
S T A T U T O R Y I N S T R U M E N T S

1981 No. 1096

HARBOURS, DOCKS, PIERS AND FERRIES

The Brightlingsea Harbour Revision Order 1981

<i>Made</i> - - - -	1st June 1981
<i>Laid before Parliament</i>	16th June 1981
<i>Coming into Operation</i>	27th July 1981

The Secretary of State for Transport, in exercise of the powers conferred by section 14 of the Harbours Act 1964(a) and now vested in him (b) and of all other powers enabling him in that behalf, and on the application of the Brightlingsea Harbour Commissioners, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Brightlingsea Harbour Revision Order 1981 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(c).

(2) The Brightlingsea Harbour Orders 1927 to 1980 and this Order may be cited together as the Brightlingsea Harbour Orders 1927 to 1981.

Interpretation

2. In this Order, unless the context otherwise requires—

“the Association” means the Brightlingsea and District Fisherman’s and Boatmen’s Association;

“the borough council” means the Colchester Borough Council;

“the Commissioners” means the Brightlingsea Harbour Commissioners;

“the district council” means the Tendring District Council;

“the harbour” has the same meaning as in the Order of 1927;

“the initial term” means the period of three years beginning on the new constitution date;

“the new constitution date” means the first day of the third month after the expiry of the month current at the commencement of this Order;

“the Order of 1927” means the Brightlingsea Harbour Order 1927(d)

(a) 1964 c. 40.
(b) S.I. 1981/238.

(c) 1945 c. 18 (9 & 10 Geo. 6); 1965 c. 43.
(d) 1927 c. xlii.

“the sailing club” means the Brightlingsea Sailing Club;
“the town council” means the Brightlingsea Town Council;
“the yacht club” means the Colne Yacht Club.

The new constitution

3.—(1) Subject to the provisions of paragraphs (2) and (3) of this article, on and after the new constitution date the Commissioners shall consist of—

- (a) two Commissioners appointed by the district council;
- (b) one Commissioner appointed by the borough council;
- (c) three Commissioners appointed by the town council;
- (d) one Commissioner appointed by the sailing club;
- (e) one Commissioner appointed by the yacht club;
- (f) two Commissioners appointed by the Association of whom one shall be a person who appears to the Association to derive the major part of his income from fishing;
- (g) one Commissioner elected by owners of land in and adjoining the harbour.

(2) If the Association shall cease to exist the appointments under paragraph (1)(f) above shall be made by the Commissioners, after consulting such persons appearing to them to be representative of commercial fishermen and commercial boatmen using the harbour as they consider appropriate and in that event the reference in the said paragraph (1)(f) to a person who appears to the Association to derive the major part of his income from fishing shall be construed as a reference to a person who appears to the Commissioners to derive the major part of his income from that activity.

(3) If either the sailing club or the yacht club shall cease to exist the appointment under paragraph (1)(d) or, as the case may be, paragraph (1)(e), above shall be made by whichever of those clubs continues to exist.

Appointment and terms of office of appointed Commissioners

4.—(1) Each body who is required by any of the sub-paragraphs (a) to (f) of article 3(1) above to appoint a Commissioner or Commissioners shall appoint the first Commissioner or Commissioners to be appointed by them before the new constitution date and each Commissioner so appointed shall come into office on that date and, subject to the provisions of the Schedule to this Order, shall continue in office for the initial term.

(2) Every vacancy other than a casual vacancy among the appointed Commissioners shall be filled by a person appointed in accordance with the provisions of article 3 above on or before the date on which the vacancy will occur (or, where a casual vacancy has occurred four months or less before the end of the vacating Commissioner’s normal term of office and, in accordance with the Proviso to paragraph (3) below, has been left unfilled, on or before the date on which the vacancy would normally have occurred) and every Commissioner so appointed shall come into office on that date and, subject to the provisions of the Schedule to this Order, shall continue in office for the period of three years beginning on that date:

Provided that if for any reason a Commissioner is not appointed on or before the date on which the vacancy will occur (or, where a casual vacancy has occurred four months or less before the end of the vacating Commissioner’s normal term of office and, in accordance with the Proviso to paragraph (3)

below, has been left unfilled, on or before the date on which the vacancy would normally have occurred) he shall be appointed as soon as practicable thereafter and shall come into office upon his appointment and, subject as aforesaid, shall continue in office for the remainder of the said term.

