

WELSH STATUTORY INSTRUMENTS

2020 No. []

HARBOURS, DOCKS, PIERS AND FERRIES, WALES
The Saundersfoot Harbour Revision (Constitution) Order 2020

Made [] 2020

Coming into force [] 2020

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SCHEDULE – MINOR AND CONSEQUENTIAL AMENDMENTS TO 2011 ORDER

The Saundersfoot Harbour Commissioners have applied for a harbour revision order under section 14 of the Harbours Act 1964(a);

The Welsh Ministers (being the appropriate Minister under subsection (7) of the said Section 14(a)), in exercise of the powers conferred by that section and now vested in them (b) make the following Order:

Citation and commencement

1.—(1) This Order may be cited as The Saundersfoot Harbour Revision (Constitution) Order 2020 and shall come into force on [] 2020.

(2) The Saundersfoot Harbour Empowerment Order 2011 and this Order may together be cited as The Saundersfoot Harbour Orders 2011 to 2020.

Interpretation

2. —In this Order unless the context otherwise requires—
“the 2011 Order” means The Saundersfoot Harbour Empowerment Order 2011.

The Commissioners

- 3.—(1) Article 4 of the 2011 Order is amended as follows—
(a) Omit from article 4(1) “eight”.

Constitution of Commissioners

- 4.—(1) Article 5 of the 2011 Order is amended as follows—
(a) for article 5(1) substitute—
“(1) The Commissioners shall be no fewer than eight and not more than twelve consisting of:
(a) the chief executive officer and, if the Commissioners so decide, one other senior officer , who shall hold office for so long as they are employed as chief executive officer or senior officer;
(b) two persons who appear to the Commissioners to have special knowledge or experience of the position of the harbor within the local community and local economy;
(c) such other persons who are willing to act as Commissioners and who have the skills and abilities required from time to time to discharge of the role of Commissioner,
in each case appointed to be a Commissioner by resolution of the Commissioners.”
(b) for article 5(2) substitute—
“(2) Before any person is appointed under paragraph (1) he or she shall be interviewed by, and the Commissioners shall consult with, a committee of the Commissioners to be known as the nominations committee.”
(c) by the insertion as article 5(3) of—
“(3) The Commissioners shall appoint a nominations committee to undertake the selection process for all Commissioner appointments and the nominations committee shall include:
(a) the chair or vice-chair of the Commissioners;
(b) one independent member; and
(c) for appointments under paragraph 1(b) a member of Pembrokeshire County Council or Saundersfoot Community Council.”

Appointments panel

- 5.—(1) Article 7 of the 2011 Order is amended as follows—
(a) omit articles 7(1), 7(2), 7(3) and 7(4).

Appointment of Commissioners and term of office

- 6.—(1) Article 8 of the 2011 Order is amended as follows—
(a) omit articles 8(1), 8(2) and 8(3).

Transitional provisions

7.—(1) Article 9 of the 2011 Order is amended as follows—

- (a) omit articles 9(1), 9(2), 9(3), 9(4) and 9(5).

Terms of office of subsequent Commissioners

8.—(1) Article 10 of the 2011 Order is amended as follows—

- (a) by the insertion in article 10(1) after “Subject to” of “the provisions of article 5(1)(a) and”;
- (b) omit article 10(2);
- (c) in article 10(3) for “paragraph 10 of Schedule 2” substitute “paragraphs 10, 11 and 12 of Schedule 2 provided that paragraphs 10, 11 and 12 of Schedule 2 shall not apply to Commissioners appointed in accordance with article 5(1)(a) ”.

