

1979 No. 1085

**PORT HEALTH AUTHORITIES, ENGLAND AND WALES**

**The Fowey Port Health Authority Order 1979**

*Made* - - - - - 28th August 1979

*Coming into Operation* 1st October 1979

The Secretary of State for Social Services, in exercise of powers conferred by sections 2, 3 and 9(1) of the Public Health Act 1936(a), as extended by section 108 of and paragraph 6 of Schedule 3 to the Control of Pollution Act 1974(b), and now vested in him(c), and of all other powers enabling him in that behalf, having given the notices required by the aforesaid section 2 of his proposals to make this order and not having received any notice of objection thereto, hereby makes the following order:—

*Citation, commencement and interpretation*

1.—(1) This Order may be cited as the Fowey Port Health Authority Order 1979 and shall come into operation on 1st October 1979.

(2) In this Order, unless the context otherwise requires—

“the Act” means the Public Health Act 1936;

“the Port of Fowey” and “the Port of Falmouth” means respectively the ports of those names as established for the purposes of the enactments relating to customs and excise;

“the joint board” means the joint board establishment by virtue of Article 2.

(3) The riparian authorities specified for the purposes of this Order are Restormel Borough Council and Caradon District Council.

(4) In this Order, unless the context otherwise requires, any reference to an article or a schedule shall be construed as a reference to an article contained in this order, or to a schedule thereto.

*Port Health Authority*

2.—(1) For the purposes of the Act, the Port of Fowey, together with that part of the Port of Falmouth which lies to the east of the boundary of the District of Carrick at Portholland (Ordnance Survey grid reference SW 9595 4107) shall be a port health district, and a joint board shall be the port health authority for that district.

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(a) 1936 c. 49.

(b) 1974 c. 40.

(c) See The Secretary of State for Social Services Order 1968 (S.I. 1968/1699) Art. 2.

(2) The joint board shall be called the Fowey Port Health Authority and shall consist of 10 members.

(3) The members of the joint board shall be appointed from amongst the members of their respective councils by Restormel Borough Council, which shall appoint eight members, and Caradon District Council, which shall appoint two members.

#### *Appointment of Members to the Joint Board*

3.—(1) The specified riparian authorities shall appoint members to the joint board at meetings to be held in May each year.

(2) Any vacancies occurring amongst members of the joint board shall be filled by the specified riparian authority in whose representation the vacancy occurred at a meeting to be held as soon as reasonably possible after such occurrence.

(3) Not less than seven days before a meeting of a specified riparian authority at which it is proposed to elect a member of the joint board, the proper officer of that authority shall give notice of the meeting and of the proposed appointment to every member of that authority.

(4) The proper officer of a specified riparian authority shall forthwith notify in writing to the proper officer of the joint board the name, address and occupation of any person appointed by his authority to be a member of the joint board.

(5) A person appointed to the joint board shall cease to be a member of the board if he ceases to be a member of the Council of the specified riparian authority by which he was appointed.

#### *Retirement of Members*

4.—(1) All members of the joint board shall retire from office, and the newly appointed members shall come into office on 1st June each year.

(2) A retiring member of a joint board may be re-appointed to the board for a further term of office if at the time of his re-appointment he is otherwise qualified to be appointed.

#### *Chairman of the Joint Board*

5.—(1) The chairman of the joint board shall be elected annually by the members of the board from amongst the members.

(2) The election of the chairman shall be the first business transacted at the annual meeting of the joint board.

(3) In the case of equality of votes the person presiding at the annual meeting shall give a casting vote in addition to any other vote he may have.

(4) The chairman shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act as chairman.

(5) During his term of office the chairman shall continue to be a member of the joint board.

### *Jurisdiction*

6.—(1) Subject to paragraph (2), the joint board shall have jurisdiction as port health authority over all waters within the port health district, and also over such part of the district of the specified riparian authorities as comprises the whole of any wharf and of the area within the gates of any dock and the buildings thereon respectively.

(2) The joint board shall not have jurisdiction over any part of the district of the specified riparian authorities which falls within the jurisdiction of any other port health authority.

### *Functions assigned to Joint Board*

7.—(1) There are hereby assigned to the joint board as port health authority the functions, rights and liabilities of a local authority under the enactments specified in the Schedule, so far as they are applicable to a port health authority and to any lands, waters, premises, vessels or persons within their jurisdiction.

(2) For the purposes of the functions, rights and liabilities assigned to the joint board by virtue of this order, the enactments mentioned in the Schedule shall have effect as if

- (a) any vessel lying within their jurisdiction were a house, building or premises, and
- (b) the master or other officer or person in charge of the vessel were the occupier.

(3) This article shall not apply to any vessel belonging to Her Majesty or to any vessel engaged in the service of Her Majesty, whether belonging to Her Majesty or not, or to any vessel belonging to the armed forces of any country to which the provisions of the Visiting Forces Act 1952(a) apply by virtue of section 1 of that Act.