(3) Any casual vacancy among the appointed Commissioners shall be filled as soon as practicable by the appointment in accordance with the provisions of article 3 above of a new Commissioner and the Commissioner so appointed shall come into office upon his appointment or, where the appointment is made in advance to fill a vacancy which is known to be about to occur, upon that vacancy occurring, and, subject to the provisions of the Schedule to this Order, shall hold office during the remainder of the term of the Commissioner in whose place he is appointed:

Provided that a casual vacancy occurring four months or less before the end of the vacating Commissioner's normal term of office may, at the discretion of the body responsible for making the appointment in question, be left unfilled.

Election and term of office of elected Commissioners

5. With respect to the election of a Commissioner by owners of land in and adjoining the harbour the following provisions shall have effect:—

- (1) A company shall have the same powers of voting as an individual and shall vote by its secretary or other duly appointed nominee.
- (2) In every case of several persons in partnership being entitled to vote at the election of a Commissioner then the member of the firm agreed upon by the members of the firm in writing or failing this the member whose name stands first in the firm shall alone be entitled to exercise on behalf of the firm the right of voting at such election.
- (3) As to the first election under this article—
 - (a) the meeting for the election shall be held at Brightlingsea before the new constitution date;
 - (b) the person elected shall come into office on the new constitution date and, subject to the provisions of the Schedule to this Order, shall continue in office for the initial term.
- (4) As to the election of a Commissioner to fill a vacancy other than a casual vacancy—
 - (a) the meeting for the election shall be held at a convenient place to be appointed by the Commissioners before the date on which the vacancy will occur;
 - (b) the person elected shall come into office on the date on which the vacancy occurs and, subject to the provisions of the Schedule to this Order, shall continue in office for the period of three years beginning on that date.
- (5) As to the election of a Commissioner to fill a casual vacancy—
 - (a) the meeting for the election shall be held at a convenient place to be appointed by the Commissioners as soon as practicable after the vacancy occurs or, as the case may be, as soon as practicable after it is known that it is about to occur;

(b) the person elected shall come into office upon his election or, where the election is made in advance to fill a vacancy which is known to be about to occur, upon that vacancy occurring, and subject to the provisions of the Schedule to this Order, shall hold office during the remainder of the term of the Commissioner in whose place he is elected.

(6) As to all elections under this article—

(a) the Clerk to the Commissioners shall give notice of the day and place of the meeting by affixing the same on the door of the office of the Commissioners and in any other convenient manner four days at least and not more than ten days before the day of the meeting;

(b) any owner of land in and adjoining the harbour may attend the meeting and vote;

(c) any elector may at the meeting propose any person as a candidate and if the number of persons proposed does not exceed one the chairman of the meeting shall declare that person elected without taking a vote;

(d) the Commissioner to be from time to time elected shall be elected by a majority of the votes of the persons present and entitled to vote at the meeting for the election such votes to be given in such manner as may be directed by the chairman but a proxy is not in any case to be admitted:

Provided that in every case of an equality of votes the chairman of the meeting shall have an additional or casting vote;

(e) at every meeting a person appointed by the meeting shall preside as chairman and the person so presiding shall receive the votes of the electors and shall act in all other respects as chairman of the meeting and the only business to be transacted or discussed at such meeting shall be the election by the meeting of the person to be elected as Commissioner thereat;

(f) the chairman of the meeting shall within seven days after the meeting report to the Clerk to the Commissioners in writing the name of the person elected.

Continuance in office

6. Notwithstanding anything in the Brightlingsea Harbour Orders 1927 and 1972 the persons who hold office as Commissioners at the commencement of this Order shall continue to hold such office until the new constitution date.

Incidental provisions relating to the Commissioners

7. On and after the new constitution date the provisions of the Schedule to this Order shall have effect with respect to the Commissioners.

Repeal of certain provisions of the Brightlingsea Harbour Orders 1927 and 1972

8.—(1) On the new constitution date sections 5 to 12 of the Order of 1927 and articles 3 and 4 of the Brightlingsea Harbour Revision Order 1972(a) (which relate to the constitution of the Commissioners and the appointment and election of Commissioners) shall be repealed.

(a) S.I. 1972/1155.

