

# STATUTORY INSTRUMENTS

2014 No.

## HARBOURS, DOCKS, PIERS AND FERRIES

### The Littlehampton Harbour Revision Order 2014

Made - - - \*\*\*

Laid before Parliament \*\*\*

Coming into force - \*\*\*

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The Littlehampton Harbour Board has applied in accordance with section 14(2)(a) of the Harbours Act 1964 (“the Act”) for a harbour revision order under section 14 of the Act.

The Secretary of State, as the appropriate Minister for the purposes of that section, has by an order made under section 42A of the Act delegated the functions of the appropriate Minister under section 14 of the Act to the Marine Management Organisation.

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b) of the Act and in exercise of the powers conferred by section 14(1), makes the following Order .

## **PART I**

### **PRELIMINARY**

#### **Citation and commencement**

1.—(1) This Order may be cited as the Littlehampton Harbour Revision Order 2014 and shall come into force on [ ]2014

(2) The Act of 1927, the Act of 1972, the HRO of 1986, the HRO of 1988 and this Order may be cited together as the Littlehampton Harbour Provisions 1927 to 2014.

#### **Interpretation**

2.—(1) In this Order —

“the Act of 1927” means the Littlehampton Harbour and Arun Drainage Outfall Act 1927;

“the Act of 1972” means the West Sussex County Council Act 1972 ;

“the Board” means the Littlehampton Harbour Board;

“general direction” means any direction given or proposed to be given under article 3;

“the harbour” has the same definition as in the Act of 1927;

“the harbour master” means any person appointed as such by the Board, and includes their deputies and assistants, and any other person for the time being authorised by the Board to act, either generally or for a specific purpose, in the capacity of harbour master;

“the harbour premises” means the quays, piers, landing places and all other works, lands and buildings for the time being vested in, or occupied or administered by, the Board as part of their harbour undertaking;

“the HRO of 1986” means the Littlehampton Harbour Revision Order of 1986

“the HRO of 1988” means the Littlehampton Harbour Revision Order of 1988

“jet bike” means any personal watercraft propelled by a water- jet engine or other mechanical means of propulsion and steered either —

(a) by means of a handlebar operated linkage system (with or without a rudder at the stern); or

(b) by the person or persons riding the craft using their body weight for the purpose; or

(c) by a combination of the methods referred to respectively in (a) and (b) above;

“special direction” means any direction given or proposed to be given under article 6;

“Trinity House” means the Corporation of Trinity House of Deptford Strond; and

“vessel” means a ship, boat, raft or water craft of any description and includes non-displacement craft, jet bike, seaplane and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle, used or capable of being used as a means of transportation on water.

## PART 2

### HARBOUR REGULATION

#### *General and special directions*

#### **Power to make general directions as to use of harbour, etc.**

3.—(1) The Board may, in accordance with the requirements of article 4, give or amend directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation, the safety of persons and the protection of property, flora and fauna in the harbour.

(2) A direction under this article may apply—

- (a) to all vessels or to a class of vessels; or;
- (b) to persons designated in the direction; or
- (c) to the whole of the harbour or to a part; or
- (d) at all times or at certain times or at certain states of the tide;

and every direction under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) (c) and (d).

(3) The Board may revoke a direction given under paragraph 1.

#### **Procedure for giving general directions**

4.—(1) Subject to paragraph (7), if the Board proposes to give or amend a direction under article 4 (general directions), it must:

- (a) give notice in writing of the proposal to the Chamber of Shipping and the Royal

Yachting Association and to such other persons or organisations as it considers appropriate for the purposes of the application of this provision (in this article called “the designated consultees”),

- (b) consult with the designated consultees upon the proposal, including allowing a period of not less than 6 weeks from the date notice has been given by it to those consultees for each of them to make written representations to the Board on the proposal;
- (c) have regard to any representations made by the designated consultees during that consultation;
- (d) give notice in writing to the designated consultees, following the consultation, as to whether the Board proposes to proceed with the proposal and, if so, specifying whether it is making any modifications to the proposal and their reasons for so doing; and
- (e) if the Board proposes to proceed to make or amend the direction and any of the designated consultees has made representations against the proposal, invite each designated consultee who has made such representations, within 28 days from the date of the notice given to him under sub-paragraph (d) or such longer period as may be specified in that notice, to confirm in writing if they maintain an objection to the proposal.

(2) Where the Board has complied with the requirements of paragraph (1) in relation to a proposal to give or amend a direction, they may proceed to give or amend the direction if:

- (a) none of the designated consultees has made representations against the proposal;
- (b) none of the designated consultees, having made representations against the proposal, gives notice to the Board under paragraph (1)(e) maintaining an objection to the proposal; or
- (c) an objection to the proposal has been maintained but the requirements specified in paragraph (3) have been complied with.

