstances.

(5) Where a person is charged with an offence against a byelaw in force under this article, it shall be a defence for the person to prove that—

- (a) they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;
- (b) they had a reasonable excuse for their act or failure to act;
- (c) the offence was not caused or facilitated by any act or neglect on their part or on the part of any person engaged or employed by them and that all reasonable steps were taken to prevent the commission of the offence.

(6) The powers in the article are in addition to the powers conferred by section 83 of the Act of 1847 (byelaws may be made for all or any of the purposes herein named).

Confirmation of byelaws

39.—(1) The provisions contained in subsections (3) to (8) of section 236 (procedure etc. for byelaws) and section 238 (evidence of byelaws) of the Local Government Act 1972^(a) shall apply to all byelaws made after the coming into force of this Order, by the Commissioners under this Order or section 83 of the Act of 1847 (byelaws may be made for all or any of the purposes herein named).

(2) In its application to byelaws made under this Order or section 83 of the Act of 1847 (byelaws may be made for all or any of the purposes herein named), section 236 of the Local Government Act 1972 (procedure etc. for byelaws) shall have effect, subject to paragraph (3), as if after the word “confirm” in subsection 236(7) in the first place where that word occurs there were inserted the words “with or without modification”.

(3) Where the confirming authority proposes to make a modification which appears to the confirming authority to be substantial, then—

- (a) the confirming authority must inform the Commissioners and require them to take any steps the confirming authority thinks necessary for informing persons likely to be concerned with that modification;
- (b) the confirming authority must not confirm the byelaws until there has elapsed such period as the confirming authority thinks reasonable for the Commissioners and other persons who have been informed of the proposed modifications to consider and comment on it.

(4) The confirming authority for the purposes of this article and of section 236 of the Local Government Act 1972 (procedure etc. for byelaws) in its application to byelaws made under this Order or section 83 of the Act of 1847 (byelaws may be made for all or any of the purposes herein named) shall be the Secretary of State.

Advisory bodies

40.—(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.

(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 them 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, on giving notice in writing to the chair of that body, send a substitute person to any meeting of the body provided that a substitute

(a) 1972 c. 70.

may not attend more than one such meeting, whether on behalf of the same member or a different member, unless that substitute is approved by the Commissioners in respect of each additional meeting.

(8) An individual 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.

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

Development of land etc.

41.—(1) The Commissioners may, subject to obtaining the necessary rights in or over land—

- (a) use or develop for any purpose, and deal with, any land within or in the vicinity of the harbour;
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the harbour,

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

(2) Except as is otherwise provided by any enactment, the powers of the 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.

Power to appropriate lands and works for particular uses, etc.

42.—(1) Notwithstanding anything in any statutory provision of local application the Commissioners may from time to time for the purposes of or in connection with the carrying on of the harbour undertaking set apart and appropriate any part of the harbour for the time being vested in, or occupied or administered by the Commissioners as part of the harbour undertaking for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Commissioners may think fit.

(2) No person or vessel shall make any use of any part of the harbour so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Commissioners and—

- (a) the harbour master, or as the case may be, such officer, may order any person or vessel making use of the harbour without such consent to leave or be removed; and
- (b) the provisions of section 58 of the Act of 1847 (harbour master may remove vessels within docks, &c.) shall extend and apply with the necessary modifications to and in relation to such vessels.

Other commercial activities

43.—(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 undertaking in an efficient and economical manner.

(2) Except as is otherwise provided by any enactment, the powers of the 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 Act of 1966^(a) (powers of harbour authorities to acquire a harbour business or shares in a harbour business).

Power to delegate functions

44. Subject to paragraph 9B of Schedule 2 to the Act of 1964^(b) (functions which cannot be delegated under a power conferred by a harbour revision order), the Commissioners may delegate the performance of any of their harbour functions to be carried out by any such company as is referred to in article 43(1)(b).

Bunkering

45.—(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.

Power with respect to disposal of wrecks

46.—(1) In its application to the Commissioners, section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks) has effect in relation to the harbour and its approaches in relation to a vessel sunk, stranded or abandoned before, as well as after, the coming into force of this Order.

