
STATUTORY INSTRUMENTS

2023 No. 675

The Cornwall Harbours Harbour Revision Order 2023

PART 2 **E+W**

**HARBOURS JURISDICTION, GENERAL FUNCTIONS, ESTABLISHMENT
AND CONSTITUTION OF BOARD AND ADVISORY BODIES**

Harbours Jurisdiction **E+W**

4.—(1) The Council shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Act of 1964 (interpretation), and the powers of the harbour master shall be exercisable within the harbours, the limits of which are described in Schedule 1 to this Order (limits of the harbours) and shown on the harbour limits plans.

(2) In the event of any discrepancy between the descriptions of the boundaries of the harbours referred to in Schedule 1 (limits of the harbours) and the boundaries shown on the harbour limits plans the limits as shown on the harbour limits plans shall be deemed to be correct and shall prevail.

(3) For and incidental to the performance of its functions under this Order, the Council may employ and appoint harbour masters.

(4) The Council shall, within the harbours, be a local lighthouse authority within the meaning of sections 193 (general and local lighthouse authorities) and 201 (powers of harbour authorities) of the Act of 1995.

Commencement Information

II Art. 4 in force at 14.7.2023, see [art. 1\(1\)](#)

General functions **E+W**

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

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

(a) improve, maintain, regulate, manage, mark and light the harbours and provide harbour facilities therein;

(b) subject to obtaining the necessary rights in or over land—

(i) execute and place in and over the harbours 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 harbours including those executed or placed in accordance with sub-paragraph (i),
 - (c) acquire land;
 - (d) do all other things which in its opinion are expedient to facilitate the operation, improvement or development of the undertaking.
- (3) The Council must, from time to time, formulate, publish and review a business plan or business plans (“Harbours Business Plan”)(1) in relation to its maintenance, conservation, operation, management and improvement of the undertaking, which it must have regard to when performing its functions.
- (4) In the exercise of the powers of sub-paragraph (2)(b), the Council 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 Council under or by virtue of any other enactment.

Commencement Information

12 Art. 5 in force at 14.7.2023, see [art. 1\(1\)](#)

Establishment of a Board E+W

6.—(1) Within 12 weeks of this Order coming into force the Council must establish a Board of between 10 and 12 members constituted and appointed as provided for within this Order and they and their successors from time to time appointed under this Order shall be called the “Cornwall Harbours Board”.

(2) The purpose of the Board shall be to administer the harbours on behalf of the Council with the powers that can be exercised by the Board set out in Schedule 2 (provisions applying to the Board).

Commencement Information

13 Art. 6 in force at 14.7.2023, see [art. 1\(1\)](#)

Composition of the Board E+W

7.—(1) From the establishment of the Board, the composition of the Board shall be as follows—

- (a) five or six members of the Council; and
- (b) five or six independent lay members.

(2) Each person appointed under paragraph (1) must be a person who appears to the Council to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Board of its functions including, but not limited to, special knowledge, experience or ability in one or more of the following matters—

(1) The Harbours Business Plan may be inspected during working hours at the principal office of Cornwall Council, New County Hall, Treyew Road, Truro TR1 3AY and via the Council’s harbours website at www.cornwallharbours.co.uk.

- (a) maritime industry and activities;
- (b) commerce;
- (c) health and safety;
- (d) management;
- (e) public relations and community issues;
- (f) industrial relations;
- (g) shipping, fishing or cargo handling;
- (h) accountancy or financial management;
- (i) boating and other water related leisure activities;
- (j) environmental matters affecting harbours;
- (k) any other skills and abilities considered from time to time by the Council to be relevant to the discharge by the Board of its functions.

(3) The Council must secure, so far as reasonably practicable, that the persons appointed by it under paragraph (1) 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 Board's functions.

(4) In making an appointment under paragraph (1)(b) the Council must act in accordance with, and in making an appointment under paragraph (1)(a) the Council must have regard to, any guidance issued by the Secretary of State from time to time with regards to exercise of such functions.

(5) All members of the Board appointed under paragraph (1) shall be bound by the Code of Conduct for Cornwall Council members and co-opted members (or replacement) in force at that time.

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Commencement Information

I4 Art. 7 in force at 14.7.2023, see [art. 1\(1\)](#)

Non-voting Co-opted members **E+W**

8. From the establishment of the Board, the Board may from time to time co-opt no more than five persons to attend Board meetings as additional (non-voting) attendees for a fixed term of up to 12 months.