(3) Where a designated consultee has given notice to the Board under paragraph (1)(e) that they maintain an objection to the proposal, the following procedure applies:

- (a) the issue must be referred to an independent person (the adjudicator) to be agreed between the Board and each of the designated consultees maintaining an objection to the proposal or, failing agreement, appointed on the application of any such party by the President of the London Maritime Arbitrators Association;
- (b) the adjudicator must, so far as is reasonably practicable within three months of the referral, first provide a reasonable opportunity for each of the parties to make representations to or be heard by the adjudicator and then make a report in writing to the Board with findings and reasoned recommendations on the issue, a copy of which must also be provided by the adjudicator to the each of the other parties;
- (c) the Board must decide whether to exercise the power to make or amend the direction having regard to the report and recommendations contained in the report of the adjudicator (but shall not be bound to give effect to the recommendations) and, once they have so decided, it must give notice in writing to the designated consultees of its decision and of the reasons for that decision.

(4) If the Board wishes to exercise the power to make or amend a direction in a form materially different from both the form notified to the parties under paragraph (1)(d) and that recommended by the adjudicator under paragraph (3)(b), they must proceed, unless the designated consultees otherwise agree in writing, as if the proposal is a new proposal to which paragraph (1) applies.

(5) Except as otherwise provided for in paragraph (3), an adjudicator appointed under that paragraph may determine the procedure for the making of representations and the conduct of any hearing under that paragraph.

(6) The costs incurred by the adjudicator and by each of the parties on any referral under paragraph (3) are to be paid by such one or more of the parties to the referral as the adjudicator may direct.

(7) Subject to paragraph (8) paragraphs (1) to (6) do not apply where the Board proposes in the interests of navigational safety to make or amend a direction applying to vessels or persons under article 4 (general directions to vessels):

- (a) in an emergency; or
- (b) for the purpose of making temporary provision for an intended activity or operation in the harbour which is expected to commence less than 4 months after the Board is notified of or otherwise becomes aware of it and to last not more than 28 days and which the Board considers it appropriate to make such provision, after taking into account other activities and operations in the harbour which may be affected by it.

(8) Where pursuant to paragraph (7) the Board proceeds to make or amend or revoke a direction without complying with paragraphs (1) to (6), it must:

- (a) give notice of the direction or amendment as soon as is practicable to those persons who would otherwise have been designated consultees had paragraph (1)(a) applied; and
- (b) if a direction or amendment or revocation of a direction is to continue in force for a period of more than 3 months from the date of that notice, apply the procedures specified under paragraphs (1) (b) to (e) and (2) to (6) of this article to the question of the retention of the direction or amendment or revocation of the direction in force after that period as they apply under those provisions to a proposal to make or amend a direction.

#### **Publication of general directions.**

5.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in an emergency, be published by the Board as soon as practicable once in a newspaper circulating in the locality of the harbour and shall state a place at which copies of the general direction may be inspected.

(2) In an emergency, notice of the giving of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the Board to be appropriate.

#### **Special directions as to use of the harbour, etc.**

6.—(1) The harbour master may give a direction for any of the purposes in subparagraphs (a) to (i) applying to a vessel within the harbour limits, or for any of the purposes in subparagraph (a) applying to a person, or applying to all vessels, or vessels of a particular class within the harbour limits,-

- (a) requiring compliance with a requirement made in or under –
  - (i) a general direction;
  - (ii) any provision of the Littlehampton Harbour Provisions 1927 to 2013 or
  - (iii) any byelaw or other enactment of local application to the harbour or to the Board;
- (b) regulating or requiring the movement, berthing, mooring or unmooring of the vessel:

- (c) requiring the removal from any part of the harbour of the vessel if —
  - (i) it is on fire;
  - (ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink, or to constitute a danger to life or property;
  - (iii) it is making an unlawful use of the harbour or interfering with the reasonable use or enjoyment of the harbour by other vessels or persons or the carrying on of business in the harbour;
  - (iv) its removal is necessary to enable maintenance or repair work to be carried out in the harbour or to premises adjacent to the harbour; or
  - (v) its removal is considered by the harbour master to be necessary in order to ensure the safety of persons or the protection of property, flora or fauna or of any part of the harbour referred to in paragraph (3);
- (d) regulating the loading, discharging, storing and safeguarding of the cargo, fuel, water or stores of the vessel and the dispatch of its business at the harbour;
- (e) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (f) regulating the speed of the vessel;
- (g) regulating the use of the motive power of the vessel;
- (h) prohibiting or restricting the use of fires or lights; or
  - (i) as to the discharge or use of ballast.
- (2) The harbour master may give a direction to a person who is within the harbour limits.