Casual vacancies

9.—(1) Article 11 of the 2011 Order is amended as follows—

- (a) for article 11(1) substitute—

“(1) If a casual vacancy occurs in the office of a Commissioner, the Commissioner may appoint another person to fill the vacancy. In doing so the Commissioners must comply with articles 5 and 6.”;

- (b) by the insertion as article 11(2) of—

“(2) The casual vacancy may at the discretion of the Commissioners be left unfilled save where the vacancy causes the number of Commissioners to be fewer than eight in which case the Commissioners must appoint another person to fill the vacancy, unless it is not reasonably practicable to do so, and must comply with articles 5 and 6.”;

- (c) by renumbering article 11(2) as 11(3);

- (d) in paragraph 11(3) for “Subject to articles 12 and 13 and paragraph 10 of Schedule 2 ” substitute “Subject to articles 5(1)(a), 10(3), 12 and 13 and paragraphs 10, 11 and 12 of Schedule 2”;

- (e) in paragraph 11(3) for “during the remainder of the term of the Commissioner whose office was vacated (including any extension of that term)” substitute “for a period of three years from the date of appointment”.

General powers

10.—(1) Article 23 of the 2011 Order is amended as follows—

- (a) for article 23(1) substitute—

“(1) The Commissioners may take such steps as they may consider necessary or desirable from time to time for the operation, maintenance, management and improvement of:

- (a) the harbour and its approaches; and
- (b) the harbour facilities.”

- (b) for article 23(2) substitute—

“(2) For the above purposes, and without limiting the scope of paragraph (1), the Commissioners may:

- (a) improve, maintain, regulate, manage, mark and light the harbour and provide harbour facilities;
 - (b) acquire any undertaking or part of an undertaking;
 - (c) provide loans and guarantees and make any other kind of financial provision;
 - (d) enter into contracts to provide services to or on behalf of other bodies;
 - (e) subject to obtaining the necessary right in or over land, place, execute, operate, maintain, renew, alter, remove and reconstruct structures and works and equipment in the harbour; and
 - (f) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour.”
- (c) by the insertion as article 23(3) of—
- “(3) This article is without prejudice to the powers of the Commissioners under or by virtue of any other enactment.”

Byelaws as to harbour

- 11.**—(1) Article 30 of the 2011 Order is amended as follows—
- (a) by the insertion in article 30(1)(g) before “the harbour” of “or in transit through”;
 - (b) by the insertion in article 30(1)(s) before “pier” of “vessels at anchor,”.

Borrowing powers

- 12.**—(1) Article 53 of the 2011 Order is amended as follows—
- (a) in article 53(2)(a) for “£5,000,000” substitute “£10,000,000”.

Temporary borrowing

- 13.**—(1) Article 54 of the 2011 Order is amended as follows—
- (a) in article 54(2)(a) for “£100,000” substitute “£2,000,000”.

Temporary borrowing

- 14.**—(1) Article 55 of the 2011 Order is amended as follows—
- (a) in article 55(1) for “the new constitution date” substitute “the date of coming into force of The Saundersfoot Harbour Revision (Constitution) Order 2020”.

Advisory Committee

- 15.**—(1) Article 58 of the 2011 Order is amended as follows—
- (a) for article 58(2) substitute—
- “(2) Subject to the provisions of this article, the advisory committee is to consist of no fewer than seven members appointed by the Commissioners after consultation with (as appropriate):
- (a) Pembrokeshire County Council;
 - (b) Saundersfoot Community Council;
 - (c) the Royal Yachting Association;
 - (d) the Pembrokeshire Coast National Park Authority,
- and such other persons as the Commissioners from time to time think fit and who in the reasonable opinion of the Commissioners, are representative of:
- (i) local boating and fishing interests in the harbour;

- (ii) commercial interests in the harbour other than boating and fishing;
 - (iii) persons interested in the harbour for any other reason.”
- (b) omit article 58(3).

Reappointment of Commissioners

16.—(1) Paragraph 11 of Schedule 2 of the 2011 Order is amended as follows—

(a) for paragraph (2) substitute—

“(2) A vacating Commissioner is not eligible for reappointment as a Commissioner where, immediately before the date in question, the Commissioner has held office for three consecutive terms unless:

- (a) he or she is the chair of the Commissioners; or
- (b) he or she is among those Commissioners in office on the date of the coming into force of The Saundersfoot Harbour Revision (Constitution) Order 2020 and is appointed for a further consecutive term by resolution of the Commissioners.”

