
 STATUTORY INSTRUMENTS

1989 No. 2493

HARBOURS, DOCKS, PIERS AND FERRIES**The Caernarfon Harbour Revision Order 1989**

Made - - - - - 5th December 1989

Coming into force 3rd January 1990

Whereas objections to the application for this Order have been duly made and not withdrawn and the Secretary of State for Transport is required, in accordance with the procedure prescribed in paragraph 4A of Schedule 3 to the Harbours Act 1964(a) to give notice of the making of this Order and its effect to the persons opposing the Order:

And whereas this Order shall come into force 28 days after the giving of such notice unless such persons within that period give notice to the Secretary of State that they maintain their opposition to the Order, and their opposition is not withdrawn within that period, in which case it shall come into force at such time as is prescribed by the Statutory Orders (Special Procedure) Act 1945(b):

Now therefore the Secretary of State for Transport in exercise of the powers conferred by section 14 of the Harbours Act 1964 and now vested in him(c) and of all other powers enabling him in that behalf, hereby makes the following Order:-

Citation

- 1.—(1) This Order may be cited as the Caernarfon Harbour Revision Order 1989.
 (2) This Order and the Caernarfon Harbour Acts and Orders 1793 to 1950 may be cited together as the Caernarfon Harbour Acts and Orders 1793 to 1989.

Interpretation

2. In this Order, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them—

“the Act of 1964” means the Harbours Act 1964;

“the Act of 1972” means the Local Government Act 1972(d);

“the existing Trustees” means the Trustees of the Caernarfon Harbour Trust until the new constitution date;

“the Trustees” means the Trustees of the Caernarfon Harbour Trust on and after the new constitution date;

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

Incorporation of Harbours, Docks and Piers Clauses Act 1847

- 3.—(1) The Harbours, Docks, and Piers Clauses Act 1847(e) (except sections 6 to 21,

(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.

(b) 1945 c.18, as amended by the Statutory Orders (Special Procedure) Act 1965 (c.43).

(c) See section 57(1) of the Harbours Act 1964 and S.I. 1981/238.

(d) 1972 c.70.

(e) 1847 c.27.

24, 25, 31, the proviso to section 32, sections 42, 48 to 50 and 84 to 90), so far as applicable to the purposes of and not inconsistent with the provisions of this Order, is hereby incorporated with this Order subject to the following modifications, that is to say—

- (a) section 23 shall be read and have effect as if the words “provided that no such lease be granted for a longer term than three years” were omitted;
- (b) section 63 shall be read and have effect as if for the words from “liable to” to the end of the section there were substituted the words “be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100”.

(2) In construing the provisions so applied the expression “the special Act” means this Order.

Composition of the Trust

4. On and after the new constitution date the Trustees shall consist of—

- Eight appointed Trustees
- Three nominated Trustees
- Not more than two co-opted Trustees

Appointment and terms of office of appointed Trustees

5.—(1) The appointed Trustees shall be appointed as follows—

- One by the Gwynedd County Council
- Two by the Arfon Borough Council
- One by the Ynys Môn Borough Council
- One by the Caernarfon Town Council
- One by the Welsh Yachting Association
- One by the Nature Conservancy Council
- One by the Menai Straits Users' Association after consultation with the Port Dinorwic Private Mooring Licence Holders' Association.

- (2) (a) Each appointing body as mentioned in paragraph (1) above shall not later than one month before the new constitution date make its appointment of a Trustee who shall continue in office for four years from the new constitution date.
- (b) Each appointing body shall not earlier than six months but not later than one month before the term of office of the Trustee appointed by it expires make its appointment of a Trustee who shall take office when that term expires and continue in office for four years.
- (c) Serving Trustees shall be eligible for re-appointment.
- (d) Each appointing body shall as soon as practicable notify in writing the Clerk to the Trustees of the making of the appointment.

Appointment and terms of office of nominated Trustees

6.—(1) Not later than 2 months before the new constitution date the existing Trustees shall cause a notice to be displayed for a period of one month at the principal offices of the Arfon Borough Council, the Ynys Môn Borough Council, the Caernarfon Town Council and the Caernarfon Harbour Trust and advertisements to be placed in two local newspapers circulating within the districts of the said Borough Councils requesting nominations for appointment as nominated Trustees of people having commercial, financial or maritime experience.