(3) A direction under this article may be given in the interests of the conservation or prevention of damage of any part of the harbour or an adjacent site where that part has been designated, or otherwise has been given special protection or status, under any enactment by reason of its natural beauty, fauna, flora, or archaeological or geological or physiographical features or any other natural features.

(4) A direction under this article may be given in any manner considered by the harbour master to be appropriate and must be addressed to the master where the direction is in respect of or applies to a vessel.

(5) Where a direction under this article is given to a person or persons the harbour master must, whenever possible, specify a particular person or persons to whom the direction is addressed, either by name or by a description sufficient to enable the person or persons in question to be readily identified.

- (6) The harbour master may revoke or amend a direction given under this article.

### **Failure to comply with directions**

7.—(1) A person who fails to comply with a general direction or special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

- (2) In any proceedings for an offence under paragraph 1 it shall be a defence for the person

charged to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

### **Enforcement of special directions**

**8.**—(1) Without prejudice to any other remedy available to the Board, if a special direction in respect of or applying to a vessel is not complied with within a reasonable time, the harbour master may put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board a vessel to attend to a special direction, and after reasonable inquiry has been made the master cannot be found, the harbour master may proceed as if the direction had been given and not complied with.

(3) Expenses incurred by the Board in the exercise of the powers conferred by paragraph (1) above shall be recoverable by it as if they were a charge of the Board in respect of the vessel.

### **Master's responsibility in relation to directions**

**9.**—The giving of a general direction or a special direction in respect of or applying to a vessel shall not diminish nor in any other way affect the responsibility of the master of the vessel in respect of which the direction is given in relation to the vessel, to persons on board the vessel, to the cargo or to any other person or property.

## **PART 3**

### **MISCELLANEOUS AND GENERAL**

#### **Harbour Services and facilities**

**10.**—(1) The Board shall have power, within the confines of their statutory duties, to provide, maintain, operate and improve such harbour services and facilities in, or in the vicinity of, the harbour as it may consider necessary or desirable and to take such action as it considers incidental to the provision of such services and facilities.

(2) No other provisions of the Littlehampton Harbour Revision Provisions 1927 to 2013 shall prejudice or derogate from the generality of paragraph (1)

#### **Boarding of vessels**

**11.**—Any duly authorised officer of the Board may, on producing written authority signed by the harbour master, enter and inspect a vessel in the harbour —

(a) for the purposes of any enactment relating to the Board or of any byelaw of the Board or any general or special direction, including the enforcement thereof; or

(b) to prevent or extinguish fire;

but, except in an emergency, no entry shall be made under this article without notice first having been given to the owner or the person appearing to have charge of the vessel; and the notice shall have annexed to it a copy of this article.

#### **Information for purpose of landing charges**

**12.**—(1) When any passengers are embarked on or disembarked from or cargo loaded onto or unloaded from a vessel within the harbour the owner or master of the vessel, if requested to do so by the Board, shall provide to the Board details in writing of the number of persons embarking on or disembarking from the vessel and the weight, quantity, volume and composition of cargo being loaded onto or unloaded from the vessel so as to enable the Board to determine whether any of the Board's published landing fees or other charges are payable in respect of those persons or cargo, in accordance with section 26(2) of the Harbours Act 1964 or other legislation applicable to the harbour.

(2) A request made under paragraph (1) may apply to a single vessel movement or (in the case of a vessel which habitually uses the harbour) to every occasion upon which the vessel arrives at or departs from the harbour.

(3) The owner or master of a vessel in respect of which a request is made under paragraph (1) shall provide the details so requested within such period (being not less than 24 hours) after the arrival or as the case may be the departure of the vessel as may be specified by the Board.

(4) Paragraph (1) shall not apply in relation to non-commercial vessels occupying moorings within the harbour under licences granted by the Board, nor to vessels paying visitor berthing rates to the Board.

(5) For the purposes of paragraph (4) "non-commercial vessel" means any vessel used for sport or recreation other than a vessel which is carrying, or is available to carry, members of the general public for hire or reward.

(6) Any person who, without reasonable excuse, fails to comply with any requirement made under paragraph (1), or who in compliance with such a requirement provides any information which they knows to be false, or recklessly provides information which is false in any material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Obstruction of officers**

**13.**—(1) Any person who —

(a) intentionally obstructs or threatens an officer of the Board acting in pursuance of the performance of his functions;

(b) without reasonable excuse fails to give such an officer any information (including his name and address) which the officer may require for the purpose of the performance of his functions,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Any person who in giving such information makes a statement which he knows to be false shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Crown Rights**

**14.**—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Order shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any, channel, creek, bay or estuary) —

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Board, without the prior consent in writing of that Board; or

(b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the prior consent in writing of that government department.

