

2007 No. 3204

HARBOURS, DOCKS, PIERS AND FERRIES

**The Crouch Harbour Authority (Constitution) Harbour Revision
Order 2007**

Made - - - - - *8th November 2007*

Coming into force - - - - - *15th November 2007*

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The Crouch Harbour Authority have applied for a harbour revision order under section 14 of the Harbours Act 1964(a):

The Secretary of State is the appropriate Minister under section 14(7) of the Act(b) and is satisfied as mentioned in section 14(2)(b);

The Secretary of State in exercise of the powers conferred by that section and now vested in him (c) makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Crouch Harbour Authority (Constitution) Harbour Revision Order 2007 and shall come into force on 15th November 2007.

(2) The Crouch Harbour Act 1974(d) and this Order may be cited together as the Crouch Harbour Act and Order 1974 and 2007.

Interpretation

2. In this Order—

“the 1974 Act” means the Crouch Harbour Act 1974;

“advisory body” means any advisory body established under article 13;

“advisory committee” means the Crouch Harbour Authority Advisory Committee constituted by section 11 of the 1974 Act;

“the appointments panel means” the panel constituted under article 4 and during the period from the coming into force of the Order to the new constitution date includes the transitional appointments panel referred to in paragraph 5 of Schedule 3 to this Order;

“the Authority” means the Crouch Harbour Authority;

“the chairman” means the chairman of the Authority;

“the clerk” means the clerk to the Authority;

“the harbour” has the meaning given by section 3(1) of the 1974 Act;

“the local authorities” means Chelmsford Borough Council, Essex County Council, Maldon District Council and Rochford District Council;

“member” means a member of the Authority;

“the new constitution date” means 1st December 2007;

“the vice chairman” means the vice chairman of the Authority.

Constitution of Authority

3.—(1) Subject to article 6, and to the transitional provisions of this Order, and to any casual vacancies, the Authority shall consist of 10 members appointed by the appointments panel.

(2) Each member shall be a person who appears to the appointments panel to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by

(a) 1964 c.40; section 14 was amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 4 and 14, and by the Transport and Works Act 1992 (c.42), section 63(1) and Schedule 3, paragraph 1.

(b) for the definition of “the Minister” (mentioned in section 14(7)) see section 57(1).

(c) SI 1981/238.

(d) 1974 c.xxxv.

the Authority of its functions including in particular (but without prejudice to the generality of the foregoing) special knowledge, experience or ability in one or more of the following matters: —

- (a) water related sporting activities;
- (b) leisure and tourism;
- (c) commercial shipping or other forms of transport;
- (d) financial management;
- (e) the laws relating to England;
- (f) safety or personnel management;
- (g) commercial marketing or information technology;
- (h) environmental matters affecting harbours;
- (i) ownership and management of land in the area of the harbour; and
- (j) any other skills and abilities considered from time to time by the appointments panel to be relevant to the discharge by the Authority of its functions;

and the appointments panel shall secure, so far as reasonably practicable, that the members appointed by the panel will, 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 the Authority of its functions.

(3) In making any appointment under paragraph (1) or article 7, the appointments panel shall act in accordance with any guidance issued by the Secretary of State from time to time with respect to the exercise of such functions.

Appointments panel

4.—(1) There shall be an appointments panel consisting of —

- (a) the chairman or the vice chairman;
- (b) one person nominated by the advisory committee;
- (c) one person nominated jointly by the local authorities.

(2) The appointments panel shall consult the Authority before making any appointment, and shall notify every appointment which it makes to the clerk in writing.

(3) Each member of the appointments panel shall be independent and shall not act as the delegate of the body by which he is appointed.

Terms of office of members

5.—(1) Subject to articles 7 and 8, and paragraph 10 of Schedule 2 to, and to the transitional provisions in Schedule 3 to, this Order, a member shall (unless appointed to fill a casual vacancy) hold office for the period of four years from 1st January next following his appointment.

(2) Upon ceasing to hold office, each member shall be eligible for reappointment.

Declaration to be made by members

6. No person shall act as a member until he has made the declaration set out in Schedule 1 to this Order (or a declaration to that effect); and a person shall cease to be a member if he fails to make that declaration within three months of the date of his appointment.

Casual vacancies

7.—(1) A casual vacancy arising in the office of a member shall, unless it is not reasonably practicable to do so, be filled by the appointment of a member by the appointments panel in accordance with article 4.

