# 2001 No. 2675

# HARBOURS, DOCKS, PIERS AND FERRIES

## The King's Lynn Conservancy Board (Constitution) Harbour Revision Order 2001

*Made - - - - -* *20th July 2001*

*Coming into force - -* *1st August 2001*

## ARRANGEMENT OF ARTICLES

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**[DOT 12605]**

Whereas the King's Lynn Conservancy Board have applied for a harbour revision order under section 14 of the Harbours Act 1964(**a**).

And whereas no objections to the application have been made pursuant to paragraph 3(2)(a) of Schedule 3 to the said Act.

Now, therefore, the Secretary of State for Transport, Local Government and the Regions (being the appropriate Minister under subsection (7) of the said section 14(**b**), in exercise of the powers conferred by that section and now vested in him(**c**), and of all other powers enabling him in that behalf, hereby makes the following Order:

*Preliminary*

**Citation and commencement**

**1.**—(1) This Order may be cited as the King's Lynn Conservancy Board (Constitution) Harbour Revision Order 2001 and shall come into force on 1st August 2001.

(2) The King's Lynn Conservancy Acts and Orders 1897 to 1983 and this Order may be cited together as the King's Lynn Conservancy Acts and Orders 1897 to 2001.

**Incorporation of section 60 of Commissioners Clauses Act 1847**

**2.** Section 60 of the Commissioners Clauses Act 1847(**d**) shall be incorporated with this Order.

**Interpretation**

**3.** In this Order—

"appointing body" means any of the bodies mentioned in article 4(1)(a) to (d) below;

"the Board" means the King's Lynn Conservancy Board;

"member" means a member of the Board;

"the new constitution date" means 1st February 2002.

*Constitution*

**Constitution of Board**

**4.**—(1) On and after the new constitution date, the Board shall consist of—

(a) four members appointed by the King's Lynn and West Norfolk Borough Council;

(b) one member appointed by the Norfolk County Council;

(c) one member appointed by the Trades Union Congress who is a paid official of a trade union appearing to them to represent persons engaged in dock and harbour activities in the port;

(d) five members appointed by the Board; and

(e) the Harbour Master & Chief Executive for the time being of the Board.

(2) Each member appointed under paragraph (1)(a), (b) and (d) above shall be a person who appears to the Council or the Board (as the case may be) to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Board of their 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) management of harbours;

(b) industrial and commercial activities;

(c) shipping or other forms of transport;

(d) navigation;

(e) environmental matters affecting harbours and management of water related activities;

(f) administration and finance;

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(**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**) S.I. 1981/238 and S.I. 1997/2971.

(**d**) 1847 c. 16.

(g) community and leisure interests;

(h) any other skills and matters considered relevant from time to time by the Board to the discharge by them of their functions;

and each appointing body mentioned in paragraph (1)(a), (b) or (d) above shall secure, so far as reasonably practicable, that the members appointed by them respectively 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 them of their functions.

(3) In making an appointment under paragraph (1) above or article 8(1) below, each appointing body 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.

**Appointment and terms of office of first members**

**5.**—(1) The first appointments under article 4(1)(a) to (d) above shall be made on or before, or as soon as reasonably practicable after, 30th September 2001.

(2) The Board shall appoint the persons who are, at the date when they make the first appointments under paragraph (1) above, the chairman and deputy chairman of the Board to be two of the first of such appointed members and they shall hold office as members from the new constitution date until 31st January 2005; and on and after the new constitution date shall be the chairman and vice-chairman respectively of the Board.

(3) Of the remaining first members appointed by the Board—

(a) two shall hold office from the new constitution date until 31st January 2003; and

(b) one shall hold office from the new constitution date until 31st January 2004;

as the Board shall specify when they make each of those appointments.

(4) Of the first members appointed by the King's Lynn and West Norfolk Borough Council—

(a) one shall hold office from the new constitution date until 31st January 2003;

(b) two shall hold office from the new constitution date until 31st January 2004; and

(c) one shall hold office from the new constitution date until 31st January 2005;

as the Council shall specify when they make each of those appointments.

