STATUTORY INSTRUMENTS

1974 No. 965

MERCHANT SHIPPING
The South East Wales Pilotage Order 1974

Made - - -	3*rd June* 1974
Coming into Operation	1*st August* 1974

Whereas application has been made in writing to the Secretary of State by a Joint Committee of representatives of the Barry, Cardiff and Newport Pilotage Authorities (being persons interested in the pilotage of the Barry, Cardiff and Newport Pilotage Districts) for an Order under section 7 of the Pilotage Act 1913(a), for the purpose of creating a single Pilotage Authority in place of the Barry, Cardiff and Newport Pilotage Authorities constituted by the Pilotage Orders Confirmation (No. 5) Act 1921(b).

Now, therefore, the Secretary of State in exercise of the powers conferred upon him by section 7 of the Pilotage Act 1913, and of all other powers enabling him in that behalf, hereby makes the following Order:—

1.—(1) This Order may be cited as the South East Wales Pilotage Order 1974 and shall come into operation on 1st August 1974.

(2) The Interpretation Act 1889(c) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if this Order and the Orders hereby revoked were Acts of Parliament.

2. The Barry Pilotage Order 1921, the Cardiff Pilotage Order 1921 and the Newport Pilotage Order 1921 each of which was confirmed by the Pilotage Orders Confirmation (No. 5) Act 1921, and the Barry Pilotage (Amendment) Order 1939(d) are hereby revoked.

3.—(1) There shall be established a Pilotage District which shall be called the South East Wales Pilotage District (hereinafter referred to as "the Pilotage District").

(2) The limits of the Pilotage District shall be the waters of the Bristol Channel bounded seawards by a straight line drawn from the Lighthouse at Hartland Point to the Southern Lighthouse on Lundy Island, and thence through Caldy Island Lighthouse to the mainland and landwards by a straight line drawn from Gold Cliff Point to Walton Bay Signal Station, but excluding the enclosed docks of Swansea, Port Talbot, Barry, Cardiff and Newport, and also the entrance channels, locks and harbours at Swansea and Port Talbot: provided always that nothing in this article shall extend to authorise a pilot licensed for the Pilotage District to pilot a vessel within any part of this area which lies within any Trinity House Outport District if such vessel is proceeding to or from or making use of a port in that district.

(a) 1913 c. 31.
(b) 1921 c. cxii.
(c) 1889 c. 63.
(d) S.I. 1939/639.

4. Pilotage shall not be compulsory in the Pilotage District.

5.—(1) There shall be constituted for the Pilotage District a Pilotage Authority which shall be a body corporate with perpetual succession and a common seal by the name of the South East Wales Pilotage Authority (hereinafter referred to as "the Authority") and shall consist of ten members appointed and elected as follows:—

(*a*) Three members appointed by the British Transport Docks Board.

(*b*) Three members appointed by the Cardiff and Bristol Channel Incorporated Shipowners' Association or if at any time that body shall in the opinion of the Secretary of State cease to be fairly representative of the shipowners using the Ports of Barry, Cardiff and Newport, then by such body or bodies representing shipowners as shall be nominated for the purpose by the Secretary of State.

(*c*) Four members from among the six persons (hereinafter referred to as "pilots' representatives") elected in manner hereinafter provided by the pilots licensed for the Pilotage District (hereinafter referred to as "licensed pilots") from among licensed pilots who are more than three years younger than the mandatory retiring age.

(2) The members of the Authority shall be appointed and elected respectively at the times and in the manner provided in the Schedule hereto.

6.—(1) The Chairman of the Authority shall be nominated by the British Transport Docks Board, from among the members appointed by them, and shall remain in office until the next triennial appointment and election of members has taken place. After the first triennial period, the Chairman of the Authority shall be elected by the Authority from among its members and shall hold office until the next triennial appointment and election of members has taken place.

(2) A Vice-Chairman of the Authority shall be elected by the Authority from among their members and shall remain in office until the next triennial appointment and election of members has taken place.

