STATUTORY INSTRUMENTS

1976 No. 1907

HARBOURS, DOCKS, PIERS AND FERRIES

The Sandwich Port and Haven Commissioners (Constitution) Revision Order 1976

Made - - -	*8th May* 1976
Laid before Parliament	*27th July* 1976
Coming into Operation	*2nd November* 1976

The Secretary of State for the Environment, in exercise of the powers conferred by section 15 of the Harbours Act 1964(a) and now vested in him(b) and of all other powers enabling him in that behalf, and on a representation made to him by the National Ports Council, hereby makes the following Order:—

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Sandwich Port and Haven Commissioners (Constitution) Revision Order 1976 and shall come into operation on the date fixed in accordance with the Statutory Orders (Special Procedure) Acts 1945 and 1965(c).

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:—

"the Act of 1925" means the Sandwich Port and Haven Act 1925(d);

"the Commissioners" means the Sandwich Port and Haven Commissioners;

" the district council" means the District Council of Dover;

"the initial term" means the period of three years beginning on the new constitution date;

"the new constitution date" means the first day of the third month after the expiry of the month current at the commencement of this Order;

"the town council" means the Town Council of Sandwich.

(2) The Interpretation Act 1889(e) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(a) 1964 c. 40. (b) S.I. 1970/1681 (1970 III, p. 5551). (c) 9 & 10 Geo. 6 c. 18; 1965 c. 43.
(d) 1925 c. cxxvii. (e) 1889 c. 63.

PART II

CONSTITUTION OF THE COMMISSIONERS

The new constitution

3. On and after the new constitution date the Commissioners shall consist of—

(*a*) a chairman appointed by the Secretary of State after consulting the National Ports Council, and

(*b*) eight other Commissioners appointed by the district council of whom (i) at least two shall be (at the time of their respective appointments) members of the town council and (ii) at least four shall be persons who are not (when appointed) members of the district council and who in the opinion of the district council have both a substantial interest in the Sandwich Port and Haven (whether from the point of view of commerce, employment, recreation or the conservation of the environment) and knowledge or experience which would be of value to the Commissioners in the performance of their functions (and which may include knowledge or experience of shipping or navigation).

Appointment and terms of office of Commissioners

4.—(1) The Secretary of State shall appoint the first chairman of the Commissioners as reconstituted by this Order and the district council shall appoint the first Commissioners to be appointed by them under article 3 of this Order before the new constitution date and the chairman and other Commissioners so appointed shall come into office on that date and, subject to the provisions of the Schedule to this Order, shall continue in office for the initial term. The Commissioners holding office immediately before the new constitution date shall go out of office on that date.

(2) Every vacancy other than a casual vacancy among the Commissioners shall be filled by a person appointed by the Secretary of State or the district council as the case may be on or before the date on which the vacancy will occur (or, where a casual vacancy has occurred four months or less before the end of the vacating Commissioner's normal term of office and, in accordance with proviso (*a*) to article 4(3) below, has been left unfilled, on or before the date on which the vacancy would normally have occurred) in accordance with the provisions of article 3 of this Order and every Commissioner so appointed shall come into office on that date and, subject to the provisions of the Schedule to this Order, shall continue in office for the period of three years beginning on that date:

Provided that if for any reason a Commissioner is not appointed on or before the date on which the vacancy will occur (or, where a casual vacancy has occurred four months or less before the end of the vacating Commissioner's normal term of office and, in accordance with proviso (*a*) to article 4(3) below, has been left unfilled, on or before the date on which the vacancy would normally have occurred) he shall be appointed as soon as practicable thereafter and shall come into office upon his appointment and, subject as aforesaid, shall continue in office for the remainder of the said term.

(3) Any casual vacancy among the Commissioners shall be filled as soon as practicable by the appointment by the Secretary of State or the district council as the case may be in accordance with the provisions of article 3 of this Order of a new Commissioner and the Commissioner so appointed shall come into office upon his appointment or, where the appointment is made in advance to fill a casual vacancy which is known to be about to occur, upon that

vacancy occurring and, subject to the provisions of the Schedule to this Order, shall hold office during the remainder of the term of the Commissioner in whose place he is appointed:

Provided that—

(*a*) a casual vacancy (other than in the office of chairman) occurring four months or less before the end of the vacating Commissioner's normal term of office may, at the discretion of the district council, be left unfilled, and

(*b*) the Secretary of State may, if he sees fit, fill a casual vacancy in the office of chairman by appointing as chairman a person who is already a Commissioner and if he does so that appointment shall be deemed to create a casual vacancy in the office of the Commissioner who is appointed as chairman.

