STATUTORY INSTRUMENTS

2014 No. 1076

HARBOURS, DOCKS, PIERS AND FERRIES

The Lymington Harbour Revision Order 2014

Made - - - -	*24th April 2014*
Laid before Parliament	*1st May 2014*
Coming into force - -	*23rd May 2014*

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The Lymington Harbour Commissioners have applied in accordance with section 14(2)(a) of the Harbours Act 1964(**a**) for a harbour revision order under section 14.

The Secretary of State, as the appropriate Minister for the purposes of that section, has by an Order(**b**) under section 42A(**c**) delegated the functions of the appropriate Minister under section 14(**d**) to the Marine Management Organisation(**e**).

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) and (3), makes the following Order.

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Lymington Harbour Revision Order 2014 and shall come into force on 23rd May 2014.

(2) The Lymington River and Harbour Order 1951, the Lymington Harbour Revision Order 1976, the Lymington Harbour Revision (Constitution) Order 2002, the Lymington Harbour (Works) Revision Order 2014 and this Order may be cited together as the Lymington Harbour Orders 1951 to 2014.

Interpretation

2. In this Order—

"the 1951 Order" means the Lymington River and Harbour Order 1951(**f**);

"the 1976 Order" means the Lymington Harbour Revision Order 1976(**g**);

(**a**) 1964 c.40; section 14 was amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 4(1) and 14 and section 40 and Schedule 12 (Part II), by the Transport and Works Act 1992 (c.42), section 63(1) and Schedule 3, paragraph 1, by S.I. 2006/1177, regulation 2 and the Schedule (Part 1), by the Planning Act 2008 (c.29), section 36 and Schedule 2, paragraphs 8 and 9, by S.I. 2009/1941, article 2 and Schedule 1, paragraph 12 and by the Criminal Justice Act 1982 (c.48), sections 37 and 46. Section 54 (orders and regulations) was amended by the Transport Act 1981 (c.56), Schedules 6 and 12 (Part II) and by the Marine and Coastal Access Act 2009 (c.23), Schedule 21, paragraphs 1 and 3(2).
(**b**) S.I. 2010/674.
(**c**) Section 42A was inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009 (c.23), Schedule 21, paragraphs 1 and 3(1).
(**d**) For the definition of "the Minister" (mentioned in section 14(7)), see section 57(1).
(**e**) The Marine Management Organisation was established by the Marine and Coastal Access Act 2009 (c.23), section 1.
(**f**) 1951 c.xxv
(**g**) S.I. 1976/607

"the 2002 Order" means the Lymington Harbour Revision (Constitution) Order 2002(**a**);

"the Commissioners" means the Lymington Harbour Commissioners;

"general direction" means a direction under article 4;

"the harbour" means Lymington Harbour as comprised within the harbour limits;

"the harbour limits" means the limits of the harbour specified in article 3(1);

"the Harbour Master" means the person appointed as such by the Commissioners, and includes his deputies and assistants, and any other person for the time being authorised by the Commissioners to act, either generally or for a specific purpose, in the capacity of Harbour Master;

"harbour water taxi service" means a service of vessels provided for the primary purpose of carrying members of the public to, from or between locations within the harbour limits and vessels (whether moored, anchored or underway) within the harbour limits, being a service for which a fare is normally levied;

"personal watercraft" means a watercraft propelled by a water jet engine or other mechanical means of propulsion and steered–

(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 his or their body weight for the purpose; or

(c) by a combination of the methods referred to in (a) or (b);

"special direction" means a direction under article 7;

"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 a non-displacement craft, personal water craft or 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.

The harbour limits

3.—(1) The limits of the harbour within which the Commissioners exercise jurisdiction as a harbour authority and the powers of the Harbour Master are exercisable are–

(a) from navigation mark 'Jack in the Basket' at 50 degrees 44.277'N 01 degrees 30.577'W; thence following an imaginary straight line in a north westerly direction to the Lymington and Pennington sea wall at 50 degrees 44.673'N 01 degrees 31.562'W; thence following the level of high water upstream along the western bank of the river to the 'Toll Bridge' at 50 degrees 45.758'N 01 degrees 32.257'W; thence following the level of high water along the 'Toll Bridge' to the eastern bank of the river at 50 degrees 45.835'N 01 degrees 32.1065'W; thence following the level of high water downstream along the eastern bank of the river to 'Nash Point' at 50 degrees 45.195'N 01 degrees 30.816'W; thence following an imaginary straight line to a position south east of the 'Starting Platform' at 50 degrees 44.359'N 01 degrees 30.313'W; thence following an imaginary straight line in a south westerly direction to 'Jack in the Basket' at 50 degrees 44.277'N 01 degrees 30.577'W, (all coordinates in degrees, minutes and decimals of minutes and based on WGS84 datum) and include–

(b) the extent of those parts of the harbour premises not within that area.