7.—(1) The Chairman, if present, shall preside at every meeting of the Authority. If the Chairman is absent, the Vice-Chairman shall preside. If both are absent from any meeting such other member as the members then present choose shall preside.

(2) Every question at a meeting of the Authority shall be decided by a majority of the votes of the members of the Authority present and voting on that question and in the case of equality of votes the person presiding at the meeting shall have a second or casting vote.

(3) The quorum of the Authority shall be five.

(4) No member of the Authority shall take part in any proceedings of the Authority relating to any question affecting himself personally, whether directly or indirectly.

(5) Subject to the provisions of this Order the Authority may regulate their own procedure.

(6) No act or proceedings of the Authority shall be invalid on account of any vacancy in their body or on account of the appointment or election of any member having been defective.

8. Members of the Authority shall hold office from the date of their appointment or election respectively until such time as their successors may be appointed or elected respectively but shall be eligible for re-appointment or re-election respectively.

9.—(1) Until all the members of the Authority have been appointed or elected under the provisions of this Order the existing members of the Barry Pilotage Authority, Cardiff Pilotage Authority and Newport Pilotage Authority, shall be deemed to be members of the Authority as though they had been appointed or electetd under the provisions of the Order.

(2) Until such time as new byelaws are made by the Authority and come into force for the Pilotage District the byelaws made by the Barry Pilotage Authority, the Cardiff Pilotage Authority and the Newport Pilotage Authority for their respective Pilotage Districts and in force immediately before the commencement of this Order shall continue in force as if they had been made under this Order and be administered by the Authority and references in such byelaws to the Pilotage Authority by whom they were made shall be construed as references to the Authority.

10. All property (real or personal), rights, easements, obligations and choses in action which immediately before the commencement of this Order belonged to or were vested in or enjoyed by the Barry, Cardiff and Newport Pilotage Authorities or by any person in trust for them or on their behalf shall be and the same hereby are vested in the Authority to the same extent and for the same estate and interest as the same were immediately before the commencement of this Order vested in the Barry, Cardiff and Newport Pilotage Authorities or any person in trust for them or on their behalf and may be held, recovered and enjoyed accordingly.

11.—(1) If at the date of the commencement of this Order any proceeding or cause of action is pending or existing by or against the Barry, Cardiff or Newport Pilotage Authorities the same shall not abate, discontinue or be in any way prejudicially affected by reason of anything in this Order but the proceeding or cause of action may be continued, prosecuted and enforced by or against the Authority as it might have been by or against the Barry, Cardiff or Newport Pilotage Authorities if this Order had not been made but not further or otherwise.

(2) All contracts, deeds, bonds, agreements and other instruments subsisting immediately before the commencement of this Order and affecting the Barry, Cardiff and Newport Pilotage Authorities shall be of as full force and effect against or in favour of the Authority, and may be enforced as fully and effectively as if instead of the Barry, Cardiff and Newport Pilotage Authorities the Authority had been party thereto.

(3) All pilots' licences and pilotage certificates granted by the Barry, Cardiff and Newport Pilotage Authorities prior to the commencement of this Order shall have the same force and validity as if they had been granted by the Authority.

12. The Authority may from time to time if they think fit acquire, own, hire or build and equip, maintain and work or enter into agreements or arrangements with any persons for the supply, use, maintenance and working of such boats or vessels as in the opinion of the Authority may be required for the efficient working of the pilotage service and may at their discretion either sell

or exchange any such vessels. In order to acquire such boats or vessels, the Authority may acquire by purchase or otherwise all or any part of the shares in any company or companies owning such boats or vessels and may dispose of any shares so acquired. If a majority of the pilots concerned object to the Authority exercising these powers or if a difference arises between the Authority and the pilots as to the conditions on which these powers should be exercised the matter shall be referred to the Secretary of State whose decision shall be final.

(2) For the purpose of giving effect to the provisions of paragraph (1) of this article the Authority may borrow at interest on the security of such vessels any sum or sums which may be required therefor provided that all the monies so borrowed by the Authority shall be applied by them to the purposes thereof and not otherwise.