(5) The first members appointed by the Norfolk County Council and the Trades Union Congress shall hold office from the new constitutional date until 31st January 2005.

**Terms of office of subsequent members**

**6.** A member appointed under article 4(1)(a) to (d) above (other then a member appointed under article 5 above) shall, unless appointed to fill a casual vacancy and subject to articles 7 and 9 of, and paragraph 10 of Schedule 2 to, this Order, hold office for the period of three years from 1st February next following his apppointment.

**Declaration to be made by members**

**7.** 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**

**8.**—(1) A casual vacancy arising in the office of a member appointed by an appointing body shall, unless it is not reasonably practicable to do so, be filled by the appointment of a member by that appointing body in accordance with article 4(2) or (3) above.

(2) A member appointed to fill a casual vacancy under this article shall, subject to articles 7 and 9 of, and paragraph 10 of Schedule 2 to, this Order, hold office during the remainder of the term for which the member whom he replaces was appointed.

**Disqualification of members**

**9.** If the Board are satisfied that a member—

(a) has without the permission of the Board been absent from the meetings of the Board—

(i) for a period during which three such meetings have been held; or

(ii) for a period of three consecutive months,

whichever of those 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 Board may declare his office as a member to be vacant and thereupon his office shall become vacant.

**Indemnity insurance for members**

**10.** The Board 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 of 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 Board**

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

**Publication of Board's annual statement of accounts**

**12.** As soon as reasonably practicable after their annual statement of accounts is prepared, the Board shall—

(a) make available a copy of the statement for a period of three months at the offices of the Board for inspection free of charge by members of the public and shall, subject to the payment of a reasonable charge, supply a copy of the statement to any person who requests to be supplied with a copy; and

(b) send a copy of the statement to the King's Lynn and West Norfolk Borough Council and Norfolk County Council.

**Borrowing powers**

**13.**—(1) Subject to paragraph (2) below, the Board may from time to time borrow upon the security of their assets for the time being or of their revenues or both their assets and their revenues, by any methods they see fit—

(a) such sums of money as they think necessary not exceeding one million pounds (or that sum as adjusted in accordance with article 15 below); and

(b) with the consent of the Secretary of State, such further sums of money as they may require.

(2) In calculating the aggregate sums of money borrowed by the Board under paragraph (1) above, 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.

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

(4) For the purposes of paragraph (3) above, but without prejudice to the generality of that paragraph, purposes to which capital money is properly applicable shall be deemed to include—

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

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

**Temporary borrowing powers**

**14.** The Board may borrow temporarily, by way of overdraft or otherwise, such sums of money as the Board may require but the total amount outstanding at any one time of money so borrowed shall not exceed four hundred thousand pounds (or that sum as adjusted in accordance with article 15 below).

**RPI adjustment of borrowing limits**

**15.**—(1) On each anniversary of the new constitution date, the sums mentioned in articles 13(1)(a) and 14 above shall be adjusted in line with any movement (calculated to one decimal place) in RPI which occurred during the year ended on 31st December immediately preceding the anniversary in question.

(2) Any adjustment referred to in paragraph (1) above shall be recorded in the next following annual statement of accounts prepared by the Board.

(3) In paragraph (1) above, "RPI" means the general index of retail prices for all items published in the monthly publication of the Office for National Statistics known as "Monthly Digest of Statistics", or any successor from time to time of that index.

**Repeals and revocations**

**16.** On the new constitution date the enactments mentioned in the first and second columns of Schedule 3 to this Order (which include spent enactments) shall be repealed or revoked to the extent specified in the third column of that Schedule.

Signed by the authority of the Secretary of State for
Transport, Local Government and the Regions.