Incidental provisions relating to the Commissioners

5. On and after the new constitution date the provisions of the Schedule to this Order shall have effect with respect to the Commissioners and their proceedings.

Repeal of certain provisions of the Act of 1925

6. On the new constitution date Part I (Constitution of Commissioners) of the Act of 1925 and the First Schedule to that Act shall be repealed.

Preservation of rights under section 43 *of the Act of* 1925

7. The provisions of this Order shall be without prejudice to the application of section 43 of the Act of 1925 in relation to any person to whom any provision of that section is capable of applying immediately before the new constitution date by virtue of that person having acquired the right of appointing a Commissioner under the Act of 1925 and if any such person shall on or after the new constitution date sell any interest in the Richborough Port Depot he shall on such sale be entitled (notwithstanding that he will no longer have the right to appoint such a Commissioner as aforesaid or be entitled to transfer such right) to transfer to the purchaser such rights and obligations as he may have under the said section 43 and that section shall have effect accordingly.

Signed by authority of the
Secretary of State
8th May 1976.

John Gilbert,
Minister for Transport,
Department of Environment.

SCHEDULE

INCIDENTAL PROVISIONS WITH RESPECT TO THE COMMISSIONERS

1. The first meeting of the Commissioners after the new constitution date shall be convened by the chairman of the Commissioners for such date and at such place as he may fix and the chairman shall make arrangements for notice of that meeting to be sent by post to each of the other Commissioners.

2.—(1) At the first meeting of the Commissioners after the new constitution date, and at the first meeting of the Commissioners held after the end of the initial term and in each third year thereafter, the Commissioners present at the meeting shall choose a Commissioner to act as deputy chairman of the Commissioners.

(2) The person chosen under sub-paragraph (1) of this paragraph to act as deputy chairman shall hold office as such from and including the meeting at which he is chosen until (subject to his continuing to be a Commissioner) the next appointment of a deputy chairman.

3.—(1) If any casual vacancy occurs in the office of deputy chairman the Commissioners shall as soon as they conveniently can after the occurrence of such vacancy choose another Commissioner to fill the vacancy.

(2) Every person chosen under this paragraph to act as deputy chairman shall continue in office as such so long as the person in whose place he has been so chosen would have been entitled to continue in office if the vacancy had not occurred.

4. The Commissioner for the time being holding office as deputy chairman shall have and may exercise in the absence of the chairman all the powers of the chairman.

5. If at a meeting of the Commissioners neither the chairman nor the deputy chairman are present the Commissioners present at the meeting shall choose one of their number to be chairman of the meeting.

6. The Commissioners may act notwithstanding a vacancy among the Commissioners and no act of the Commissioners shall be deemed to be invalid by reason of any irregularity in the appointment of any Commissioner or of their chairman or deputy chairman.

7. A Commissioner shall vacate his office if he—

(*a*) is adjudged bankrupt or makes a composition or arrangement with his creditors; or

(*b*) is convicted in the British Isles of any offence and ordered to be imprisoned for a period of not less than 3 months without the option of a fine; or

(*c*) has, for a period of 6 consecutive months, been absent from meetings of the Commissioners otherwise than by reason of illness or some other cause approved during that period by the Commissioners.

8. The chairman of the Commissioners may resign his office at any time by notice in writing given to the Secretary of State and any other Commissioner may resign his office at any time by notice in writing given to the chairman.

9. If at any meeting of the Commissioners there is an equality of votes on a question the chairman of the meeting shall have a second or casting vote.

10. The quorum required for a meeting of the Commissioners shall be 4 and the Commissioners shall meet at least four times in each year.

11. If a Commissioner has any pecuniary interest in any contract or proposed contract to which the Commissioners 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 and is present at a meeting of the Commissioners at which that contract is the subject of consideration he shall at that meeting as soon as practicable after the commencement thereof disclose that fact and shall not vote on any question with respect to that contract.

12. The Commissioners may pay to their chairman and other Commissioners such fees, allowances and travelling expenses as the Commissioners may from time-to-time determine.

13. Subject to the provisions of this Schedule the procedure and business of the Commissioners shall be regulated in such manner as the Commissioners may from time-to-time determine.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order reconstitutes the Sandwich Port and Haven Commissioners so as to consist of:—

(*a*) a chairman appointed by the Secretary of State after consulting the National Ports Council; and

(*b*) eight other Commissioners appointed by the District Council of Dover of whom at least two shall be members of the Town Council of Sandwich and at least four shall be persons who are not members of the district council but have both a substantial interest in the port and whose knowledge or experience would be of value to the Commissioners.