13. When in any part of the Pilotage District in which concurrent jurisdiction is exercised by the Authority and any other Pilotage Authority or Authorities a ship bound for the Ports of Barry, Cardiff or Newport is under the pilotage of a pilot licensed by any such other Authority that pilot shall be superseded by a pilot licensed by the Authority on his offering his services and the pilotage rates payable shall be divided between the two pilots in such proportions as may in case of dispute be determined by the Authority.

14. The Authority may at any time agree with any other Pilotage Authority having jurisdiction in the Bristol Channel to provide for a joint pilotage service for their respective districts in lieu of a separate pilotage service for each of such districts and thereupon such Authorities shall appoint some of their members to act as a joint committee and to consist of such number of persons and to exercise such of the powers exercisable by such Authorities and generally to act in such manner as such Authorities shall from time to time direct and upon such terms and conditions as may be agreed upon between such Authorities.

3rd June 1974.

S. N. Burbridge,
An Assistant Secretary,
Department of Trade.

SCHEDULE

With respect to the appointment and election of members of the Authority the following provisions shall have effect, that is to say:—

1. The appointed members shall be appointed by the various bodies authorised to do so as soon as may be after the commencement of this Order and thereafter triennially in the course of the month in which the first appointments were made.

2.—(1) The pilots' representatives shall be elected by the licensed pilots as soon as may be after the commencement of this Order and thereafter triennially during the course of the month in which the first election took place.

(2) For the purpose of electing the pilots' representatives the secretary to the Authority shall send out by registered letter to all the licensed pilots a circular announcing an election and enclosing a list of persons qualified under this Order to be pilots' representatives, a voting card and a stamped envelope addressed to

himself in which the card when filled in is to be returned within twenty-one days of the issue of the circular.

(3) Every licensed pilot shall be entitled to vote for six persons whose names are on the said list but shall not give more than one vote for any one person.

(4) At the expiration of twenty-one days from the issue of the said circular the said secretary shall examine the voting cards returned to him and shall prepare a list in order of the six persons who have received the greatest number of votes (any uncertainty by reason of two or more persons having received an equal number of votes being decided in favour of the licensed pilot or pilots having the longest service) and such persons shall thereupon be the pilots' representatives. This list shall be posted up in the pilots' office.

(5) The first four pilots' representatives on the list referred to in the preceding sub-article shall be members of the Authority but in the event of one or more of those being unable to attend any meeting of the Authority one or both as the case may be of the other two pilots' representatives may, according to the order in which their names appear on the list, attend, take part in the proceedings and vote in his or their stead.

3. (1) On each occasion on which the British Transport Docks Board appoint the three members of the said Authority to be appointed by them in accordance with Article 5, they shall also appoint three persons, any of whom shall be entitled until the next triennial appointment in the event of any of the members appointed by the British Transport Docks Board being unable to attend any meeting of the Authority to attend such meeting, take part in the proceedings and vote in his stead.

(2) On each occasion on which the Cardiff and Bristol Channel Incorporated Shipowners' Association appoint the three members of the said Authority to be appointed by them in accordance with the foregoing provisions of this Schedule they shall also appoint, after the like consultations as they are required to carry out before the appointment of such members, three persons any of whom shall be entitled until the next triennial appointment in the event of any of the members appointed by the said Association being unable to attend any meeting of the Authority to attend such meeting, take part in the proceedings and vote in his stead.

4. The costs charges and expenses of, and preliminary and incidental to the election of pilots' representatives, shall be paid by the Authority out of the pilot fund.

5. In the event of any vacancy among the appointed or elected members of the Authority arising otherwise than by effluxion of time, the vacancy shall be filled as soon as may be thereafter in the manner prescribed for the triennial appointment or election but any person so appointed or elected shall hold office only until the next triennial appointment or election.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order creates a single Pilotage Authority in place of the Barry, Cardiff and Newport Pilotage Authorities constituted by the Pilotage Orders Confirmation (No 5) Act 1921.