WELSH STATUTORY INSTRUMENTS

2011 No. 1565 (W.180)

HARBOURS, DOCKS, PIERS AND FERRIES, WALES

The Saundersfoot Harbour Empowerment Order 2011

Made - - - -	*21 June 2011*
Coming into force - -	*1 July 2011*

William Cleevely, Rosemary Hayes, Jim Codd and Phil Baker, being the persons currently carrying on the undertaking of Saundersfoot harbour, have applied for a harbour empowerment order under section 16 of the Harbours Act 1964(**1**);

No objection to the application has been made pursuant to a notice published pursuant to paragraph 10(1) of Schedule 3 to the Harbours Act 1964;

The Welsh Ministers are satisfied as mentioned in subsection (5) of the said section 16;

The Welsh Ministers, in exercise of the powers conferred and now vested in them(**2**) by section 16(2) of the Harbours Act 1964 make the following Order:

PART 1

PRELIMINARY

Title and commencement

1.—(1) The title of this Order is the Saundersfoot Harbour Empowerment Order 2011.

(2) Subject to paragraph (3), this Order comes into force on 1 July 2011.

(3) The following provisions of this Order come into force on the new constitution date—

article 4(1);

article 5(1);

article 7(1)(b);

article 58; and

(**1**) 1964 c. 40; section 16 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 3, 4(1) and 14, and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 2.

(**2**) S.I. 1999 No. 672, as modified by article 4 of and Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000 No. 253), and as applied by paragraph 26 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

article 64.

Interpretation

2. In this Order unless the context otherwise requires—

"the 1847 Act" ("*Deddf 1847*") means the Harbours, Docks and Piers Clauses Act 1847(**3**);

"the 1964 Act" ("*Deddf 1964*") means the Harbours Act 1964(**4**);

"the 1965 Act" ("*Deddf 1965*") means the Compulsory Purchase Act 1965(**5**);

"the 1958 Order" ("*Gorchymyn 1958*") means the Saundersfoot Harbour Order 1958(**6**);

"the advisory committee" ("*y pwyllgor cynghori*") means the committee appointed under article 58(1);

"appointing body" ("*corff sy'n penodi*") means any of the persons (namely the local authorities and the appointments panel) by whom Commissioners are appointed in accordance with article 5;

"the appointments panel" ("*y panel penodiadau*") means the panel constituted under article 7;

"the approaches" ("*y dynesfeydd*") means any seaward approaches to the harbour;

"the car park" ("*y maes parcio*") means the area edged in broken green lines on the harbour map;

"the Commissioners" ("*y Comisiynwyr*") means the Saundersfoot Harbour Commissioners constituted by this Order, and "Commissioner" ("*Comisiynydd*") means one of them;

"the former Commissioners" ("*y Comisiynwyr blaenorol*") means the Saundersfoot Harbour Commissioners who were constituted by the 1958 Order;

"the harbour" ("*yr harbwr*") means the harbour of Saundersfoot as defined by article 22 and the land, buildings, works, plant, property and conveniences connected with it, or any part of it or them;

"harbour map" ("*map o'r harbwr*") means the map set out at Schedule 5, dated 3 April 1958 and titled "Map of the Limits of Saundersfoot Harbour" ("*Map o Derfynau Harbwr Saundersfoot*");

"the harbour master" ("*yr harbwrfeistr*") includes the harbour master's authorised deputies and assistants and any person authorised by the Commissioners to act in that capacity;

"the harbour revenues" ("*refeniwiau'r harbwr*") means the rates, tolls, dues, rents and other monies and receipts which may be taken and received by way of income from or in respect of the undertaking under and by virtue of this Order;

"the index" ("*y mynegai*") means—

(a) the general index of retail prices (for all items) published by the Statistics Board, or

(b) if that index is not published for a relevant month, any substituted index or index figures published by that Board;

"level of high water" ("*lefel penllanw*") means the level of mean high-water spring tides;

"the local authorities" ("*yr awdurdodau lleol*") means Pembrokeshire County Council and Saundersfoot Community Council;

"moorings" ("*angorfeydd*") includes floating jetties, pontoons, buoys and like apparatus or facilities;

(**3**) 1847 c. 27.
(**4**) 1964, c. 40.
(**5**) 1965 c. 56.
(**6**) S.I. 1958 No. 886.

"new constitution date" ("*dyddiad y cyfansoddiad newydd*") means the first day of the month beginning immediately following 3 months after the making of this Order;

"personal watercraft" ("*dyfrfad personol*") means any watercraft (not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine or other mechanical means of propulsion and steered either by—

(a) means of a handlebar operated linked system (with or without a rudder at the stern);

(b) the person or persons riding the craft using his or her body weight for the purpose; or

(c) a combination of the methods referred to in (a) and (b);

"seaplane" ("*awyren fôr*") includes a flying boat and any other aircraft designed to manoeuvre on the water;

"statutory undertaker" ("*ymgymerydd statudol*") means—

(a) any person who is a statutory undertaker for any of the purposes of the Town and Country Planning Act 1990(**7**);

(b) any other person who exercises functions under the Land Drainage Act 1991(**8**);

(c) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949(**9**);

