STATUTORY INSTRUMENTS

2015 No. 1387

HARBOURS, DOCKS, PIERS AND FERRIES

The Littlehampton Harbour Revision Order 2015

Made - - - -	*12th June 2015*
Laid before Parliament	*18th June 2015*
Coming into force - -	*10th July 2015*

The Littlehampton Harbour Board has applied in accordance with 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 that section, 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.

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Littlehampton Harbour Revision Order 2015 and shall come into force on 10th July 2015.

(2) The 1927 Act, the 1972 Act, the 1986 HRO, the 1988 HRO and this Order may be cited together as the Littlehampton Harbour Acts and Orders 1927 to 2015.

(**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 1), 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 Schedule 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**) See 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 1927 Act" means the Littlehampton Harbour and Arun Drainage Outfall Act 1927(**6**);

"the 1972 Act" means the West Sussex County Council Act 1972(**7**);

"the 1986 HRO" means the Littlehampton Harbour Revision Order 1986(**8**);

"the 1988 HRO" means the Littlehampton (Pilotage) Harbour Revision Order 1988(**9**);

"the Board" means the Littlehampton Harbour Board;

"general direction" means a direction given or proposed to be given under article 4;

"the harbour" means Littlehampton Harbour as comprised within the harbour limits;

"the harbour limits" means the limits of the harbour as specified in article 3;

"the harbour master" means a person appointed as such by the Board, and includes his deputies and assistants, and any other person for the time being authorised by the Board to act, either generally or for a specific purpose, in the capacity of harbour master;

"the harbour undertaking" means the undertaking of the Board authorised by the Littlehampton Harbour Acts and Orders 1927 to 2015;

"jet bike" means a personal watercraft propelled by a water-jet engine or other mechanical means of propulsion and steered—

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

(b) by the person riding the craft using their body weight for the purpose; or

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

"special direction" means a direction given or proposed to be given under article 7; and

"vessel" means a ship, boat, raft or water craft of any description and includes a non-displacement craft, jet bike, seaplane and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle, used or capable of being used as a means of transportation on water.

The harbour limits

3.—(1) The limits of the harbour within which the Board exercise jurisdiction as a harbour authority and the area within which the powers of the harbour master are exercisable are—

(a) the River Arun and the estuary thereof below the line of high water mark of ordinary spring tides on the south side of Arundel Bridge, the seaward limits being defined by point A (North 50 degrees 48.014 minutes West 0 degrees 32.844 minutes), 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) and point D (North 50 degrees 48.135 minutes West 0 degrees 32.055 minutes); and

(b) the quays, piers, landing places and all other works, land and buildings for the time being vested in, or occupied or administered by the Board as part of the harbour undertaking, whether or not within the area described in sub-paragraph (a).

(2) For the purposes of the Littlehampton Harbour Acts and Orders 1927 to 2015 the limits of the harbour are delineated on the harbour map; and in the event of a discrepancy between the description

(**6**) 1927 c.lxvii.
(**7**) 1972 c.l.
(**8**) S.I. 1986/124.
(**9**) S.I. 1988/2157.

of the limits of the harbour referred to in paragraph (1) and the limits shown on the harbour map the description of the limits shall prevail.

(3) In paragraph (2) "the harbour map" means the map of the harbour prepared in triplicate, signed by the Chief Executive Officer of the Marine Management Organisation and marked "Littlehampton Harbour Revision Order 2015", of which two copies have been deposited at the offices of the Marine Management Organisation and one copy has been deposited at the principal office of the Board;

(4) Section 36 of the 1927 Act is repealed.

(5) In the definition of "The harbour" in section 3 of the 1927 Act, for "the section of this Act of which the marginal note is "Limits of harbour"" substitute "article 3 (The harbour limits) of the Littlehampton Harbour Revision Order 2015".

(6) In the definition of "the harbour" in article 2 (Interpretation) of the 1988 HRO for "section 36 (Limits of harbour) of the Littlehampton Harbour and Arun Drainage Outfall Act 1927" substitute "article 3 (The harbour limits) of the Littlehampton Harbour Revision Order 2015".

(7) In paragraph (1)(a) the map reference points specified shall be construed as references to coordinates of the World Geodetic System, revised in 1984 and further revised in 2004.