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Commencement Information

I5 Art. 8 in force at 14.7.2023, see [art. 1\(1\)](#)

Terms of office for Board members **E+W**

9.—(1) The first appointments to the Board made by the Council under article 7(1)(a) must be made within 12 weeks of this Order coming into force, with the terms of the members appointed continuing until the next annual meeting of the Council.

(2) At the annual meeting of the Council referred to in paragraph (1) the terms of the members appointed to the Board by the Council in accordance with article 7(1)(a) shall be until the end of the current administrative period of the Council.

(3) All subsequent appointments made to the Board by the Council in accordance with article 7(1)(a) must be made for a term of office until the end of the administrative period of the Council during which the appointment takes place.

(4) The first appointments made to the Board in accordance with article 7(1)(b) must be made within 12 weeks of this Order coming into force.

(5) Those appointed under article 7(1)(b) shall initially serve for the following terms—

- (a) one or two independent lay members for a term of one year;
- (b) two independent lay members for a term of two years;
- (c) two independent lay members for a term of three years.

(6) All subsequent appointments made under article 7(1)(b) unless the appointment is made to fill a casual vacancy shall be made for a period of three years with a maximum period of three consecutive terms of three years being allowed, the third term only in exceptional circumstances following public advertisement of the role and a competitive appointment process.

Commencement Information

I6 Art. 9 in force at 14.7.2023, see [art. 1\(1\)](#)

Casual vacancies **E+W**

10.—(1) A casual vacancy arising in the office of a duly appointed member of the Board must, unless it is not reasonably practicable to do so, be filled by the appointment of a Board member by the Council in accordance with the requirements of articles 7 (composition of the Board) and 9 (terms of office for Board members).

(2) If a member of the Board appointed under article 7(1)(a) ceases to be a member of the Council or is suspended or disqualified from being a councillor, the Council must appoint a replacement member at its next meeting, whose term shall run until the end of the administrative period of the Council during which the appointment takes place.

(3) A member of the Board appointed to fill a casual vacancy under this article shall, if appointed under article 7(1)(b) hold office as a member of the Board for the remainder of the term of the member of the Board in whose place that person has been appointed.

Commencement Information

I7 Art. 10 in force at 14.7.2023, see [art. 1\(1\)](#)

Disqualification or removal of Board members **E+W**

11.—(1) If the Board is satisfied that a member of the Board—

- (a) appointed under article 7(1)(a) ceases to be a member of the Council or becomes suspended or disqualified from the Council;
- (b) appointed under article 7(1)(b) becomes bankrupt;
- (c) appointed under article 7(1)(b) is incapacitated by physical or mental illness from discharging their duties as a member of the Board and the Board does not consider there is merit from the Board exercising its powers under paragraph (2) and as set out in Schedule 2 (provisions applying to the Board);

(d) has been absent from any meeting of the Board for six consecutive months or more than three meetings in any 12 month period without the permission of the Board;

(e) has been removed in accordance with the Council’s constitution,

that member shall be disqualified from being a member of the Board.

- (2) If the Board is satisfied that any member of the Board—
- (a) has acted in a manner which has seriously impeded or prejudiced the Board in the performance of its functions;
 - (b) has failed to declare an interest or to comply with the standards of behaviour required for members of the Board;
 - (c) has acted in a manner which may bring the Board into disrepute or which is inappropriate having regard to the functions of the Board;
 - (d) is otherwise unable, unwilling or unfit to discharge adequately their duties as a member of the Board,

the Council may, or the Board may by resolution request the Council in writing to, remove a member appointed under article 7(1) and on removal of the member treat the vacancy as a casual vacancy.

Commencement Information

18 Art. 11 in force at 14.7.2023, see [art. 1\(1\)](#)

Meetings of the Board **E+W**

12. Meetings of the Board shall be governed by the provisions as set out in Schedule 2 (provisions applying to the Board).

Commencement Information

19 Art. 12 in force at 14.7.2023, see [art. 1\(1\)](#)

Advisory bodies **E+W**

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

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

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

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

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

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

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

Commencement Information

I10 Art. 13 in force at 14.7.2023, see [art. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Cornwall Harbours Harbour Revision Order 2023, PART 2.