(2) Subject to paragraph (3), and to any enactment for the time being in force limiting a person's liability, the Commissioners may recover from the owner of any vessel sunk, stranded or abandoned on or after the date of coming into force of this Order in relation to which they have exercised their powers under section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks) any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the Commissioners an emergency, paragraph (2) shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks), other than the power of lighting and buoying, the Commissioners have given to the owner of the vessel not less than 48 hours' notice of their intention to do so.

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

(b) 1964 c. 40.

(4) If before the notice expires the Commissioners receive from the owner counter-notice in writing that the owner desires to dispose of the vessel themselves, the owner shall be at liberty to do so; and the Commissioners must not exercise the powers in section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks) in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to the owner by the Commissioners.

(5) Notice under paragraph (3) to the owner of any vessel may be served by the Commissioners either by delivering it to the owner or by sending it to the owner by registered post or the recorded delivery service addressed to the owner at their last known place of business or abode in the United Kingdom or, if the owner or any such place of business or abode is not known to the Commissioners, or is not in the United Kingdom, by displaying the notice at the harbour office of and electronically on the harbour website^(a) for the period of its duration.

(6) In this article “owner”, in relation to any vessel, means the person who was the owner of the vessel at the time of the sinking, stranding or abandonment.

(7) The powers conferred on the Commissioners by this article shall be in addition to and not in derogation of any other powers exercisable by it for or with respect to the removal of wrecks within the harbour and its approaches.

Power to deal with unserviceable vessels

47.—(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847 (unserviceable vessels to be altogether removed from harbour) and on the Commissioners by section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks) the Commissioners may sell, break up or otherwise dispose of any vessel which is unserviceable and has been laid by or neglected in the harbour or immediately adjoining the harbour.

(2) The Commissioners may retain out of the proceeds of sale of such vessel, any expenses incurred by them in respect of the vessel, or in marking, buoying, lighting or otherwise controlling the vessel or warning other persons or vessels of its presence and any reasonable expenses incurred by the harbour master under section 57 of the Act of 1847 (unserviceable vessels to be altogether removed from harbour) and must pay the surplus, if any, to the person or body entitled to that surplus.

(3) If the proceeds of the sale are insufficient to reimburse the Commissioners for the said expenses, or there is no sale, the Commissioners may recover the deficiency, or where there is no sale, the whole of the expenses, from the owner as a simple contract debt.

(4) Except in the case of emergency, the Commissioners must, before exercising their powers under this article, give 14 days’ notice in writing of their intention to do so to the registered owner of the vessel and by advertisement in each of two successive weeks in a local newspaper circulating the area of the harbour, provided that, if the registered owner or their place of business or address is not known to the Commissioners or is outside of the United Kingdom, the notice may be given by displaying it at the harbour office for two successive weeks.

Removal of obstructions other than vessels

48.—(1) The Commissioners may remove anything, other than a vessel, causing or likely to become an obstruction to, or cause interference with, navigation in any part of the harbour or any approach to the harbour.

(2) The Commissioners may take such steps as appear to them to be appropriate to prevent or minimise such obstruction or interference for the purposes of paragraph (1).

(a) www.littlehampton.org.uk/.

(3) If anything removed by the Commissioners under paragraph (1) is so marked as to be readily identifiable as the property of any person, the Commissioners must, within 28 days of its coming into the Commissioners' custody, give written notice to that person stating that—

- (a) upon proof of ownership to the reasonable satisfaction of the Commissioners; and
- (b) upon payment of any reasonable expenses incurred by the Commissioners under this article,

possession may be re-taken at a place named in the notice within the period specified in the notice (being not less than 14 days after the notice is served).

(4) If for the purposes of this article possession of anything removed is not so retaken it shall at the end of that period vest in the Commissioners.