(2) On the said date the provisions of the Commissioners Clauses Act 1847(a) with respect to the meetings and other proceedings of Commissioners and their liabilities, as incorporated with the Order of 1927 by section 4(2)(a) of that Order, shall cease to have effect.

1st June 1981.

Norman Fowler,
Secretary of State for Transport.

SCHEDULE

PROVISIONS APPLYING TO THE COMMISSIONERS

1. The first meeting of the Commissioners after the new constitution date shall be convened by the Clerk to the Commissioners as soon as reasonably possible after that date and the Clerk shall send notice of that meeting by post to each of the Commissioners.

2.—(1) At the first meeting of the Commissioners after the new constitution date and at the first meeting of the Commissioners in each year thereafter the Commissioners present at the meeting shall choose a Commissioner to act as their chairman and at that meeting or any subsequent meeting the Commissioners present may choose another Commissioner to act as deputy chairman.

(2) So long as they continue as Commissioners the persons chosen under subparagraph (1) above to act as chairman and deputy chairman respectively shall hold office as such from and including the meeting at which they are chosen until the next appointment of a chairman.

3.—(1) If any casual vacancy occurs in the office of chairman the Commissioners shall as soon as may be after the occurrence of such vacancy choose some other Commissioner to fill the vacancy.

(2) If any casual vacancy occurs in the office of deputy chairman the Commissioners may choose some other Commissioner to fill the vacancy.

(3) So long as they continue as Commissioners every person chosen under this paragraph to act as chairman or deputy chairman shall continue in office as such so long as the person in whose place he has been so chosen would have been entitled to continue in office if the casual vacancy had not occurred.

4. In the absence of the chairman the person for the time being holding office as deputy chairman (if any) shall have and may exercise all the powers of the chairman.

5. If at a meeting of the Commissioners neither the chairman nor the deputy chairman are present the Commissioners present at the meeting shall choose one of their number to be chairman for the meeting.

6. The Commissioners may act notwithstanding a vacancy among the Commissioners and no act of the Commissioners shall be deemed to be invalid by reason of any irregularity in the appointment of a Commissioner or of their chairman or deputy chairman.

7. A Commissioner shall vacate his office if he—

(a) is adjudged bankrupt or makes a composition or arrangement with his creditors; or

(b) is convicted in the British Isles of any offence and ordered to be imprisoned for a period of not less than three months without the option of a fine; or

(c) has, for a period of six consecutive months, been absent from meetings of the Commissioners otherwise than by reason of illness or some other cause approved during the period by the Commissioners.

8. A Commissioner may resign his office at any time by notice in writing given to the Clerk to the Commissioners.

9. If at any meeting of the Commissioners there is an equality of votes on a question the chairman of the meeting shall have a second or casting vote.

10. The quorum required for a meeting of the Commissioners shall be four and the Commissioners shall meet at least four times in each year.

11. If a Commissioner has any pecuniary interest in any contract or proposed contract to which the Commissioners are or would be a party or is a Director of a Company or Body with which the contract or proposed contract is made or proposed to be made and is present at a meeting of the Commissioners at which that contract is the subject of consideration he shall at that meeting as soon as practicable after the commencement thereof disclose that fact and shall not vote on any question with respect to that contract.

12. The Commissioners may pay to their chairman and other Commissioners such fees, allowances and travelling expenses as the Commissioners may from time to time determine.

13. Subject to the provisions of this Schedule the procedure and business of the Commissioners shall be regulated in such manner as the Commissioners may from time to time determine.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order alters the constitution of the Brightlingsea Harbour Commissioners so as to consist of 11 Commissioners of whom 10 are to be appointed as follows:—

- (a) two by the Tendring District Council;
- (b) one by the Colchester Borough Council;
- (c) three by the Brightlingsea Town Council;
- (d) one by the Brightlingsea Sailing Club;
- (e) one by the Colne Yacht Club;
- (f) two by the Brightlingsea and District Fisherman's and Boatmen's Association;

and one is to be elected by owners of land in and adjoining Brightlingsea Harbour.

The Order provides for the appointment, election, and terms of office of Commissioners, determines the manner of filling casual vacancies, and prescribes the arrangements for the Commissioners' proceedings.

The Order also makes consequential amendments and repeals in certain enactments relating to the constitution of the Commissioners.

STATUTORY INSTRUMENTS

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