STATUTORY INSTRUMENTS

2015 No. 1395

HARBOURS, DOCKS, PIERS AND FERRIES

The Great Yarmouth Port Authority (Constitution) Harbour Revision Order 2015

Made - - - - *12th June 2015*

Laid before Parliament *19th June 2015*

Coming into force in accordance with Article 1

The Great Yarmouth Port Authority has applied under section 14(2)(a) of the Harbours Act 1964(**1**) ("the Act") for a harbour revision order under section 14.

The Secretary of State, as the appropriate Minister for the purposes of section 14, has by an order(**2**) under section 42A of the Act(**3**) delegated the functions of the appropriate Minister under section 14(**4**) to the Marine Management Organisation(**5**).

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) makes the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Great Yarmouth Port Authority (Constitution) Harbour Revision Order 2015 and, subject to paragraph (3), shall come into force on 10th July 2015.

(2) The Great Yarmouth Port Authority Acts and Orders 1866 to 2005 and this Order may be cited as the Great Yarmouth Port Authority Acts and Orders 1866 to 2015.

(3) Articles 3, 4, 6, 7, 10, 11 and 12 shall come into force on the new constitution date.

(**1**) 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(1) 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).

(**2**) S.I. 2010/674.

(**3**) Section 42A was inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(1).

(**4**) For the definition of "the Minister" (mentioned in section 14(7)), see section 57(1).

(**5**) The Marine Management Organisation was established by the Marine and Coastal Access Act 2009 (c.23), section 1.

Interpretation

2. In this Order—

"the Board" means the board of the Port Authority;

"the Chairperson" means the chairperson of the Board;

"the Clerk" means the clerk of the Port Authority;

"the harbour master" means the person appointed as such for the time being by the Port Authority;

"Member" means a member of the Board;

"the new constitution date" means the first day of the fourth month after the expiry of the month current when this Order comes into force;

"the Port Authority" means the Great Yarmouth Port Authority;

"the port" means the port of Great Yarmouth, being the area within which the Port Authority exercises jurisdiction as harbour authority;

"the selection panel" means the panel constituted under article 5; and

"the Vice-Chairperson" means the vice-chairperson of the Board.

Incorporation of the Commissioners Clauses Act 1847

3.—(1) Sections 2 to 4, 41, 43, 45, 47, 53, 56, 58 to 64 and 99 to 101 of the Commissioners Clauses Act 1847(**6**) are incorporated with, and form part of, this Order as varied by paragraph (2) and except in so far as they are inconsistent with this Order.

(2) The provisions so incorporated have effect as follows—

(a) references to Commissioners are to be construed as references to Members, or to the Port Authority, as the case may require;

(b) references to monthly meetings are to be construed as references to the meetings held in accordance with paragraph 4(2) of Schedule 2; and

(c) sections 60, 62 and 63 apply to officers and employees of the Port Authority as they apply to Members.

Constitution and membership of the Board

4. Subject to article 6 and the transitional provisions in article 8 and Schedule 3, and to any casual vacancies, the Members of the Board are as follows—

(a) five Members appointed by the selection panel;

(b) the harbour master; and

(c) the Clerk.

Selection panel

5.—(1) The selection panel consists of the Chairperson and two persons (who must not be Members or officers of the Port Authority) appointed by the Board.

(2) The Board must take steps to secure that the persons appointed to the selection panel have appropriate experience including (but not limited to) current knowledge and experience of the port and in particular experience in the commercial, maritime, fishing, cargo handling, environmental or other interests in the port.

(**6**) 1847 c.16.

(3) The Clerk must provide the selection panel with such administrative assistance and advice as it may require in connection with the discharge of its functions.

(4) Before making an appointment the selection panel must consult the Board.

(5) Before the new constitution date references in this article to the Board are references to the Port Authority, the reference to the Chairperson is a reference to the chairman of the members of the Port Authority, the reference to the Clerk is a reference to the Chief Executive of the Port Authority and the reference to Members is a reference to members of the Port Authority.

(6) The selection panel established before the new constitution date continues in effect on and after that date subject to replacement, as occasion may require, of individual members of the panel in accordance with paragraphs (1) to (4).