(2) Paragraphs (1) and (3) of section 21 (Limits of the harbour) of the 1951 Order are revoked and in the definition of "the Harbour" in section 3 of that Order for the words "section 21 (Limits of the harbour) of this Order" there are substituted the words "article 3 (The harbour limits) of the Lymington Harbour Revision Order 2014".

(**a**) S.I. 2002/2586

(3) For the purposes of the Lymington Harbour Orders 1951 to 2014 the limits of the harbour are shown edged in blue on the harbour map and in the event of a discrepancy between the description of the limits of the harbour referred to in paragraph (1) and the limits shown on the harbour map the description of the limits shall prevail over the harbour map.

(4) In this article—

"the harbour map" means the map of the harbour prepared in triplicate, signed by the Chief Executive Officer of the Marine Management Organisation and marked "Lymington Harbour Revision Order 2014", of which two copies have been deposited at the offices of the Marine Management Organisation and one copy has been deposited at the principal office of the Commissioners;

"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 Commissioners as part of the harbour;

"the level of high water" means the level of mean high-water spring tides; and

"WGS84" means the World Geodetic System, revised in 1984 and further revised in 2004.

PART 2

HARBOUR REGULATION

General and Special Directions

General directions as to the use of the harbour, etc.

4.—(1) The Commissioners may, in accordance with the requirements of article 5, 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 or property, flora and fauna in the harbour.

(2) Subject to paragraph (3) a direction under this article may apply—

(a) to all vessels or to a class of vessels; or

(b) to all persons or to a class of persons; 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) Subject to paragraph (4) a direction under paragraph (1) may prohibit entry into the harbour by a vessel or class of vessels; but a direction may be given in reliance upon this paragraph only in respect of personal watercraft or in respect of vessels which exceed—

(a) 62.4 metres LOA; or

(b) 16 metres beam; or

(c) 1503 metric tonnes displacement.

(4) A direction in reliance on paragraph (3) may not prohibit entry by an exempt vessel or a class of vessels where at least one vessel within that class is an exempt vessel.

(5) The Commissioners may revoke a direction given under paragraph (1).

(6) In paragraph (3) "LOA" means length overall and in paragraph (4) "exempt vessel" means a vessel which has been in the harbour on one or more occasions prior to the 1st January 2013.

Procedure for giving, amending and revoking general directions

5.—(1) Subject to paragraph (7), if the Commissioners propose to give, amend or revoke a direction under article 4, they must—

(a) give notice in writing of the proposal to the Chamber of Shipping, the Lymington Harbour Advisory Group, Wightlink Limited (or any successor to Wightlink Limited that operates the ferry service to the Isle of Wight), the Royal Yachting Association and to such other persons as they consider appropriate in respect of the proposal (in this article called "the designated consultees");

(b) consult with the designates consultees upon the proposal, including allowing a period of not less than 6 weeks from the date notice has been given by them to those consultees for each of them to make written representations to the Commissioners 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 Commissioners propose to proceed with the proposal and, if so, specifying whether they are making any modifications to the proposal and their reasons for so doing; and

(e) if the Commissioners propose to proceed with the proposal 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 he maintains an objection to the proposal.

(2) Where the Commissioners have complied with the requirements of paragraph (1) in relation to a proposal, they may proceed with the proposal if—

(a) none of the designated consultees have made representations against the proposal;

(b) none of the designated consultees, having made representations against the proposal, give notice to the Commissioners 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 designate consultee has given notice to the Commissioners under paragraph (1)(e) that he maintains an objection to the proposal—

(a) the issue must be referred to an independent person ("the adjudicator") to be agreed between the Commissioners 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 Commissioners with findings and reasoned recommendations on the issue, a copy of which must also be provided by the adjudicator to each of the other parties; and

(c) the Commissioners must decide whether to exercise the power to give, amend or revoke the direction having regard to the report and the 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, they must give notice in writing to the designated consultees of their decision and of the reasons for that decision.