(5) Notwithstanding the provisions of paragraph (3) the Commissioners may, at such time and in such manner as they think fit, dispose of anything removed under paragraph (1)—

- (a) which is not so marked as to be readily identifiable as the property of any person; or
- (b) which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

(6) If anything disposed of by the Commissioners under this article is sold, the Commissioners must place a notice at the harbour office and on the harbour website for a period of 28 days giving details of the property sold and may retain out of the proceeds of sale any reasonable expenses incurred by them under this article, and any surplus from the proceeds—

- (a) must be paid to any person who within 24 months from the time when the property came into the custody of the Commissioners proves to the reasonable satisfaction of the Commissioners that they were the owner at that time; or
- (b) if within the said period no person proves their ownership at the said time, shall vest in the Commissioners.

(7) If the proceeds of sale of anything removed under this article are insufficient to reimburse the Commissioners for the expenses set out in paragraph (6), or there is no sale because the property is unsaleable, the Commissioners may—

- (a) recover the deficiency; or
- (b) where there is no sale, the whole of the expenses,

from the person who was the owner at the time when the thing removed came into the custody of the Commissioners or who was the owner at the time of its abandonment or loss.

Tidal works

49.—(1) In the case of injury to, or destruction or decay of, a tidal work or any part of it which presents a danger to navigation, the Commissioners must as soon as reasonably practicable notify Trinity House.

(2) A tidal work, or any part of it, forming part of the harbour undertaking shall be deemed to be within the area of Arun District Council to the extent that it is not already.

Power of the Commissioners to prosecute or defend legal proceedings

50. Where the Commissioners consider it conducive to the improvement, maintenance, operation, management or protection of the harbour undertaking, they may—

- (a) prosecute, defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them;
- (b) make representations in respect of the harbour undertaking at any public inquiry held under any enactment.

Notices

51.—(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 it 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.

PART 7

SAVINGS, AMENDMENTS AND REPEALS

Savings

52.—(1) Subject to paragraphs (2) and (3) nothing in this Order shall affect prejudicially any estate, right, power, privilege, liberty, franchise or exemption of—

- (a) The Trustees of the 16th Duke of Norfolk’s 1958 Settlement Reserve Fund; or
- (b) Arun District Council.

(a) 1978 c. 30.

Saving for Trinity House

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

Crown Rights

54.—(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 (including any part 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.

Saving for existing directions, byelaws etc.

55. 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 immediately on or before the date on which this Order comes into force, shall, notwithstanding the amendments set out in articles 56 to 60 and the repeals and revocations set out in article 61 (revocation / repeal) and Schedule 5 (revocation / repeal), continue to have effect.

Amendment of the Order of 2015 to extend the harbour limits

56.—(1) The Order of 2015 is amended as follows.

(2) In article 3 (the harbour limits)—

- (a) in paragraph (1)(a) for “point B (North 50 degrees 47.865 minutes West 0 degrees 32.849 minutes), point C (North 50 degrees 47.858 minutes West 0 degrees 32.069 minutes)” substitute “point B (North 50 degrees 47.400 minutes West 0 degrees 32.619 minutes), point C (North 50 degrees 47.393 minutes West 0 degrees 31.763 minutes)”;
- (b) in paragraph (2) after “2015” insert “and the Littlehampton Harbour Revision Order 202[]”; and
- (c) for paragraph (3) substitute—

“(3) In paragraph (2) “the harbour map” has the same meaning as the definition of “harbour map” in the Littlehampton Harbour Revision Order 202[].”.

Other amendments of the Order of 2015

57.—(1) The Order of 2015 is amended as follows.

(2) In article 2 (interpretation)—

- (a) in the appropriate places in alphabetical order insert the following definitions—
 - ““ashore” means all those parts of the harbour which are not constituted of land covered by water at the level of low water;”;
 - ““harbour operations” includes—

- (a) the marking, lighting or dredging of the harbour or any part thereof;
- (b) the berthing, storage or dry docking 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 port 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;";

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

- (b) for the definition of “vessel” substitute the definition of “vessel” contained in article 2(1) of this Order.

(3) In Part 2 (harbour regulation) for articles 4, 5 and 6 substitute articles 4, 5 and 6 as set out in Schedule 4 (amendment of 2015 Order: general directions) to this Order.