Member's declaration

6. No person may act as a Member until that person has made the declaration set out in Schedule 1, and a person (other than the harbour master or the Clerk) who fails to make that declaration-

(a) within three months of the new constitution date, in the case of the Chairperson and Member holding office under paragraph 1(1)(a) and (b) of Schedule 3 and the three Members appointed under paragraph 2 of that schedule; and

(b) within three months of appointment, in any other case,

ceases to be a Member.

Procedural provisions applying to the Board and the Port Authority

7. Schedule 2 has effect.

Transitional provisions

8. Schedule 3 has effect.

Selection of Members

9.—(1) Each Member appointed by the selection panel must be a person who appears to the selection panel to have skills, competencies, knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Port Authority of its functions including (but not limited to) knowledge and qualifications, experience or ability in one or more of the following matters—

(a) management of ports or pilotage;

(b) shipping and marine transport;

(c) legal, financial or property matters;

(d) marine safety and environmental matters;

(e) management of water related leisure activities;

(f) any other skills and abilities the selection panel considers to be relevant to the functions of the Board;

and the selection panel must secure, so far as reasonably practicable, that the Members so appointed, have between them special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by the Board of its functions.

(2) In making an appointment, the selection panel must act in accordance with any guidance issued by the Secretary of State from time to time with respect to the exercise of such functions.

Appointment of Members and terms of office

10.—(1) The selection panel must make the appointment of every Member who is to hold office under article 4(a) not later than two months before the date on which the Member is to take office.

(2) The harbour master holds office as a Member so long as the harbour master remains in office as harbour master.

(3) The Clerk holds office as a Member so long as the Clerk remains in office as Clerk.

(4) Subject to article 8 and Schedule 3, each Member appointed under article 4(a) (unless such Member dies, resigns, ceases to be a member in accordance with article 6, or is disqualified) holds office for a term of three years from 1st March following the date on which that Member is appointed.

(5) Each Member appointed under article 4(a) is eligible for reappointment unless such Member has held office for three consecutive terms.

Casual vacancies

11.—(1) A casual vacancy arising in the office of a Member must, unless it is not reasonably practicable to do so, be filled by the appointment of a Member by the selection panel in accordance with article 9.

(2) A Member appointed to fill a casual vacancy under this article (unless such Member dies, resigns, ceases to be a member in accordance with article 6, or is disqualified) holds office during the remainder of the term for which the Member replaced was appointed.

(3) This article does not apply to the harbour master or Clerk.

Revocations and repeals

12.—(1) The Great Yarmouth Port and Haven (Constitution) Revision Order 1984(**7**) is revoked.

(2) Articles 4 (Reconstitution of the Port Authority), 6 (Appointment of Members and tenure of office) and 8 (Amendment of the 1984 Order) of the Great Yarmouth Port Authority Harbour Revision Order 1989(**8**) are revoked.

(3) Sections 35(2) and 36(2) of the Great Yarmouth Port and Haven Act 1911(**9**) are repealed.

Signed by authority of the Marine Management Organisation

J.F. Tuckett
Chief Executive Officer
An authorised employee of the Marine Management Organisation

12th June 2015

(**7**) S.I. 1984/1067.
(**8**) S.I. 1989/1737.
(**9**) 1911 c.xcix

SCHEDULE 1

Article 6

FORM OF DECLARATION BY A MEMBER

DECLARATION

I [FULL NAME] do solemnly declare that

1) 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 Member of the Board of the Great Yarmouth Port Authority by virtue of the Great Yarmouth Port and Haven Acts and Orders 1866 to 2015.

2) I have read and understood the notes entitled "Notes for Guidance of Members on the Disclosure of Financial and Other Interests" and "Duties of Members" and that I will comply with the requirements as to the disclosure of interests laid down by paragraph 5 of Schedule 2 to the Great Yarmouth Port Authority (Constitution) Harbour Revision Order 2015 and

(a) I have disclosed to the Clerk/Chairperson* details of every financial or other interest such as is mentioned in those notes;

(b) I will in future notify the Clerk/Chairperson* of any alteration in those interests, or any new interest such as mentioned in those notes, which I may acquire.

Made and signed at)

Great Yarmouth, on the)

day of .....) .....)

(signature)

Witnessed by) .....

(signature)

*Where the declaration is made by the Clerk any notification/disclosure required of the Clerk is made to the Chairperson.