"tidal work" ("*gwaith llanwol*") means so much of any work as is on, under or over tidal waters or land below the level of high water;

"Trinity House" ("*Trinity House*") means the Corporation of Trinity House of Deptford Strond;

"the undertaking" ("*yr ymgymeriad*") means the undertaking of the Commissioners in connection with the harbour and includes the estates, rights and property conferred on or vested in the former Commissioners pursuant to the 1958 Order;

"the Welsh Ministers" ("*Gweinidogion Cymru*") carries the same meaning as in the Government of Wales Act 2006(**10**);

"vessel" ("*llong*") includes—

(a) non-displacement craft;

(b) personal watercraft;

(c) seaplanes; and

(d) any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and hovercraft or any other amphibious vehicle, used or capable of being used as a means of transportation on water; and

"the works" ("*y gweithiau*") means the works that were vested in the former Commissioners under the 1958 Order.

Incorporation of Clauses Acts

3.—(1) The enactments referred to in paragraph (2) are, so far as applicable and not inconsistent with this Order, incorporated with this Order.

(2) The enactments are—

(a) sections 60, 62 to 65, and 75 to 83 of the Commissioners Clauses Act 1847(**11**); and

(**7**) 1990 c. 8.
(**8**) 1991 c. 59.
(**9**) 1949 c. 74.
(**10**) 2006 c. 32.
(**11**) 1847 c. 16.

(b) sections 2, 3, 4, 23, 27, 29, 31 to 46, 52, 53, 55 to 59, 61 to 66, 69 to 71, 73 to 78 and 83 of the 1847 Act.

(3) The enactments referred to in paragraph (2)(b) have effect as follows—

(a) "the harbour, dock or pier" means the harbour;

(b) "the special Act" means this Order;

(c) "the Promoters of the undertaking" and "the undertakers" mean the Commissioners;

(d) the maximum penalty for any summary offence under any of those sections is level 4 on the standard scale;

(e) "vessel" has the meaning given by article 2;

(f) in section 23, the words "provided that no such lease be granted for a longer term than three years" are omitted; and

(g) nothing in section 53 requires the harbour master to serve on the master of a vessel notice in writing of a direction but such directions may be given orally, or in any other reasonable manner.

PART 2

THE COMMISSIONERS

The Commissioners

4.—(1) Subject to article 9 there is to be a body of eight Commissioners, to be known as the Saundersfoot Harbour Commissioners, appointed in accordance with Part 2 of this Order and with power to exercise the functions conferred on the Commissioners by or under this Order.

(2) Subject to the provisions of this Order, the Commissioners must carry on the undertaking as if in all respects the Commissioners were the same person as the former Commissioners.

Constitution of Commissioners

5.—(1) On and after the new constitution date, the Commissioners are to consist of—

(a) one member appointed by each of—

(i) Pembrokeshire County Council; and

(ii) Saundersfoot Community Council; and

(b) six members appointed by the appointments panel.

(2) Each Commissioner appointed under paragraph (1) is to be a person who appears to the appointing body to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Commissioners of their functions including special knowledge, experience or ability in one or more of the following matters—

(a) management of harbours;

(b) shipping or other forms of transport;

(c) sea fishing;

(d) appropriate commercial or industrial experience;

(e) financial management;

(f) administration and organisation of workers;

(g) sport and recreational use of the harbour;

(h) environmental matters affecting harbours;

(i) specific knowledge of or interest in the local community and wider community in the economic and social context within which the Commissioners operate;

(j) tourism and leisure; and

(k) any other skills and abilities considered from time to time by the Commissioners to be relevant to the discharge by them of their functions;

and the appointments panel must endeavour to ensure so far as reasonably practicable, that the Commissioners appointed by them will, 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 their functions.

Selection of Commissioners

6.—(1) Each appointing body must make the appointments provided for by article 5 of this Order on merit, in accordance with a published recruitment policy and having had regard to equal opportunities.

(2) In making an appointment under article 5(1) each appointing body must act in accordance with any guidance issued by the Welsh Ministers from time to time with respect to the exercise of such functions.

Appointments panel

7.—(1) There is to be an appointments panel, consisting of—

(a) the chair or vice-chair of the Commissioners;

(b) one person nominated by the advisory committee;

(c) one person nominated by Pembrokeshire County Council; and

(d) one person nominated by Saundersfoot Community Council.

(2) The appointments panel must consult the Commissioners before making any appointment, and must give the clerk notice in writing of every appointment that it makes.

(3) Each member of the appointments panel must act independently, and not as the delegate of the body which nominated that member.

(4) The acts and proceedings of the appointments panel will not be invalidated by any single vacancy in their number.

Appointment of Commissioners and terms of office

8.—(1) The first appointments under article 5(1) must be made as soon as reasonably practicable after this Order comes into force and, in any event, before the new constitution date.

(2) Of the Commissioners so appointed—

(a) four, one of whom must be appointed to chair the Commissioners, will hold office for a period of three years commencing on the new constitution date;

(b) four will hold office for a period of four years commencing on the new constitution date.

(3) At the expiry of their term of office the appointments panel may extend the term of office of one or more (but not more than four) of the Commissioners they appointed under article 5(1)(b) by up to a maximum of a year.