(4) In article 7 (special directions as to use of the harbour, etc.) in paragraph (1)(h) after “prohibiting” insert “, extinguishing”.

Amendment of the Order of 1986

58.—(1) The Order of 1986 is amended as follows.

(2) In article 2 (interpretation) in the appropriate place in alphabetical order insert the following definition—

““RPI” means the Retail Price Index or any replacement thereof, or if no replacement exists, the Consumer Price Index or any replacement thereof.”.

(3) In article 3(1)(a), after £5,000,000, insert “index linked to the RPI from the date of this Order”.

Amendment of the Act of 1972

59.—(1) The Act of 1972 is amended as follows.

(2) In section 5 (interpretation for part II) in the appropriate place in alphabetical order insert the following definition—

““the infrastructure fund” means the fund established and maintained under article 15 of the Littlehampton Harbour Revision Order 20[] (infrastructure fund);”.

(3) In section 19(3)—

- (a) between “the two Councils” and “the amount (if any)” insert “eighty percent of”;
- (b) after “during that year.” insert “The remaining twenty percent may be paid into the infrastructure fund.”.

(4) After section 19(3), insert—

“(4) In any financial year that the two Council’s pay a contribution, the harbour board shall not pay any revenues of the harbour board, or monies received from the two Councils under section 19, into the infrastructure fund other than in accordance with section 19(3). The harbour board may pay monies received on capital account into the infrastructure fund at such times and in such amounts as it thinks fit.”.

(5) In section 20 (application of revenue)—

- (a) for “sixthly”, in the final paragraph, substitute “seventhly”;

- (b) after “reserve fund”, in the final paragraph, insert “or the infrastructure fund”; and
- (c) in the appropriate place insert—

“sixthly in the payment of credit balances on the revenue account into the infrastructure fund”.

- (6) In section 22 (reserve fund) omit subsection 22(2)(b) in its entirety.

Amendment of the Act of 1927

60.—(1) The Act of 1927 is amended as follows.

(2) In section 3 (interpretation) for the definition of “vessel” substitute the definition of “vessel” contained in article 2(1) of this Order.

(3) In section 46 (power to acquire lands by agreement) omit “not exceeding in all twenty-five acres”.

Revocation / Repeal

61. The enactments mentioned in the first and second columns of Schedule 5 (revocation / repeal) shall be revoked or repealed (as appropriate) to the extent specified in the third column of that Schedule on the following dates—

- (a) Part 1 on the date this Order comes into force;
- (b) Part 2 on the new constitution date.

Signed by authority of the Marine Management Organisation

Michelle Willis
Acting Chief Executive Officer
An authorised employee of the Marine Management Organisation

SCHEDULES

SCHEDULE 1

Article 9

FORM OF DECLARATION

LITTLEHAMPTON HARBOUR COMMISSIONERS

LITTLEHAMPTON ACTS AND ORDERS 1927 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 Littlehampton Acts and Orders 1927 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 Littlehampton 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 in Littlehampton 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. There shall be a chair of the Commissioners who must be appointed by those of the Commissioners who are appointed under article 6(1)(a), (b) or (c) or article 10 (casual vacancies) from among their number.

2. The first chair appointed under article 7(2) shall, subject to paragraph 7, and unless they resign their office as chair or cease to be a Commissioner, continue in office as chair until the first ABM held after the new constitution date.

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

4. There shall be a vice-chair of the Commissioners who must be appointed by those of the Commissioners who are appointed under article 6(1)(a), (b) or (c) or 10 (casual vacancies) from among their number.

5. The first vice-chair appointed under article 7(2) shall, subject to paragraph 7, and unless they resign their office as vice-chair or cease to be a Commissioner, continue in office as vice-chair until their initial term of office as a Commissioner 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 three years.

7. If those of the Commissioners who are appointed under articles 6(1)(a), (b) or (c) or 10 (casual vacancies) 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 to be the 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 6(1)(a), (b) or (c) or 10 (casual vacancies) 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 Commissioners

9.—(1) The first meeting of the Commissioners after the new constitution date 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 must make arrangements for notice of that meeting to be sent by post or email to each of the other Commissioners.