### *Expenses*

8. The specified riparian authorities shall contribute towards any expenses incurred or to be incurred by the joint board by virtue of the authority conferred upon them by this order in the following proportions, namely—

Restormel Borough Council	eight-tenths
Caradon District Council	two-tenths.

### *Audit*

9. All accounts of the joint board or of any committee of the board shall be audited in accordance with the provisions of Part VIII of the Local Government Act 1972(b) by the District Auditor.

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(a) 1952 c. 67.

(b) 1972 c. 70.

*Revocation*

10. The Fowey Port Sanitary (Consolidation) Order 1927(a), Article 66 of the Cornwall Review Order 1934(b), the Fowey Port Health Amendment Order 1938(c) and the entry relating to the Fowey Port Health Authority in the Schedule to the Port Health Authorities (Election and Retirement of Members) Order 1950(d) are hereby revoked.

Signed by authority of the Secretary of State for Social Services.

*Ian G. Gilbert,*  
Under Secretary,  
Department of Health and Social Security.

28th August 1979.

Article 7

SCHEDULE

*Public Health Act 1936 (c. 49)*

Section 48	Power to examine and test drains.
Sections 51 and 52	Care of closets and sanitary conveniences.
Section 82	Byelaws as to removal through streets of offensive matter or liquid.
Sections 83-86	Filthy or verminous premises or articles and verminous persons.
Part III	Nuisances and offensive trades.
Sections 140 and 141	Provisions for the protection of the public from polluted water.
Part V	Prevention, Notification and Treatment of Disease.
Part XII	General.

*Food and Drugs Act 1955 (c. 16)*

Part I	General Provisions as to Food and Drugs.
Part V	Administration, Enforcement and Legal Proceedings.
Part VI	Miscellaneous and General.

*Clean Air Act 1956 (c. 52)*

*Public Health Act 1961 (c. 64)*

Section 26	Defective premises.
Section 36	Power to require vacation of premises during fumigation.
Section 38	Power of justices to order a medical examination.
Section 39	Information to be furnished by occupier in case of notifiable disease or food poisoning.
Section 41	Compensation for stopping employment to prevent spread of disease.

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(a) S.R. & O. 1927/1266.

(b) S.R. & O. 1934/190.

(c) S.R. & O. 1938/844.

(d) S.I. 1950/1386.

*Clean Air Act 1968 (c. 62)*

*The Public Health (Recurring Nuisances) Act 1969 (c. 25)*

*Local Government Act 1972 (c. 70)*

Sections 79–82	Qualifications and disqualifications.
Section 84	Resignations.
Section 88(1) and (2)	Filling casual vacancy in case of chairman.
Section 92	Proceedings for disqualification.
Sections 94–98	Disability of members.
Section 99 and Schedule 12, Parts I and VI	Meetings and proceedings of local authorities.
Sections 101–106	Discharge of functions.
Section 111	Subsidiary powers of local authorities.
Sections 112–119	Staff.
Sections 120–123 and 128–131	Land transactions.
Section 132	Provision of offices.
Section 135	Contracts.
Section 140	Insurance against accidents to members.
Section 143	Subscriptions to associations.
Sections 154–167	Accounts and audit.
Section 176	Payment of expenses of official and courtesy visits, etc.
Sections 222 and 223	Legal proceedings.
Sections 224–234	Documents and Notices, etc.
Sections 236(3)–(8), 237 and 238	Byelaws.

*The Slaughterhouses Act 1974 (c. 3)*

Part I	Slaughterhouses and Knackers' Yards.
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*Control of Pollution Act 1974 (c. 40)*

Part III (except sections 70 (2), (3) and (5), and 71)	Noise.
Section 76	Regulations about sulphur content of oil fuel for furnaces of engines.
Section 77 (insofar as it is supplementary to section 76)	Provisions supplementary to section 76.
Sections 79–83	Information about atmospheric pollution.
Section 84	Interpretation of Part IV.
Section 86	Protection of members and officers of authorities from personal liability.
Sections 91 and 92	Rights of entry and inspection, etc.
Section 93	Power of authorities to obtain information.
Section 94	Prohibition on disclosure of information.
Section 97	Default powers.
Section 98	Interpretation.
Part VI	Miscellaneous and General.

*Local Government (Miscellaneous Provisions) Act 1976 (c. 57)*

Section 16	Power of local authorities to obtain particulars of persons interested in land.
Section 32	Power of local authorities to execute works outside their area.
Section 41	Evidence of resolutions and minutes of proceedings, etc.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order constitutes the Port of Fowey, together with that part of the Port of Falmouth which lies to the east of Portholland as a port health authority and constitutes a joint board, consisting of representatives of Restormel Borough Council and Caradon District Council, to be port health authority for that district. Provision is also made for those authorities to contribute to the expenses of the joint board. This Order supersedes similar orders made under the Public Health Acts and confers upon the joint board functions under general Acts relating to public health and food and drugs.