(4) If the Commissioners wish to exercise the power to give 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 Commissioners propose in the interests of navigational safety to give, amend or revoke a direction under article 4 applying to vessels or persons—

(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 Commissioners are notified of, or otherwise become aware of, it and to last not more than 28 days and if the Commissioners consider 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 Commissioners proceed to give, amend or revoke a direction without complying with paragraphs (1) to (6), they must—

(a) give notice of the direction, amendment or revocation as soon as is practicable to those persons who would otherwise have been designated consultees had paragraph (1)(a) applied; and

(b) if the Commissioners propose that—

(i) the direction or the amendment of a direction is to continue in force after the expiry of the period of three months from the date of that notice; or

(ii) in the case of the revocation of a direction, the revoked direction is not to be given again after the expiry of that period,

apply procedures analogous to those specified in paragraphs (1)(b) to (e) and (2) to (6) to the proposal.

Publication of general directions

6.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction must, except in an emergency, be published by the Commissioners as soon as practicable once in a newspaper circulating in the locality of the harbour and must state a place at which copies of the direction, amendment or revocation 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 Commissioners to be appropriate.

Special directions as to use of the harbour, etc.

7.—(1) The Harbour Master may give a direction for any of the purposes in sub-paragraphs (a) to (i) applying to a vessel within the harbour limits or for any of the purposes in sub-paragraph (a) applying to persons within the harbour limits or 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) a provision of the Lymington Harbour Orders 1951 to 2014; or

(iii) a byelaw or local enactment applying to the harbour or to the Commissioners;

(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 of any part of the harbour 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 or vessels.

(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

8.—(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 proceedings for an offence under paragraph (1) it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Enforcement of special directions

9.—(1) Without prejudice to any other remedy available to the Commissioners, 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 Commissioners in the exercise of the powers conferred by paragraph (1) shall be recoverable by them as if they were a charge of the Commissioners in respect of that vessel.

Master's responsibility in relation to directions

10. The giving of a general direction or a special direction in respect of or applying to a vessel or vessels shall not diminish, or in any other way affect, the responsibility of the master of the vessel in respect of or applying to which the direction is given in relation to the vessel, to persons on board the vessel, to the cargo or any other person or property.

PART 3

WATER TAXIS

Restriction of harbour water taxis services

11.—(1) No person other than the Commissioners shall in the harbour operate a harbour water taxi service, or offer a vessel for use in the operation of a harbour water taxi service, unless he is licensed so to do by the Commissioners under article 12, nor except in accordance with the terms or conditions, if any, subject to which the licence is granted under that article.

(2) A person who contravenes paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Licensing of harbour water taxi services

12.—(1) The Commissioners may grant to a person a licence to operate a harbour water taxi service (in this and the following articles referred to as "a licence") in any part of the harbour.

(2) The Commissioners shall not be required to grant a licence if in their reasonable opinion—

(a) the provision of the service to which the licence application relates would give rise to the risk of congestion, obstruction or danger to navigation; or

(b) a comparable service is already being provided, whether by some other person already licensed under this article, or by the Commissioners which, in the opinion of the Commissioners, adequately meets the needs of potential users; or

(c) the applicant is unsuitable to hold the licence, whether on account of misconduct by the applicant, an employee or agent of the applicant or (where the applicant is not an individual) by a person in control of or concerned with the management of the applicant, or for any other sufficient reason.

Further provisions as to licences

13.—(1) A licence may be granted under article 12 subject to such terms or conditions as the Commissioners think fit including (without prejudice to the generality of the foregoing) conditions—

(a) as to the hours of operation of the harbour water taxi service (including requirements as regards frequency of service);

(b) as to the fares levied by the licensed operator of the harbour water taxi service;

(c) requiring the maintenance of a public liability insurance policy in relation to the vessels used for the purposes of the harbour water taxi service; and

(d) for ensuring compliance with requirements made by or under a byelaw or enactment relating to the harbour water taxi service or to the Commissioners, or to the harbour.

(2) A licence shall have effect for such period (which must be specified in the licence) as the Commissioners may determine.