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

Vacation of office by Commissioners

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 as a Commissioner unless that person has been disqualified from office under article 11 (disqualification or removal of Commissioners).

(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—

- (a) a term referred to in article 7(3)(a) or (b) or 7(4)(a);
- (b) the remainder of a term during which the Commissioner was appointed to fill a casual vacancy under article 10 (casual vacancies);
- (c) any term served by the Commissioner prior to the new constitution date.

(5) In this paragraph “appointed Commissioner” means a Commissioner appointed under article 6(1)(a), (b) or (c).

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—

- (a) a term served by the Commissioner as chair under paragraph 2;
- (b) the remainder of a term during which the Commissioner was appointed to fill a casual vacancy in the office of chair under paragraph 8;
- (c) any term served by the Commissioner as chair prior to the new constitution date.

Committees

13. The Commissioners may, consistently with their duties and subject to such conditions as they think fit, delegate any of their harbour functions, other than the functions set out in subparagraphs (a) to (f) of paragraph 9B of Schedule 2 to the Act of 1964 (functions which cannot be delegated under a power conferred by a harbour revision order), 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 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 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 ship, passenger and goods 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;
- (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 chair 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 must 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 must 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 must 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 Commissioner must, 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 expenses as the Commissioners from time to time determine.

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 from time to time as they think necessary or desirable for and incidental to the performance of their harbour functions and pay to them such remuneration as the Commissioners think fit.

SCHEDULE 3

Article 38

PURPOSES FOR WHICH BYELAWS MAY BE MADE

1. Regulating the use of the harbour premises and or including any works and facilities provided by the Commissioners.

2. Regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the harbour.

3. Preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour and to any aids to navigation used in connection with the harbour.

4. Regulating, preventing or licensing the conduct of all persons in vessels or otherwise in the harbour, not being—

- (a) members of a police force;
- (b) officers or servants of the Crown;
- (c) members of a fire brigade,

whilst in the exercise of their duties as such.

5. Regulating the placing, laying down, maintenance, removal and use of moorings within the harbour.

6. Preventing or removing obstructions (including vessels and vehicles) or impediments within the harbour.

7. Regulating the launching and recovery of vessels in the harbour.

8. Regulating or prohibiting the use in the harbour or onboard any vessel in the harbour of fires, lights, or any other equipment, tools or appliances which the Commissioners consider involves a risk of fire, explosion or chemical reaction and for the prevention of smoking.

9. Regulating the removal of rubbish (including ballast, earth or clay or other refuse) and sewerage for vessels in the harbour.

10. The prevention of the disposal of such rubbish and sewerage from vessels, in the harbour.

11. Prohibiting the use of or regulating the use, movement, speed, placing, loading, unloading, driving, removal and parking of vehicles in the harbour and the removal of vehicles from the harbour (including by the Commissioners).

12. Requiring the use of effectual silencers or other similar apparatus and the general control of noise on vessels in the harbour.

13. Regulating vessels in the harbour and their entry into and departure from the harbour and, without limiting the scope of this paragraph, for prescribing rules for regulating the speed and manner of navigation or movement and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating, moving or mooring within the harbour.

14. Regulating the embarkation of persons on, or their disembarkation from, vessels within the harbour.

15. Regulating the holding of regattas and other public events in the harbour.

16. Prescribing the lights and signals to be exhibited or made—

(a) by vessels aground in the harbour;

(b) by vessels or other devices used for marking obstructions within the harbour.

17. Regulating the navigation or movement of vessels within the harbour, at the entrance to any dock or at any wharf, pier or other work.

18. Preventing nuisances in the harbour.

19. Prohibiting or regulating the discharge by land or sea of any material or thing within the harbour or the approaches to it.

20. Regulating or prohibiting fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf, breakwater or other installation or structure of any kind within the harbour, from any vessel within the harbour or from the foreshore where such fishing interferes with the operation of the harbour or the safety of navigation in the harbour.