(2) Nominations may be made by persons having a substantial interest in the harbour or by bodies representative of persons having such an interest.

(3) Not later than one week before the new constitution date the existing Trustees shall appoint three nominated Trustees from among those names submitted in accordance with paragraph (1) above to serve for a term of four years.

(4) In appointing the nominated Trustees the existing Trustees shall endeavour so far as possible to secure the representation of a range of different interests.

(5) On the expiry of the term for which they were appointed, nominated Trustees shall retire but shall be eligible for re-appointment.

(6) Not earlier than six months but not later than three months before the term of office of a nominated Trustee shall expire the Trustees shall cause a notice to be displayed and advertised as provided in paragraph (1) above requesting nominations of people who would be suitable for appointment as nominated Trustees and from such nominations the Trustees shall appoint nominated Trustees for the term of four years.

Co-opted Trustees

7. The Trustees may co-opt, by a resolution supported by at least seven votes, not more than two persons who in their opinion have special knowledge or experience that would be of value to the Trustees in the discharge of their function. Co-opted Trustees shall serve for the period of the term of office of the other Trustees, unless the resolution appointing them provides for a shorter period.

Casual vacancies

8.—(1) Every vacancy among the appointed Trustees shall be filled as soon as practicable by a person appointed by the relevant appointing body and such replacement Trustee shall remain in office for the remainder of the term of office of the Trustee being replaced.

(2) If a vacancy occurs among the nominated Trustees, the Trustees shall ascertain from the persons or bodies who contributed to the most recent list of nominations whether they wish to withdraw or maintain their last nominations, or to make other nominations in place of them, and from the list so revised the Trustees shall appoint a replacement Trustee who shall remain in office for the remainder of the term of office of the Trustee being replaced.

(3) Paragraphs (1) and (2) of this article shall not apply to a vacancy occurring less than three months before the end of the vacating Trustee's term of office.

Management and Meetings

9.—(1) As soon as practicable after the new constitution date a meeting of the Trustees shall be convened to appoint a Chairman and a Deputy Chairman from amongst themselves who shall remain in office for a period of one year but shall be eligible for re-appointment.

(2) The quorum required for any meeting of the Trustees shall be seven and if there is an equality of votes on any question the chairman of the meeting shall have a second or casting vote.

(3) All the business of the Trustees with the exception of that referred to in articles 12 and 13 of this Order shall be decided by a simple majority of the Trustees present at a meeting.

(4) Audited accounts shall be published and shall be open to inspection at all reasonable times. Copies shall be available on payment of such charge as the Trustees shall determine.

Power to make charges

10.—(1) Subject to paragraph (2) below, the Trustees may make such reasonable charges as they think fit for services and facilities provided by them.

(2) Paragraph (1) above does not authorise the levying of ship, passenger or goods dues within the meaning of the Act of 1964.

(3) Nothing in this article shall affect any power of the Trustees to demand, take or recover charges which they have under or by virtue of any enactment or rule of law.

Confirmation of byelaws

11. Subsections (3) to (8) and (11) of section 236 and section 238 of the Local Government Act of 1972 (which relate to the procedure for making, and evidence of byelaws) shall apply to any byelaws made by the Trustees as if the Trustees were a local authority and the Clerk to the Trustees were a proper officer of a local authority; and as if, in subsection (7) of section 236 of that Act, after the words "the confirming authority

may confirm" there were inserted the words "with or without modifications" and at the end of that subsection there were added the following proviso—

"Provided that where the Secretary of State proposes to make a modification to a byelaw which appears to him to be substantial he shall inform the Trustees and require them to take any steps which he considers to be necessary for informing persons likely to be concerned with the modification; and he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for the consideration of, and comment upon, the proposed modification by the Trustees and by any other persons who have, or are likely to have, been informed of it".

Power to grant tenancies and to dispose of land

12.—(1) The Trustees shall by a simple majority of the Trustees have the power to grant licences tenancies and leases of land so far as they consider desirable in the interests of efficient and economical management of the harbour for a term or series of terms which are not capable of exceeding twenty-one years.

(2) The Trustees shall by a majority of three quarters of the Trustees have the power to grant licences, tenancies and leases of land so far as they consider desirable in the interests of efficient and economical management of the harbour for any term and shall also have the power to dispose of any interest in land which the Trustees consider to be surplus to that required by them in the performance of their duties.