(3) An application for a licence—

(a) must be made in writing to the Commissioners;

(b) must include proposals for the hours of operation and the fares to be levied; and

(c) must contain such information (including without prejudice to the generality of the foregoing information about the applicant and the vessels to be used), and must be accompanied by such documents, as the Commissioners may reasonably require.

(4) The Commissioners must give notice to the applicant of their decision whether to grant the licence.

(5) If within three months from the date of the making of an application under paragraph (3) the Commissioners do not give notice under paragraph (4), they shall be deemed to have refused the application.

(6) The Commissioners may charge a reasonable fee for the grant of a licence.

(7) If the Commissioners refuse to grant a licence which has been applied for they must give reasons in writing for their refusal.

(8) If the Commissioners grant a licence subject to terms or conditions or to modifications, they must give reasons in writing for the terms or conditions imposed or the modifications required.

Appeals in respect of licences

14. If—

(a) the Commissioners have refused to grant a licence under article 12 and the applicant for the licence is aggrieved by the refusal; or

(b) the Commissioners have granted a licence subject to terms or conditions and the applicant is aggrieved by the Commissioners' decision as to the terms or conditions; or

(c) the Commissioners have granted a licence subject to modifications and the applicant is aggrieved by the modifications,

the applicant may appeal in accordance with article 15.

Appeals procedure

15.—(1) Where an applicant wishes to appeal under article 14 he must serve notice on the Commissioners within 28 days of the date upon which the Commissioners refused (or were deemed to have refused) to grant the licence, or granted it subject to terms or conditions or to modifications.

(2) Upon receipt of a notice of appeal under paragraph (1) the Commissioners must refer the determination of the appeal to an independent person ("the adjudicator") to be agreed between the Commissioners and the applicant or, failing agreement, appointed on the application of the Commissioners or the applicant by the President of the London Maritime Arbitrators Association.

(3) The adjudicator must, so far as is reasonably practicable within 28 days 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 Commissioners with findings and reasoned recommendations on whether the licence should be granted and, if so, subject to what terms or conditions or subject to what modifications, a copy of which report must also be provided by the adjudicator to the applicant.

(4) The Commissioners must decide whether to act in accordance with the report and recommendation contained in the report of the adjudicator (but shall not be bound to give effect to the recommendations) and, once they have so decided, they must give notice in writing to the applicant of their decision and of the reasons for that decision.

(5) The costs incurred by the adjudicator and by each of the parties on any referral under paragraph (2) are to be paid by such one or more of the parties to the referral as the adjudicator may direct.

PART 4

MISCELLANEOUS AND GENERAL

Harbour services and facilities

16.—(1) The Commissioners shall have the power to provide, maintain, operate and improve such harbour services and facilities in, or in the vicinity of, the harbour as they may consider necessary or desirable and to take such action as they consider incidental to the provision of such services and facilities.

(2) No other provisions of the Lymington Harbour Revision Orders 1951 to 2014 shall prejudice or derogate from the generality or paragraph (1).

Boarding of vessels

17. A duly authorised officer to the Commissioners may, on producing written authority signed by the Harbour Master, enter and inspect a vessel in the harbour—

(a) for the purposes (including enforcement) of an enactment relating to the Commissioners or the harbour or of a byelaw of the Commissioners or a general or special direction;

(b) to prevent or extinguish fire; or

(c) to prevent flooding or sinking,

but, except in an emergency, no entry may be made under this article without notice in writing (being not less than 24 hours) first having been given to the owner or the person appearing to have charge of the vessel with a copy of this article annexed to it.

Information for purpose of landing charges

18.—(1) When 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 required to do so by the Commissioners must provide to the Commissioners in writing details of the number of persons embarking on or disembarking from the vessel or, as the case may be, the weight, quantity, volume and composition of cargo being loaded onto or unloaded from the vessel so as to enable the Commissioners to determine whether any of the Commissioners' 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 any other enactment applicable to the harbour.

(2) A requirement 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 requirement is made under paragraph (1) must provide the details so required 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 Commissioners.

(4) Paragraph (1) shall not apply in relation to non-commercial vessels occupying moorings within the harbour under licences granted by the Commissioners, or to vessels paying visitor berthing rates to the Commissioners.

