STATUTORY INSTRUMENTS

1981 No. 352

HARBOURS, DOCKS, PIERS AND FERRIES

The Brightlingsea Harbour Revision (Financial Provisions) Order 1980

Made - - - -	*25th November* 1980
Laid before Parliament	*27th January* 1981
Coming into Operation	*9th March* 1981

The Minister of Transport, in exercise of his powers under 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 Brightlingsea Harbour Commissioners, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Brightlingsea Harbour Revision (Financial Provisions) Order 1980 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(c).

(2) This Order shall be included among the orders which may be cited together as the Brightlingsea Harbour Orders 1927 to 1980.

Interpretation

2. In this Order except where the context otherwise requires—

"the Commissioners" means the Brightlingsea Harbour Commissioners;

"enactment" means any Act, or any order, scheme or other instrument made thereunder, and any provision in any Act or in any such order, scheme or instrument;

"the harbour" has the same meaning as in the Order of 1927;

"the Order of 1927" means the Brightlingsea Harbour Order 1927(d);

"year" means a period of twelve months beginning on 1st April.

Capital borrowing powers

3.—(1) The Commissioners may from time to time borrow upon the security of all or any of the revenues and property of the Commissioners and by any method or methods they see fit—

(*a*) such sums of money as they think necessary not exceeding in the aggregate £500,000; and

(*b*) with the consent of the Minister of Transport, such further sums of money as they may require:

(a) 1964 c. 40. (b) S.I. 1970/1681 and 1979/571.
(c) 9 & 10 Geo. 6 c. 18; 1965 c. 43. (d) 17 & 18 Geo. 5 c. xlii.

Provided that in calculating for the purpose of this article the aggregate sums of money borrowed by the Commissioners there shall be excluded any sums borrowed for the purpose of repaying within twelve months of the date of borrowing any sum for the time being outstanding by way of principal on any amount previously borrowed.

(2) Moneys borrowed by the Commissioners under this article shall be applied only to purposes to which capital money is properly applicable.

(3) For the purposes of the last foregoing paragraph, but without prejudice to the generality thereof, purposes to which capital money is properly applicable shall be deemed to include:—

(*a*) the payment of any interest falling due within the five years immediately following the date of the borrowing on any sum of money borrowed by the Commissioners under this article; and

(*b*) the repayment within twelve months of the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

Temporary borrowing

4. The Commissioners may borrow temporarily, by way of overdraft or otherwise, such sums as the Commissioners may require for meeting their obligations or discharging their functions under or in pursuance of any enactment:

Provided that the total amount outstanding at any one time of the money so borrowed shall not exceed five thousand pounds.

Charges for services or facilities

5. The Commissioners may demand, take and recover such reasonable charges for services and facilities provided by them at the harbour as they may from time to time determine.

General reserve

6. The Commissioners may continue and maintain a general reserve and shall determine the moneys to be carried to the credit of that reserve, the management thereof and the application for the purposes of the Commissioners of the moneys comprised therein.

Accounts and audit

7.—(1) The Commissioners shall cause to be kept proper accounts of all sums received or paid by them and proper records in relation to those accounts; and the accounts of each financial year of the Commissioners shall be audited by an auditor or auditors appointed under this article.

(2) No person shall be qualified to be appointed auditor under this article unless he is a member of one or more of the following bodies:—

The Institute of Chartered Accountants in England and Wales;

The Institute of Chartered Accountants of Scotland;

The Association of Certified Accountants;

The Institute of Chartered Accountants in Ireland;

Any body of accountants established in the United Kingdom and recognised for the purpose of section 161(1)(*a*) of the Companies Act 1948 by the Secretary of State;

but a Scottish firm may be so appointed if each of the partners is qualified to be so appointed.

(3) The Commissioners shall cause to be made out annually a balance sheet and a statement of income and expenditure made up to the end of the financial year of the Commissioners.

(4) The audited accounts of the Commissioners shall at all reasonable times be open to inspection and transcription without payment by any interested person.

Amendment of power for holders of securities to appoint a receiver

8. Subsection (2) of section 37 (Appointment of receiver) of the Order of 1927 shall have effect as if for the words "two hundred pounds" there were substituted the words "one thousand pounds".

Saving for powers of Treasury

9. It shall not be lawful to exercise the powers of borrowing conferred upon the Commissioners by this Order otherwise than in compliance with the provisions of any order for the time being in force made under sections 1 and 3(4) of the Borrowing (Control and Guarantees) Act 1946**(a)**.

Repeals

10. The following sections of the Order of 1927 are hereby repealed:—

Section 22 (Rates);

Section 23 (Exemptions);

Section 24 (Variation of rates);

Section 28 (Power to borrow);

Section 29 (Period for repayment);

Section 30 (Mode of repayment);

Section 31 (Power to re-borrow);

Section 32 (Sinking fund);

Section 33 (Return to Minister of Transport with respect to repayment of debt);

Section 34 (Application of money borrowed);

Section 35 (Protection of lenders);

Section 36 (Proceeds of sale of surplus lands to be treated as capital);

Section 39 (Reserve Fund);

Section 40 (Application of harbour revenue);

Section 41 (Auditor);

Section 42 (Annual accounts to be sent to Minister of Transport).

25th November 1980.

Norman Fowler,
Minister of Transport.

(a) 1946 c. 58.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends and modernises the borrowing powers; updates the provisions for a reserve fund; includes provisions relating to audit and amends power for holders of securities to appoint a receiver.

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