21. Regulating or prohibiting aquaplaning, water skiing or diving or other similar activities in the harbour.

22. Regulating or prohibiting bathing, and for securing the protection of bathers, within the harbour.

23. Regulating or prohibiting the use by vehicles on the foreshore within the harbour.

24. Regulating the berthing, mooring and anchoring of vessels in any part of the harbour and regulating the careening and beaching of vessels within the harbour.

25. Regulating the use of ferries within the harbour and the conduct of boatmen, ferry men, and others plying for hire in the harbour.

26. Regulating the use within the harbour of yachts, sailing boats, rowing boats, pleasure craft, windsurfers, kitesurfers, jet kayaks, flyboards, other watercraft and other small craft.

27. Regulating or prohibiting the activities within the harbour of divers, surfers, underwater swimmers, water-skiers and other persons engaged in similar activities (including those engaged on a commercial basis).

28. Regulating the conveyance to and the laying down at or on the harbour premises of all goods intended for shipment.

29. Regulating the control of animals within the harbour.

30. Preventing the disposal of any waste matter except at places or in a manner prescribed by the Commissioners.

31. Regulating the conveyance, landing, laying down, discharge and removal of goods, gear, equipment, timber, logs, floats, or rafts of timber and other items within the harbour or the harbour premises.

32. Regulating the exercise of the powers vested in the harbour master.

33. The purposes specified in section 83 of the Act of 1847 (byelaws may be made for all or any of the purposes herein named).

SCHEDULE 4

Article 57

AMENDMENT OF 2015 ORDER: GENERAL DIRECTIONS

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

4.—(1) The Board may, in accordance with the requirements of article 5 (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 Board may amend or revoke a direction given under paragraph (1).

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

Procedure for giving, amending or revoking general directions

5.—(1) Subject to paragraph (7), if the Board proposes to give, amend or revoke a general direction, it 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 advisory body created pursuant to article 40 of the Littlehampton Harbour Revision Order 20[] (advisory bodies), and
 - (iv) such other persons or organisations as it considers appropriate for the purposes of the application of this provision,
- (b) place a notice of the proposal on the harbour website and in prominent locations at the harbour on the same date as the notice given in accordance with sub-paragraph (a) above and keep those notices on display for a minimum of six weeks;

(a) The public register of all in force directions may be inspected during office hours at the harbour office located at Littlehampton Harbour Office, Pier Road, Littlehampton, BN17 5LR and via the harbour website at www.littlehampton.org.uk.

- (c) consult with the designated consultees upon the proposal and allow a period of not less than six weeks beginning with the date of the notices 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 Board 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 Board proposes to proceed with the proposal and, if so, specifying whether it is making any modifications to the proposal and its reasons for so doing; and
- (f) if the Board proposes 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 Board may specify.

(2) Where the Board has complied with paragraph (1), it 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 have made representations against the proposal has 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 Board 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 Board 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 Board must decide whether to exercise the power to give, amend or revoke the general direction having regard to the adjudicator’s report (but it is not bound to give effect to any recommendations) and, once it has decided, it must give notice in writing to the designated consultees and to any other persons that have provided a consultation response of its 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 of more of the parties as the adjudicator may direct.

(6) If the Board wishes 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 and to any others that have provided a consultation response under paragraph (1)(e) and, where paragraph (3) applies, the form recommended by the adjudicator under paragraph (3)(b), it 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 Board proposes 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 Board 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 Board considers 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 Board proceeds to give or amend a general direction in accordance with paragraph (7), it 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, and
 - (ii) in paragraph (1)(c), for “sub-paragraphs (a) and (b)” substitute “paragraph (8)(a)”, and
 - (iii) a reference to the Board ‘proceeding’ with a proposal is to be read as a reference to the Board determining that the direction or amendment should remain in force.

Publication of general directions

6.—(1) Subject to paragraph (4), the Board 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 harbour 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 Board must display notices of general directions that apply to the harbour premises at prominent locations within the harbour.