(5) For the purposes of paragraph (4) "non-commercial vessel" means a 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) A persons who without reasonable excuse fails to comply with a requirement made under paragraph (1), or who in compliance with such a requirement provides information which he knows to be false, or recklessly provides information which is false in a 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

19.—(1) A person who—

(a) intentionally obstructs or threatens the Harbour Master or a member of his staff acting in pursuance of the performance of his functions; or

(b) without reasonable excuse fails to give such an officer 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) A person who in giving such information makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Crown Rights

20.—(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 river, channel, creek, bay or estuary)—

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

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

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

Amendment of the 1951 Order

22.—(1) The 1951 Order (as amended by the 1976 Order) is amended as follows.

(2) In section 52, for the words "fifty thousand pounds or a sum not exceeding the estimated income of the Commissioners for the next financial year, whichever is the greater" there are substituted the words "a sum not exceeding six times the estimated income of the Commissioners for the next financial year".

(3) In section 61(3), for the words "five pounds" there are substituted the words "level 4 on the standard scale".

Amendment of the 2002 Order

23.—(1) The 2002 Order is amended as follows.

(2) In article 14, for the words "two hundred thousand pounds" there are substituted the words "thirty per cent of the gross revenue of the Commissioners in the financial year immediately preceding the date of borrowing".

(3) Article 15 is revoked.

Notices

24.—(1) Subject to the following provisions of this article a notice or other document to be served for the purposes of this Order may be served by 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 the 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 Commissioners may employ this method of service until such time as the person informs them in writing that he is no longer willing to receive notices or documents by email or by other electronic means.

(4) For the purposes of section 7 of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of a person in relation to the service on him of a notice or other 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 or 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 other document to be served on a person as having an interest in, 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 other 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 or other document in this manner, or if the notice or other document would not be likely to be seen if it were so exhibited; and

(c) in the case of any other notice or other document or a notice or other document that is not capable of being served pursuant to paragraph (5)(b) it may be served by displaying it at the office or the Harbour Master while it is in force.

(6) This article shall not be taken to exclude the employment of service by any other means and is without prejudice to the discretion of the Commissioners under article 6(2) and of the Harbour Master under article 7(4).

Revocation of byelaws

25.—(1) The Commissioners may from time to time make byelaws for the revocation of byelaws made under the 1951 Order in accordance with the procedure set out in this article rather than the procedure to which those previously made byelaws were subject.

(2) Byelaws made under this article must be made under the common seal of the Commissioners, 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 must be given in one or more local newspapers circulating in the area to which the byelaws apply.

(**a**) 1978 c.30.

(4) For at least one month after the making of the byelaws, a copy of the byelaws must be deposited at the offices of the Commissioners and shall at all reasonable hours be open to public inspection without payment.

(5) The Commissioners must have regard to all representations received during the period when the byelaws have been made available for public inspection under paragraph (4), in order to decide whether to confirm the byelaws, with or without amendments.

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

Signed by authority of the Marine Management Organisation

J Cross
Chief Executive Officer
24th April 2014 An authorised employee of the Marine Management Organisation

EXPLANATORY NOTE

(This note is not part of the Order)

This Order—

(a) defines the limits of Lymington Harbour (article 3);

(b) in Part 2 confers on the Lymington Harbour Commissioners ("the Commissioners") and their Harbour Master (defined in article 2) powers of direction for the regulation and management of the harbour;

(c) provides in Part 3 for the licensing of operators of harbour water taxi services (defined in article 2);

(d) confers on the Commissioners powers in respect of harbour services and facilities (article 16);

(e) establishes the conditions for a duly authorised officer of the Commissioners to board a vessel for certain purposes (article 17);

(f) enables the Commissioners to require the master or owner of a vessel embarking or disembarking passengers or loading or unloading goods to furnish information required for the imposition of landing fees and charges (article 18); and

(g) alters the method of calculating the limit of the amount of the Commissioners' reserve fund (article 22) and their temporary borrowing powers (article 23).

Article 19 creates an offence of intentionally obstructing or threatening, or without reasonable excuse failing to give information to, the Harbour Master or a member of his staff acting in performance of his functions or of giving false information to such an officer, for which the penalty on summary conviction of any such offence is a fine not exceeding level 4 on the standard scale.

A full assessment has not been produced for this instrument as no impact on business or the private or voluntary sectors is foreseen.

The harbour map (defined in article 3(4)) may be inspected during working hours at the principal office of the Commissioners at the Harbour Office, Bath Road, Lymington SO41 3SE.

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