*Stephen Reeves*
Head of Ports Division
20th July 2001 Department of Transport, Local Government and the Regions

# SCHEDULE 1

Article 7

## FORM OF DECLARATION BY MEMBERS

**KING'S LYNN CONSERVANCY BOARD**

**KING'S LYNN CONSERVANCY ACTS AND ORDERS 1897 TO 2001**

**DECLARATION**

I, [FULL NAME] do solemnly declare

(1) 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 King's Lynn Conservancy Board by virtue of the King's Lynn Conservancy Acts and Orders 1897 to 2001;

(2) that I have read and understood the notes entitled "Note for Guidance of Board 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 16 of Schedule 2 to the King's Lynn Conservancy Board (Constitution) Harbour Revision Order 2001, and in particular that:

(a) I have disclosed to the Harbour Master & Chief Executive details of every financial or other interest such as is mentioned in those notes;

(b) I will in future notify the Harbour Master & Chief Executive of any alteration in those interests, or any new interest, such as is mentioned in those notes, which I may acquire.

Made and signed in King's Lynn in the County of Norfolk, on the .....day of ..... .....

(Signature)

Witnessed by the Harbour Master & Chief Executive ..... as a member of the King's Lynn Conservancy Board .....

(Signature)

*Note: Where the declaration is to be made by the Harbour Master & Chief Executive, the Form shall be amended so that, for references to "the Harbour Master & Chief Executive", there are substituted references to "the Chairman".*

# SCHEDULE 2

Article 11

## INCIDENTAL PROVISIONS RELATING TO BOARD

**Appointment of chairman and vice-chairman of Board**

**1.** There shall be a chairman of the Board who shall be appointed by those of the members who are appointed under articles 4(1)(a) to (d) or 8 above from among their number.

**2.** The first chairman appointed under article 5(2) above shall, subject to paragraph 7 below and unless he resigns his office as chairman or ceases to be a member, continue in office as chairman until his initial term of office as a member has expired.

**3.** Subject to paragraph 7 below, every chairman subsequently appointed under paragraph 1 above shall, unless he resigns his office as chairman or ceases to be a member, hold office for a period of three years.

**4.** There shall be a vice-chairman of the Board who shall be appointed by those of the members who are appointed under articles 4(1)(a) to (d) or 8 above from among their number.

**5.** The first vice-chairman appointed under article 5(2) above shall, subject to paragraph 7 below and unless he resigns his office as vice-chairman or ceases to be a member, continue in office as vice-chairman until his initial term of office as a member has expired.

**6.** Subject to paragraph 7 below, every vice-chairman subsequently appointed under paragraph 4 above shall, unless he resigns his office as vice-chairman or ceases to be a member, hold office for a period of three years.

**7.** If those of the members who are appointed under articles 4(1)(a) to (d) or 8 above 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 chairman or vice-chairman during the remainder of the term for which the former chairman or vice-chairman was appointed.

**8.**—(1) On a casual vacancy occurring in the office of chairman or vice-chairman of the Board, the vacancy shall be filled by those of the members who are appointed under articles 4(1)(a) to (d) or 8 above 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.

**Meetings of Board**

**9.**—(1) The first meeting of the Board after the new constitution date shall be convened as soon as practicable by the Harbour Master & Chief Executive for such date as he may fix; and he shall make arrangements for notice of that meeting to be sent by post to each of the other members.

(2) The Board shall meet at least once in each of eleven months in every year.

**Vacation of office by members**

**10.** A member (other than the Harbour Master & Chief Executive) may resign his office at any time by notice in writing given to the chairman of the Board or, if that member is the chairman, the vice-chairman.

**Reappointment of members**

**11.**—(1) 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 9 above.

(2) A vacating appointed member shall not be eligible for reappointment as a member where, immediately before the date in question, he has held office for three consecutive terms unless he is the chairman of the Board.

(3) A chairman of the Board who is an appointed member shall not be eligible for reappointment as a member where, immediately before the date in question, he has held office as a member for four consecutive terms.