Procedure for executing documents

13. The Trustees shall execute all documents by sealing the same with a seal to be adopted by them in the presence of any two Trustees authorised for that purpose who shall also sign the said document.

Remuneration of Trustees

14. The Trustees may pay their Chairman and Trustees such reasonable allowances in the nature of those payable under sections 173 to 175 of the Local Government Act 1972(a) as they may determine, but not exceeding the amounts payable under sections 173 to 175 to members of parish or community councils performing duties outside the parish or community for the corresponding allowances under those sections.

Costs of the Order

15. The costs, charges and expenses incurred in connection with the preparation submission and making of this Order (other than those which any person may be ordered by the Secretary of State or a joint committee of both Houses of Parliament to pay, or any costs charges and expenses incurred in opposing this order) shall be paid out of the funds of the Caernarfon Harbour Trust.

Retirement of existing Trustees

16.—(1) Every existing Trustee who has been neither appointed nor nominated to be a Trustee shall retire on the new constitution date.

(2) On the coming into force of this Order the Mayor and Deputy Mayor of the Borough of Arfon, the Comptroller and Surveyor of Customs for the time being and all of the Justices acting in the Commission of the Peace in the County of Gwynedd shall be deemed to have retired as existing Trustees.

Repeal and Saving

17.—(1) The enactments set out in the first column of the Schedule to this Order are repealed from the new constitution date.

(2) Any byelaws made by the existing Trustees and being in force upon the coming into force of this Order shall continue in force notwithstanding any repeal under this article, as if made under powers to make byelaws conferred by this Order.

(a) Sections 173, 174 and 175 were amended by the Local Government Act 1972 (References to Aldermen) Order 1977 (S.I. 1977/1710); the Local Government Planning and Land Act 1980 (c.65), sections 24, 25 and 194 and Schedule 34; the Water Act 1983 (c.23), section 11(3) and Schedule 5; and the Miscellaneous Financial Provisions Act 1983 (c.29).

Signed by authority of the Secretary of State for Transport

5th December 1989

Patrick McLoughlin
Parliamentary Under Secretary of State,
Department of Transport

Article 17

SCHEDULE
REPEALS

<i>Enactment</i>	<i>Extent of Repeal</i>
The Act 33 Geo. 3 (a)	Sections 1-7, 13, 14, 16-40
The Act 49 Geo. 3 (b)	Sections 2-14, 17-20, 23-28, 31-37, 43-47, 49-59, 61, 63-73, 75, 76 and Schedules A, B, C and D.
The Pier and Harbour Orders Confirmation Act, 1877 (No. 3) (c)	Paragraphs 3, 7 and 12 of Schedule.
The Caernarfon Harbour Order 1903 (d)	The whole Order
The Pier and Harbour Order (Caernarfon) Confirmation Act 1950 (e)	The whole Act

- (a) 1793 c.123.
(b) 1809 c.xxiv.
(c) 1877 c.lxxiv.
(d) See 1903 c. cxxxii.
(e) 1950 c. xxxiii.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order reconstitutes the Caernarfon Harbour Trust so as to consist of not fewer than 11 or more than 13 Trustees who shall be appointed as follows—

(a) Eight Appointed Trustees; appointed as follows

- One by the Gwynedd County Council
- Two by the Arfon Borough Council
- One by the Ynys Môn Borough Council
- One by the Caernarfon Town Council
- One by the Welsh Yachting Association
- One by the Nature Conservancy Council
- One by the Menai Straits Users' Association after consultation with the Port Dinorwic Private Mooring Licence Holder's Association.

(b) Three nominated Trustees. These to be appointed by the Trustees from persons nominated by persons having a substantial interest in the harbour, or bodies representing such persons. They should be persons who have commercial, financial or maritime experience.

(c) Co-opted Trustees. The Trustees may co-opt up to two further Trustees, being persons whose special knowledge or experience would be of value to the Trust.

The Order also provides for the management of meetings of the Trustees, publication of accounts, payment of the expenses of trustees, new powers and procedures for making charges, confirming byelaws, granting leases, disposal of surplus land and the sealing of documents, and for the repeal of obsolete provisions.