(4) In an emergency, the Board may give notice of the giving, amendment or revocation of a general direction in any manner which it considers to be appropriate.

SCHEDULE 5

Article 61

REVOCATION / REPEAL

PART 1

ON THE DATE THIS ORDER COMES INTO FORCE

<i>Number</i>	<i>Short Title</i>	<i>Extent of Revocation/Repeal</i>
1972 c. 1.	West Sussex County Council Act 1972.	Sections 23, 24 and 30.
17 & 18 Geo. 5. Ch. lxvii.	Littlehampton Harbour and Arun Drainage Outfall Act 1927.	Sections 8, 9, 43, 49 to 51, 53 and 55 to 69 and the Third Schedule.

33 Geo. III. c. c.

An Act to explain and amend an Act made in the sixth year of the reign of his late Majesty King George the Second intituled “An Act for erecting Piers in, and for repairing and keeping in repair the harbour of Little Hampton, called Arundel Port, in the County of Sussex”; and for empowering the Commissioners acting under the said Act to improve the Navigation of the River Arun, from the said Harbour to the Town of Arundel in the said County.

Section 17.

PART 2

ON THE NEW CONSTITUTION DATE

<i>Number</i>	<i>Short Title</i>	<i>Extent of Revocation/Repeal</i>
1972 c. 1.	West Sussex County Council Act 1972.	Sections 6 to 15.

EXPLANATORY NOTE

(This note is not part of the Order)

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

(1) The change of name from the Littlehampton Harbour Board to the Littlehampton Harbour Commissioners and updates to the constitution, including the reduction of the number of Council appointees to the board. It also contains a numbers of modern provisions governing the conduct of the board (articles 5 to 13).

(2) The general functions (article 14) of the Board as the statutory harbour authority for Littlehampton Harbour and provision for an infrastructure fund (article 15).

(3) A modern suite of charging powers (articles 16 to 26) including exemptions from ship, passenger and goods dues (article 24), recovery of charges (article 25) and prevention of sailing of vessels (article 26).

(4) Powers relating to moorings (articles 27 to 29), aids to navigation (article 30), the power to dredge (article 31) and repair of landing places (article 32).

(5) Restrictions of works and dredging (article 33) and control of certain operations of works of statutory undertakers (article 34).

(6) Powers relating to the licensing of works (article 35), dredging (article 36), and appeals of such licences (article 37).

(7) Powers to make byelaws (article 38), confirmation of byelaws (article 39) and savings for existing byelaws etc. (article 55).

(8) The establishment of an advisory body consisting of harbour stakeholders with which the Commissioners are required to consult on material matters (article 40).

(9) Powers relating to the development of land (article 41), the power to appropriate lands and works for particular uses, etc. (article 42), other commercial activities (article 43), the power to delegate functions (article 44), and powers in relation to bunkering (article 45).

(10) Powers relating to disposal of wrecks (article 46), unseaworthy vessels (article 47), removal of obstructions other than vessels (article 48).

(11) Provisions relating to tidal works (article 49), the power of the Commissioners to prosecute or defend legal proceedings (article 50), and notices (article 51).

(12) Savings in respect of Arun District Council and the Trustees of the 16th Duke of Norfolk's 1958 Settlement Reserve Fund (article 52), Trinity House (article 53) and Crown Rights (article 54).

(13) To facilitate the above, article 61 (revocation / repeal) revokes and repeals the Acts and Orders set out in Schedule 5 (revocation / repeal), and articles 56 to 60 amend the Act of 1927, the Act of 1972, the Order of 1986, and the Order of 2015. The impact of these amendments include:

- (a) the revocation of articles 6 to 15 of the 1972 Act to facilitate the updated constitution of The Littlehampton Harbour Commissioners;
- (b) the revocation of articles 23, 24 and 30 of 1972 Act and the establishment of an infrastructure reserve fund;
- (c) the amendment of the 2015 Order to extend the harbour limits;
- (d) the amendment of the 2015 Order to update the existing powers of general direction for the regulation and management of the harbour.

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 map is available alongside the instrument on the UK legislation website at www.legislation.gov.uk