(2) A member appointed to fill a casual vacancy under this article shall hold office (unless he previously dies or otherwise ceases to be a member) during the remainder of the term for which the member whom he replaces was appointed.

Disqualification of members

8.—(1) If the Authority are satisfied that a member—

- (a) has without the permission of the Authority been absent from the meetings of the Authority—
 - (i) for a period during which three such meetings have been held; or
 - (ii) for a period of three consecutive months, whichever of these periods is the longer; or
- (b) has become bankrupt or made an arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness from discharging the functions of a member; or
- (d) is otherwise unable, unwilling or unfit to discharge the functions of a member;

the Authority may declare his office as a member to be vacant and from the date of that declaration his office shall become vacant.

(2) In any case where the Authority propose to declare the office of a member to be vacant in the circumstances referred to in paragraph (1) they shall afford the member the opportunity to make representations before taking any decision.

Indemnity insurance for members

9.—(1) The Authority may enter into, and pay premiums for, a contract of insurance to indemnify the members jointly or severally against personal liability arising from any act or omission of the members or any of them; not being an act or omission which the member or members in question knew to be a breach of his or their duty or, concerning which, he or they were reckless as to whether it was such a breach.

Incidental provisions relating to Authority

10. On and after the new constitution date the provisions of Schedule 2 to this Order shall have effect with respect to the Authority.

Transitional provisions

11. The transitional provisions set out in Schedule 3 to this Order shall have effect.

Crouch Harbour Authority Advisory Committee

12. The Authority shall continue to maintain the advisory committee.

Advisory bodies

13.—(1) The Authority shall establish and maintain such advisory bodies as the Authority thinks fit on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.

(2) The Authority shall consult the advisory bodies.

(3) The Authority shall make arrangements for the advisory bodies to meet not less than twice a year.

(4) The Authority shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by any advisory body whether or not

that advisory body has been consulted by the Authority on the matter, recommendation or representation so referred or made.

(5) An advisory body may determine its own quorum and procedure and shall appoint a chairman.

(6) An individual member of an advisory body may, on giving notice in writing to the chairman of that body, send a substitute to any meeting of the body.

(7) A member of an advisory body shall hold office for the period of three years from the date of his appointment and at the end of that period shall be eligible for reappointment.

(8) A member of an advisory body may resign his office at any time by notice in writing given to the clerk.

Amendment of Crouch Harbour Act 1974

14. In section 64 (Byelaws) of the 1974 Act, for proviso (i) to subsection (1)(k) substitute-

“(i) before making or altering any byelaws under this section or the Act of 1847 the Authority shall consult with such persons as the Advisory Committee may consider appropriate;”.

Repeals

15. On the new constitution date the enactments mentioned in columns (1) and (2) of Schedule 4 to this Order shall be repealed to the extent specified in column (3) of that Schedule.

Signed by the authority of the Secretary of State for Transport

8th November 2007

Richard Bennett
Head of Ports Division
Department for Transport

SCHEDULE 1

Article 6

FORM OF DECLARATION BY MEMBERS

CROUCH HARBOUR AUTHORITY
CROUCH HARBOUR ACT 1974
CROUCH HARBOUR AUTHORITY (CONSTITUTION) HARBOUR REVISION ORDER
2007

DECLARATION

I [FULL NAME] do solemnly declare –
that I will faithfully and impartially, according to the best of my skill and judgement, execute all
the powers and authorities vested in me as a member of the Crouch Harbour Authority by virtue of
the Crouch Harbour Act 1974 and the Crouch Harbour Authority (Constitution) Harbour Revision
Order 2007.

that I have read and understood the notes entitled “Notes for Guidance of Members on the
Disclosure of Financial and Other Interests” and “Duties of Members” and that I will comply with
the requirements as to the disclosure of such interests, laid down by paragraph 17 of Schedule 2 to
the Crouch Harbour Authority (Constitution) Harbour Revision Order 2007 and in particular that:
I have disclosed to the clerk details of every financial or other interest such as is mentioned in
those notes;

I will in future notify the clerk of any alteration in those interests, or any new interest, such as is
mentioned in those notes, which I may acquire.



Made and signed at)
on theday of

.....
(signature)

Witnessed by the clerk.....)
of the Crouch Harbour Authority

.....
(signature)

SCHEDULE 2

Article 10

INCIDENTAL PROVISIONS RELATING TO AUTHORITY

Chairman and vice-chairman

1. There shall be a chairman of the Authority who shall be appointed by the members from among their number.

2. Subject to paragraph 5, every chairman appointed under paragraph 1 shall, unless he resigns his office as chairman or ceases to be a member, hold office for a period of one year.