(4) For the purposes of this paragraph, "term" does not include—

(a) a term referred to in article 5(3)(a) or (b) or (4)(a) or (b) above;

(b) the remainder of a term during which the member was appointed to fill a casual vacancy under article 8 above; or

(c) any term served by the member prior to the new constitution date.

(5) In this paragraph "appointed member" means a member appointed under article 4(1)(a) to (d) above.

**Reappointment of chairman**

**12.**—(1) A chairman of the Board shall not be eligible for reappointment as chairman where, immediately before the date in question, he has served as chairman for three consecutive terms.

(2) For the purposes of this paragraph, "term" does not include—

(a) the remainder of a term during which the member was appointed to fill a casual vacancy in the office of chairman under paragraph 8 above; or

(b) any term served by the member as chairman prior to the new constitution date.

**Committees**

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

**Proceedings of Board and committees**

**14.** The acts and proceedings of the Board, or of any committee of the Board, 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 Board or committee.

**15.** The quorum required for a meeting of the Board shall be six.

**16.** If a member has any interest, direct or indirect—

(a) in any contract or proposed contract to which the Board 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 Board are concerned,

he shall declare that interest.

(2) If a member is present at a meeting of the Board or of any committee of the Board 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 Board of harbour dues;

(b) which arises in respect of the provision of harbour services of 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.

**17.** 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.

**18.** If at any meeting of the Board 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.

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

(2) If at any meeting of the Board or of a committee of the Board 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.

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(**a**) Paragraph 9B was inserted by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9.

**Authentication of seal and other documents**

**20.**—(1) The application of the seal of the Board shall be authenticated by the signature of the chairman of the Board or some other member authorised by the Board to authenticate the application of the seal, and of the Harbour Master & Chief Executive of the Board or some person authorised by the Board to act in his place in that behalf.

(2) The Board may authorise a person to act instead of the Harbour Master & Chief Executive under this paragraph whether or not the Harbour Master & Chief Executive is absent or incapable of acting.

(3) Any notice, licence or other document given or issued by the Board shall, unless the contrary intention is expressed, be sufficiently authorised if signed by the Harbour Master & Chief Executive of the Board or a duly authorised officer of the Board.

**General**

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

**22.** The Board shall employ—

(a) a person to be the Harbour Master & Chief Executive; and

(b) 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 Board think fit.

## SCHEDULE 3

Article 16

REPEALS AND REVOCATIONS

| *Chapter or number* | *Short title* | *Extent of repeal or revocation* |
|---|---|---|
| 1897 c. cxcvi | The King's Lynn Conservancy Act 1897. | In section 2, the words "with respect to the appointment and accountability of the officers of the commissioners and".<br>Section 7.<br>Sections 11 to 32.<br>Sections 34 to 36.<br>Schedule 1. |
| S.I. 1968/1976 | The King's Lynn Conservancy Board Revision Order 1968. | The whole Order. |
| S.I. 1983/1345 | The King's Lynn Conservancy Board (Constitution) Revision Order 1983. | Articles 2 to 5.<br>Article 7.<br>Schedules 1 and 2. |

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order reconstitutes the King's Lynn Conservancy Board as from 1 February 2002. It provides for the Board to consist of a body of twelve members with experience in relevant matters. Four members will be appointed by the King's Lynn and West Norfolk Borough Council, one by the Norfolk County Council, one by the Trades Union Congress and five by the Board. The Harbour Master & Chief Executive will also hold office as a member of the Board. Under the terms of the Order the appointed members will retire in rotation.

The Order also includes other provisions with respect to the Board's constitution including provisions for the protection of the members from personal liability in the discharge of their functions. The Order increases the Board's borrowing powers, amends existing statutory requirements as to the Board's accounts and repeals or revokes certain statutory provisions.

STATUTORY INSTRUMENTS

# 2001 No. 2675

# HARBOURS, DOCKS, PIERS AND FERRIES

## The King's Lynn Conservancy Board (Constitution) Harbour Revision Order 2001

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