

1988 No. 72

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Cowes Harbour Revision Order 1988**

*Made* - - - - - *15th January 1988*

*Coming into force* - - - - - *1st February 1988*

**ARRANGEMENT OF ARTICLES**

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**SCHEDULE—Enactments repealed**

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 Commissioners for the Harbour of Cowes, hereby makes the following Order:

**Citation and commencement**

1.—(1) This Order may be cited as the Cowes Harbour Revision Order 1988 and shall come into force on 1st February 1988.

(2) The Cowes Harbour Acts and Orders 1897 to 1970 and this Order may be cited together as the Cowes Harbour Acts and Orders 1897 to 1988.

**Interpretation**

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

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(a) 1964 c.40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c.56) section 18 and Schedule 6, paragraphs 2 to 4 and 14.  
(b) See S.I. 1981/238.

“the 1897 Act” means the Cowes Harbour Act 1897(a);

“the Commissioners” means the Commissioners for the Harbour of Cowes incorporated by the 1897 Act.

### Changes in constitution of Commissioners

3. As from the 7th December 1988, for section 5 of the 1897 Act (constitution of Commissioners) there shall be substituted the following section:—

“Constitution of Commissioners.

5.—(1) The Commissioners shall, subject to any casual vacancies, consist of not less than 18 nor more than 20 persons, constituted as follows:—

- (a) the Queen’s Harbour Master at Portsmouth for the time being;
- (b) five to be appointed by the Medina borough council from among themselves in accordance with rules made by them from time to time;
- (c) two to be appointed by the Cowes town council from among themselves in accordance with rules made by them from time to time;
- (d) four traders’ members elected in accordance with the following provisions of this Act (in this Act called “the traders’ members”);
- (e) one being a director or officer of any ferry service operator using the harbour or, if there is more than one, the major operator and appointed by that operator;
- (f) one being a director or officer of the operators for the time being of Medina wharf and appointed by them;
- (g) one to be appointed by the Isle of Wight county council from among themselves in accordance with rules made by them from time to time, to be called “the county council member”;
- (h) one to be appointed by the Solent Cruising and Racing Association after consultation with the chairman of the Commissioners;
- (i) one to be appointed by the Royal Yachting Association;
- (j) the Chief Executive of the Commissioners for the time being;
- (k) not more than two to be co-opted as provided in subsection (2) below.

(2) The Commissioners mentioned in subsection (1)(a) to (i) above may, by a resolution supported by the votes of at least five of the Commissioners after notice of the meeting and of its purpose has been given in the manner in which notices of meetings of the Commissioners are usually given, co-opt as additional Commissioners not more than two persons who in their opinion have a substantial interest in the improvement, maintenance or management of the harbour or who in their opinion have special knowledge or experience that would be of value to the Commissioners in the discharge of their functions or who are engaged to a significant extent in the import or export of goods through the harbour.

(3) A person shall not be eligible for co-option under this section if he is employed by or is a member of any of the appointing authorities mentioned in subsection (1) above or any body controlling any of those authorities.

(4) A Commissioner co-opted under this section shall (unless his office previously becomes vacant for any reason) continue in office for

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(a) 1897 c.cclviii.

a period not exceeding one year beginning with the date of his co-option and on the expiry of that term shall be eligible for co-option again.”.

#### **Appointment of council Commissioners and tenure of office**

4. In section 6 of the 1897 Act (election and rotation of members representing councils) for the words from “the town council” to “succeeding year” there shall be substituted the words “the Medina borough council, the Cowes town council, and the county council respectively shall be appointed at meetings of those bodies respectively to be held in November in the year 1988 and in every third year thereafter”.

#### **Election of traders’ and other members and tenure of office**

5.—(1) Section 7 of the 1897 Act (election and rotation of traders’ and other members) shall be amended as follows.

(2) For subsections (1) to (3) there shall be substituted the following subsections:—

“(1) Traders’ members shall be elected by the electors of traders’ members on the 1st December 1988 and every third year thereafter in the manner by this Act provided and shall hold office until the 7th December three years later.