3. There shall be a vice-chairman of the Authority who shall be appointed by the members from among their number.

4. Subject to paragraph 5, every vice-chairman subsequently appointed under paragraph 3 shall, unless he resigns his office as vice-chairman or ceases to be a member, hold office for a period of one year.

5. If the members are satisfied that the chairman or vice-chairman should cease to hold his office as such, they may terminate his office as such and appoint another member to be the chairman or vice-chairman during the remainder of the term for which the former chairman or vice-chairman was appointed.

6.—(1) On a casual vacancy occurring in the office of chairman or vice-chairman the vacancy shall be filled by the members at a meeting held as soon as practicable after the vacancy occurs.

(2) A member appointed under this paragraph to fill a casual vacancy in the office of chairman or vice-chairman shall, unless he resigns that office or ceases to be a member, hold that office during the remainder of the term for which the chairman or vice-chairman whom he replaces was appointed.

7. The person for the time being holding office as vice-chairman shall have and may exercise in the absence or incapacity of the chairman all the functions of the chairman.

8. If at any meeting of the Authority neither the chairman nor the vice-chairman are present the members present at the meeting shall choose one of their number to be the chairman of the meeting.

Meetings of Authority

9.—(1) The Authority shall hold an annual meeting in January in every year.

(2) The Authority shall hold three ordinary meetings in every year, one of which shall be open to the public, and may hold such other meetings as may be required.

Vacation of office by members

10. A member may resign his office at any time by notice in writing given to the clerk.

Reappointment of members

11. Subject to the provisions of this Schedule, a vacating member shall be eligible for reappointment as a member unless he has been disqualified from office under article 8.

Reappointment of chairman

12.—(1) A chairman shall not be eligible for reappointment as the chairman where, immediately before the date in question, he has served as chairman for terms (whether consecutive or not) amounting to nine years.

- (2) For the purposes of this paragraph, “term” does not include-
- (a) a term served by the member as chairman under the transitional provisions of Schedule 3 to this Order where that term is less than three years;
 - (b) the remainder of a term during which the member was appointed to fill a casual vacancy in the office of chairman under paragraph 6; or
 - (c) any term served by the member as chairman prior to the new constitution date.

Committees

13.—(1) The Authority may, consistently with their duties and subject to such conditions as they think fit, delegate any of their functions (other than the functions set out in sub-paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964) to a committee of the Authority.

(2) The Authority shall appoint a Finance and Estates Committee.

(3) Any committee of the Authority (other than the Finance and Estates Committee) may comprise persons who are not members of the Authority provided that at least two-thirds of the members of any committee shall be members of the Authority.

Proceedings of Authority and committees

14. The acts and proceedings of the Authority, or of any committee of the Authority, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as a member, or as chairman or vice-chairman, of the Authority or committee.

Quorum

15. The quorum required for a meeting of the Authority shall be five.

16.—(1) Every question at a meeting of the Authority or of a committee of the Authority shall be decided by a majority vote of the members present and voting.

(2) If at any meeting of the Authority or of a committee of the Authority there is an equality of votes on any question the chairman of the meeting shall have a second or casting vote which he may exercise for or against the status quo.

Declaration of interests

17.—(1) If a member has any interest, direct or indirect—

- (a) in any contract or proposed contract to which the Authority 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; or
- (b) in any other matter with which the members are concerned,

he shall declare that interest.

(2) If a member is present at a meeting of the Authority or of any committee of the Authority at which a contract or other matter in which he has an interest is to be considered he shall—

- (a) as soon as is practicable after the commencement of that meeting disclose his interest;
- (b) not vote on any question with respect to that contract or matter; and
- (c) withdraw from the meeting—
 - (i) at any time if the members present by resolution require him so to do; and
 - (ii) while a decision on that contract or matter is being made.

(3) This paragraph shall not apply to any interest—

- (a) which a member has in respect of the payment to the Authority of harbour dues;
- (b) which arises in respect of the provision of harbour services or facilities affecting the trading community in general;

- (c) which a member has as an employee of a public utility undertaking or as a shareholder, not being a director of a company, unless he possesses more than five per cent of the issued share capital of that company; or
- (d) which the members present at the meeting by resolution declare to be too remote.