(2) A consent under paragraph (1) may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate

### **Saving for Trinity House**

**15.**—Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.

### **Notices**

**16.**—(1) Without prejudice to the discretion of the harbour master under article 6(4) and subject to the following provisions of this article, and to the other provisions of this Order, a notice or other document required or authorised to be served for the purposes of this Order, or any direction given under this Order, shall be in writing and may be served by first class post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) Where a person on whom a notice or other document is to be served has agreed in writing that service may be by email, or other electronic means, the Board may employ this method of service until such time as the person informs it in writing that they are no longer willing to receive notices or documents by email or by such other electronic means.

(4) For the purposes of section 7 of the Interpretation Act 1978<sup>a</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, his last known address at the time of service.

(5) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person whose name and address cannot be ascertained after reasonable inquiry—

- (a) in the case of a notice or document to be served on any person as having an interest on, or as the occupier of, any land, it may be served by —
  - (i) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
  - (ii) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land;
- (b) in the case of a notice or document relating to a vessel (including a wreck), it may be served by exhibiting it in a conspicuous position on or near the vessel, or handed to a member of the crew, unless it would not be reasonably practicable to exhibit the notice

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<sup>a</sup> 1978 c.30.

or document in this manner, or if the notice or document would not be likely to be seen if it were so exhibited;

(c) in the case of any other notice or document or a notice or document that is not capable of being served pursuant to paragraph 5(b) it may be served by displaying it at the office of the harbour master for the period of its duration.

(6) This article shall not be taken to exclude the employment of any method of service not expressly provided by it.

### **Revocation of Byelaws**

**17.**—(1) The Board may from time to time make byelaws for the revocation of byelaws made under the Littlehampton Harbour Provisions 1927 to 2013 and under all other powers them enabling.

(2) Byelaws made under this article shall be made under the common seal of the Board, and shall not have effect until the requirements of this article have been satisfied.

(3) Upon the byelaws having been made, notice of the same shall be given in one or more local newspapers circulating in the area to which the byelaws apply.

(4) For at least one month after the making of byelaws, a copy of the byelaws shall be deposited at the offices of the Board and the Angmering Park Trustees' Estate Office and shall at all reasonable hours be open to public inspection without payment.

(5) The Board shall have regard to all representations received during the period when the byelaws have been made available for public consultation, in order to decide whether to confirm the Byelaws, with or without amendments.

(6) A copy of the byelaws, when confirmed by the Board, shall be printed and deposited at the offices of the Board, and shall at all reasonable hours be open for public inspection without payment.

### **Power to grant tenancies and to dispose of land**

**18.**—(1) The Board may, for the purposes of, or in connection with the management of the harbour lease or grant the use or occupation of, or any right or interest in or over, Littlehampton Harbour Board lands, works, buildings, machinery, equipment or other property forming part of the harbour undertaking for such period, at such rents and other considerations and on such terms and conditions as may be agreed between the Board and the person taking the same.

(2) The Board may also dispose of, or grant the use or occupation of, any property vested in them and held by them for the management of the harbour which is no longer required for that purpose.

### **Commercial Activities**

**19.**—(1) The Board may carry on a trade or business of any kind that conduces to the efficient and economical performance by the Board of the management of the harbour including a trade or business carried on in conjunction with another person.

(2) Without prejudice to the generality of paragraph (1) the Board may for the purposes of the management of the harbour form, invest in and promote, or join with any other person in forming,

investing in and promoting, companies for investing in, using or developing for any purpose, or for carrying on any trade or business in, the harbour.

**Amendment to the Act of 1927**

**20.**—Section 70(2) of the Act of 1927 shall be amended by deleting the words “the sum of five pounds for each offence” and substituting the words “level 4 on the standard scale”.

**Saving for the Duke of Norfolk**

**21.**—Nothing in this Order shall affect prejudicially any estate right power privilege liberty franchise or exemption of the Duke of Norfolk and Earl of Arundel and every such estate right power privilege liberty franchise or exemption shall continue to be vested in and enjoyed by the said Duke of Norfolk and Earl of Arundel and his sequels in estate as if this Order had not been made.

**Saving for Arundel District Council**

**22.**—Nothing in this Order shall affect prejudicially any estate right power privilege liberty franchise or exemption of Arundel District Council and every such estate right power privilege liberty franchise or exemption shall continue to be vested in Arundel District Council as if this Order had not been made.

Signed by authority of the Marine Management Organisation

[Date]  
An authorised member of the Marine Management Organisation

*[Signed]*