(2) As soon as practicable after the commencement of the Cowes Harbour Revision Order 1988 (“the commencement date”) the Chief Executive of the Commissioners shall make out and deliver to the Commissioners a list of the electors of traders’ members qualified on the 31st October 1988 in accordance with the provisions of that Order, and that list shall have effect for the first election of traders’ members after the commencement date and shall for all purposes of this Act be substituted for the list of electors in force under this Act immediately before the commencement date.

(3) The Commissioners to be appointed as provided in section 5(1)(e) and (f) of this Act shall be appointed prior to the 1st November in the year 1988 and in every third year thereafter.”.

(3) In subsection (4) (as substituted by article 4 of the Harbour Authorities (Constitution) Order 1985(a)) for the words from “1985” to the end there shall be substituted the words “1988 and in every third year thereafter”.

(4) Subsection (5) shall cease to have effect.

(5) In subsection (6) for the words “Yacht Racing Association” there shall be substituted the words “Royal Yachting Association” and for the words from “first day of November” to the end there shall be substituted the words “1st November in the year 1988 and in every third year thereafter”.

(6) In subsection (7) the words from “fail to make” to “elect Commissioners”, in the first place where they occur, and the word “subsequent” shall cease to have effect.

(7) In subsection (9) for the words “following year” there shall be substituted the words “third year thereafter”.

(8) Nothing in this article shall preclude a Commissioner appointed or elected under section 6 or 7 of the 1897 Act before the commencement of this Order from continuing in office until the 7th December 1988.

#### **Qualification of traders’ members**

6. For section 9 of the 1897 Act (qualification of traders’ members) there shall be substituted the following section:—

“Qualification of traders’ members.

9.—(1) Subject to subsection (2) below and section 10 of this Act, a person shall be qualified to be a traders’ member if he is, or is a partner in a firm or a director of a body corporate which is, qualified as an elector of traders’ members in accordance with section 11 of this

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(a) S.I. 1985/1504.

Act, or the sole agent duly appointed in writing by any such person, firm or body corporate, being at the date of nomination either a ratepayer of the borough of Medina or having a residence or place of business within a radius of 30 miles of the harbour office.

(2) Only one partner in any firm or one director of any body corporate shall be qualified to be a traders' member and, in case more than one partner in any firm or more than one director of any body corporate is nominated at any election, only the nomination of the partner or director first nominated shall be valid."

#### **Qualification of electors of traders' members**

7.—(1) For section 11(1) and (2)(A) and (B) of the 1897 Act (qualification of electors of traders' members) there shall be substituted the following:—

"(1) Any person, partnership or body corporate—

- (a) importing or exporting goods to or from the harbour by means of ships; or
- (b) being the registered owner of commercial ships registered in the United Kingdom elsewhere than at the port of Cowes and used to import or export goods to or from the harbour;

in respect of which, during the 12 months ending the 31st October immediately preceding the election, dues have been paid in respect of—

- (i) at least one single cargo of 500 tonnes or more; or
- (ii) the carrying on at least one journey of 100 passengers or more,

shall be qualified to vote for each traders' member according to the scale in subsection (2) below.

(2) The scale is—

- (a) one vote for the first such 500 tonnes of cargo or 100 passengers carried; and
- (b) in the case of cargoes, an additional vote for every 2000 tonnes of cargo carried, in addition to the first 500 tonnes but ignoring tonnages comprised in cargoes of less than 500 tonnes; and
- (c) in the case of passengers, one additional vote for every 200 passengers carried in addition to the first 100 passengers but ignoring any passengers carried in a journey involving fewer than 100 passengers,

up to a maximum of six votes.