Register of interests

18. The Authority shall maintain and regularly update a register of interests declared by members, and shall make the register available for inspection by members of the public at all times during usual office hours.

Authentication of seal and other documents

19.—(1) The application of the seal of the Authority shall be authenticated by the signature of the chairman or some other members authorised by the Authority to authenticate the application of the seal, and of the clerk or some person authorised by the Authority to act in his place in that behalf.

(2) The members may authorise a person to act instead of the clerk under this paragraph whether or not the clerk is absent or incapable of acting.

(3) Any notice, licence or other document given or issued by the Authority shall, unless the contrary intention is expressed, be sufficiently authorised if signed by the clerk or a duly authorised officer of the Authority.

Remuneration of members

20. The Authority may pay to the chairman and other members such reasonable allowances and expenses as the Authority from time to time determine.

General

21. Subject to the provisions of this Schedule, the procedure and business of the Authority and of any committee of the Authority shall be regulated in such manner as the Authority may from time to time determine.

22. The Authority shall appoint a clerk and such other persons as from time to time they think necessary or desirable for and incidental to the performance of their functions and pay to them such remuneration as the Authority think fit.

TRANSITIONAL PROVISIONS

Existing members to continue in office

1. Notwithstanding any provisions of the 1974 Act every member who holds office at the date of the coming into force of this Order shall continue in office until he retires in accordance with paragraph 2 below unless he resigns or becomes disqualified or vacates his office by absence in accordance with this Order.

Retirement of existing members

2.—(1) The members who hold office immediately before the new constitution date shall retire as follows:—

- (a) five shall retire on the new constitution date;
- (b) four shall retire on the second anniversary of the new constitution date;
- (c) five shall retire on the fourth anniversary of the new constitution date.

(2) The retirement dates for the purposes of sub-paragraph (1) shall be determined by the appointments panel who shall not select the person who is the chairman immediately before the new constitution date for retirement on that date.

First appointments of new members

3. The appointments panel shall appoint new members to hold office as follows –

- (a) three shall hold office from the new constitution date for terms of five years;
- (b) three shall hold office from the second anniversary of the new constitution date for terms of four years;
- (c) four shall hold office from the fourth anniversary of the new constitution date for terms of four years.

Existing chairman to continue in office

4. The person who is the chairman immediately before the new constitution date shall, unless he resigns his office as chairman or ceases to be a member, continue as chairman until the second anniversary of the new constitution date.

Transitional appointments panel

5.—(1) During the period commencing on the date of the coming into force of this Order and terminating on the new constitution date the appointments panel (“the transitional appointments panel”) shall consist of –

- (a) the chairman or vice chairman;
- (b) one person nominated by the Crouch Harbour Advisory Committee as constituted by section 11 of the 1974 Act; and
- (c) one person nominated jointly by the local authorities.

(2) The said advisory committee and the local authorities shall make the nominations referred to respectively in sub-paragraphs (1)(b) and (c) as soon as practicable after the date of the coming into force of this Order.

(3) The transitional appointments panel shall meet as soon as practicable after the date of the coming into force of this Order and shall select the persons to serve as members in accordance with paragraph 3(a).

Crouch Harbour Authority Advisory Committee

6. Every person who is a member of the Crouch Harbour Authority Advisory Committee at the date of the coming into force of this Order shall continue to be a member of that committee until he ceases to be such a member in accordance with the 1974 Act.

SCHEDULE 4

Article 15

REPEALS

<i>(1)</i> <i>Chapter</i>	<i>(2)</i> <i>Short Title</i>	<i>(3)</i> <i>Extent of repeal</i>
1974 c. xxxv	Crouch Harbour Act 1974	<p>In section 3, the definitions of “the appropriate officer”, “the Chelmsford Council”, “the constituent bodies”, “the Maldon Council” and “the Rochford Council”.</p> <p>Subsections (2), (3) and (4) of section 5.</p> <p>Sections 6 to 10.</p> <p>Paragraphs 1 to 5 and 7 to 9 of the Schedule.</p>

EXPLANATORY NOTE

(This note is not part of the Order)

This Order reconstitutes the Crouch Harbour Authority as from the date determined under the Order. It provides for the Authority to consist of a body of 10 members with experience in relevant matters. The members will be appointed by an appointments panel. Under the terms of the Order the members will retire in rotation.

The Order also includes other provisions with respect to the Authority and repeals certain statutory provisions.

2007 No. 3204

HARBOURS, DOCKS, PIERS AND FERRIES

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Order 2007

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