PART 2

HARBOUR REGULATION

General and special directions

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

4.—(1) The Board may, in accordance with the requirements of article 5, give a direction for—

(a) the ease, convenience or safety of navigation;

(b) the safety of persons; or

(c) the protection of property, flora or fauna;

within the harbour.

(2) A direction under this article may apply—

(a) to all vessels or to a class of vessels;

(b) to persons designated in the direction;

(c) to the whole of the harbour or to a part; or

(d) at all times or at certain times or at certain states of the tide;

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

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

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 ("the proposal"), it must—

(a) give notice in writing of the proposal to the Chamber of Shipping and the Royal Yachting Association and to such other persons or organisations as it considers appropriate for the purposes of the application of this provision ("designated consultees");

(b) consult with the designated consultees upon the proposal and allow a period of not less than 6 weeks from the date of the notice given in accordance with sub-paragraph (a) for written representations to be made by the designated consultees to the Board regarding the proposal;

(c) have regard to any representations made by designated consultees during the consultation;

(d) give notice in writing to the designated consultees following the 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

(e) 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 from the date of the notice given in accordance with sub-paragraph (d), or such longer period as the Board may specify.

(2) Where the Board has complied with paragraph (1), it may proceed with the proposal if—

(a) none of the designated consultees has made representations against the proposal;

(b) none of the designated consultees which made representations against the proposal has confirmed in writing that they are maintaining their objection to the proposal in accordance with paragraph (1)(e); or

(c) where at least one designated consultee has maintained an objection in accordance with paragraph (1)(e), the requirements of paragraph (3) have been complied with.

(3) Where at least one designated consultee has confirmed in writing to the Board that they maintain their objection to the 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)(e) ("the parties"); or

(ii) failing agreement, by the President of the London Maritime Arbitrators Association on the application of either of the parties;

(b) so far as is reasonably practicable within three months 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 proceed with the proposal having regard to the adjudicator's report (but is not bound to give effect to any recommendations) and, once it has decided, must give notice in writing to the designated consultees 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 or more of the parties as the adjudicator may direct.

(6) If the Board wishes to proceed with the proposal in a form materially different from both the form notified to the designated consultees under paragraph (1)(d) and (where paragraph (3) applies) the form recommended by the adjudicator under paragraph (3)(b), they must proceed, unless all the designated consultees agree in writing that they need not, as if the proposal were a new proposal to which paragraph (1) applies.

(7) Paragraphs (1) to (6) do not apply where in the interests of navigational safety the Board proposes to give, amend or revoke a general direction applying to vessels or persons—

(a) in an emergency; or

(b) relating to an intended activity or operation within the harbour which—

(i) is expected to commence less than four months after the Board is notified or otherwise becomes aware of it;

(ii) is to last less than three months; and

(iii) the Board considers that the giving, amending or revocation of a general direction in relation to that activity or operation is required, taking into account other activities or operations within the harbour which may be affected.

(8) Where the Board proceeds to give, amend or revoke a general direction in accordance with paragraph (7), it must—

(a) as soon as is practicable give notice of the direction, amendment or revocation 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 three months or the revoked direction is not intended to be restored within that period, apply the procedure under paragraphs (1)(b) to (e) and (2) to (6) to the direction, amendment or revocation with the following modifications—

(i) a reference in those paragraphs to the 'proposal' is to be read as a reference to the direction, amendment or revocation;

(ii) in paragraph (1)(b), for "sub-paragraph (a)" substitute "paragraph (8)(a)"; and

(iii) a reference in those paragraphs 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 or the revoked direction should not be restored.

Publication of general directions

6.—(1) Subject to paragraph (3), the Board must publish a notice of the giving, amendment or revocation of a general direction as soon as practicable on one occasion in a newspaper circulating in the locality of the harbour.

(2) The notice must state a place at which copies of the general direction as to be given, amended or revoked may be inspected.

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

Special directions as to use of the harbour, etc.

7.—(1) The harbour master may give a direction which applies to a vessel within the harbour limits for one or more of the following purposes—

(a) requiring compliance with a requirement made in or under—

(i) a general direction;

(ii) a provision of the Littlehampton Harbour Acts and Orders 1927 to 2015; or

(iii) a byelaw or other enactment of local application to the harbour or to the Board;

(b) regulating or requiring the movement, berthing, mooring or unmooring of a vessel;

(c) requiring the removal of a vessel from any part of the harbour if—

(i) it is on fire;