Reappointment of chair

17.—(1) Paragraph 12 of Schedule 2 of the 2011 Order is amended as follows—

(a) by the insertion in 12(1) after “terms” of “unless he or she is among those Commissioners in office on the date of coming into force of The Saundersfoot Harbour Revision (Constitution) Order 2020 and is appointed for a further consecutive term by resolution of the Commissioners”.

Remuneration of the Commissioners and Chair

18.—(1) Paragraph 21 of Schedule 2 of the 2011 Order is amended as follows—

(a) for paragraph 21(1) substitute —

“(1)The Commissioners may pay to each Commissioner such reasonable remuneration, allowances and expenses as may from time to time be determined by a committee of the Commissioners to be known as the remuneration committee.”

(b) for paragraph 21(2) substitute—

“(2) The Commissioners shall appoint a remuneration committee including at least two Commissioners. The remuneration committee shall have delegated responsibility for determining the remuneration of the Commissioners and the chair of the Commissioners and may, at the Commissioners request, advise on the remuneration of executive officers. The remuneration committee shall be authorised to obtain external advice if it is deemed necessary.”.

Minor and consequential amendments

19.—The Schedule to this Order has effect.

Signed by authority of the Welsh Ministers

[]

Date

SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS TO 2011 ORDER

1. The 2011 Order is amended as follows.
2. In article 2 (Interpretation)—
 - (a) omit “”appointing body (“corf sy’n penodi”) means any of the persons (namely local authorities and the appointments panel) by whom the Commissioners are appointed in accordance with article 5;”;
 - (b) omit “”the appointments panel” (“y panel penodiadau”) means the panel constituted under article 7;”;
 - (c) insert “”nominations committee” (“y pwyllgor enwebiadau”) means the committee appointed under article 5(3)”;
 - (d) insert “”remuneration committee” (“y pwyllgor taliadau”) means the committee appointed under paragraph 21(2) of Schedule 2;”.
3. In article 4(1) (The Commissioners)—
 - (a) for “article 9” substitute “the provisions of this Order”.
4. In article 6(1) (Selection of Commissioners)—
 - (a) for “Each appointing body” substitute “The Commissioners”.
5. In article 6(2) (Selection of Commissioners)—
 - (b) for “Each appointing body” substitute “The Commissioners”.
6. In article 15 (Provisions applying to Commissioners)—
 - (a) omit “Subject to article 9 in relation to the initial interim Commissioners,”.
7. In schedule 2 (Incidental provisions relating to Commissioners)—
 - (a) omit paragraph 11(4);
 - (b) omit paragraph 12(2).

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order, by amending The Saundersfoot Harbour Empowerment Order 2011, alters the constitution of The Saundersfoot Harbour Commissioners.
2. The Order—
 - (a) provides that new Commissioners will be appointed by the Commissioners themselves after consultation with a nominations committee and the number of Commissioners appointed will be no fewer than eight and no more than twelve (currently Commissioners are appointed by Pembrokeshire County Council, Saundersfoot Community Council and the appointments panel and the number of Commissioners must be eight);
 - (b) gives the Commissioners discretion to leave a casual vacancy unfilled, subject to there always being no fewer than eight Commissioners (currently casual vacancies must be filled) and any Commissioner appointed (whether or not to fill a casual vacancy) will serve for a term of three years from the date of appointment;
 - (c) updates the Commissioners' general powers;
 - (d) updates the Commissioners' powers to make byelaws;
 - (e) increases the limit on the Commissioners' borrowing from £5,000,000 to £10,000,000;
 - (f) increases the limit on the Commissioners' temporary borrowing from £100,000 to £2,000,000;
 - (g) varies the constitution of the advisory committee;
 - (h) creates a remuneration committee;
 - (i) permits payment of remuneration to Commissioners (currently only the Chairman may be remunerated) through delegated authority to a properly constituted remuneration committee.