(2A) Any person, partnership or body corporate being the registered owner of commercial ships registered at, or trading wholly or mainly to or from, the harbour of Cowes of a gross registered tonnage of 25 tons or upwards in respect of which dues have been paid to the Commissioners during the 12 months ending the 31st October immediately preceding the election shall be qualified to vote for each traders' member according to the following scale, that is to say:—

- (a) one vote in respect of the first 25 tons of registered tonnage, and
- (b) an additional vote for every 150 tons above the first 25 tons,

up to a maximum of six votes."

(2) In section 13 of the 1897 Act (list of electors of traders' members to be made out) for the words "companies municipal corporations and councils" and "company municipal corporation and council" there shall be substituted respectively the words "and bodies corporate" and "and body corporate".

(3) In section 15 of the 1897 Act (revision of lists of electors of traders' members) for the words "company municipal corporation or council", wherever they occur, there shall be substituted the words "or body corporate".

(4) In section 18 of the 1897 Act (revised lists to be conclusive evidence of rights to vote) for the words "companies municipal corporations or councils", in both places where the occur, there shall be substituted the words "or bodies corporate".

### Occasional vacancies among Commissioners

8. As from the 7th December 1988, in section 21 of the 1897 Act (mode of supplying occasional vacancies), in subsection (3) for the words from "the Admiralty" to "Association" there shall be substituted the words "the ferry service operator, the operators of Medina wharf or the Royal Yachting Association".

### Chief Executive of Commissioners

9. The clerk to the Commissioners shall on and after the coming into operation of this Order be known as the Chief Executive of the Commissioners; and references to the clerk in any local enactment or in any document shall be construed accordingly.

### Repeals

10. The enactments specified in the Schedule to this Order are hereby repealed to the extent specified in the third column of that Schedule.

Signed by authority of the Secretary of State

*J. W. S. Dempster*

15th January 1988

An Under Secretary in the Department of Transport

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## SCHEDULE ENACTMENTS REPEALED

Article 10

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<i>Chapter</i>	<i>Enactment</i>	<i>Extent of repeal</i>
60 and 61 Vict. c.cclviii.	The Cowes Harbour Act 1897.	In section 5, the words from "who shall not be a member" to "the said towns". In section 7, subsection (5) and in subsection (7), the words from "fail to make" to "elect Commissioners", in the first place where they occur, and the word "subsequent". Section 12.
26 Geo. 5 & 1 Edw. 8 c.lxxx.	The Pier and Harbour (Cowes) Confirmation Act 1936.	Section 22 of the Cowes Harbour Order 1936.

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the constitution of the Commissioners for the Harbour of Cowes so that henceforth they shall consist of—

- (a) The Queen's Harbour Master at Portsmouth for the time being;
- (b) Five to be appointed by the Medina borough council from among themselves in accordance with rules made by them from time to time;
- (c) Two to be appointed by the Cowes town council from among themselves in accordance with rules made by them from time to time;
- (d) Four elected traders' members;
- (e) One, being a director or officer of the major ferry operator using the harbour, or if there is more than one, the major operator and appointed by that operator;

- (f) One being a director or officer of the operators for the time being of Medina wharf and appointed by them;
- (g) One to be appointed by the Isle of Wight county council from among themselves in accordance with rules made by them from time to time;
- (h) One to be appointed by the Solent Cruising and Racing Association after consultation with the chairman of the Commissioners;
- (i) One to be appointed by the Royal Yachting Association;
- (j) The Chief Executive of the Commissioners for the time being;
- (k) Not more than two co-opted members.

The Order also amends the provisions of the Cowes Harbour Act 1897 which relate to the qualification of traders' members and of the electors of such members, in order to enable those provisions to take account of modern conditions in the harbour.

The Order makes consequential amendments and repeals in certain enactments relating to the constitution of the Commissioners and provides for the clerk of the Commissioners to be known henceforth as the Chief Executive of the Commissioners.

The applicants for this Order are the Commissioners for the Harbour of Cowes.

£1.30 net

ISBN 0 11 086072 1

Printed in the United Kingdom for Her Majesty's Stationery Office

850 WO.121 C8 1/88 452/3 4235 PS 7944007 873564K