
S T A T U T O R Y I N S T R U M E N T S

1973 No. 2135

HARBOURS, DOCKS, PIERS AND FERRIES

The Portsmouth Mile End Quay Revision Order 1973

Made - - - - - *7th July 1973*

Laid before Parliament *31st October 1973*

Coming into Operation *11th December 1973*

The Secretary of State for the Environment, in exercise of powers conferred by 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 Lord Mayor, Aldermen and Citizens of the City of Portsmouth, hereby make the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Portsmouth Mile End Quay Revision Order 1973 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) The Portsmouth Mile End Quay Revision Order 1966(d) and this Order may be cited as the Portsmouth Mile End Quay Revision Orders 1966 and 1973.

Interpretation

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

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(e);

“the authorised works” means the works authorised by this Order, or any part of those works;

“the Corporation” means the Lord Mayor, Aldermen and Citizens of the City of Portsmouth;

“the deposited plan” and “the deposited sections” mean the plan and sections prepared in triplicate, signed by an Assistant Secretary in the Department of the Environment and marked “Portsmouth Mile End Quay Revision Order 1973”, of which one is deposited at the offices

(a) 1964 c. 40.

(b) S.I. 1970/1681 (1970 III, p. 5551).

(c) 9 & 10 Geo. 6 c. 18; 1965 c. 43.

(d) S.I. 1966/982.

(e) 1847 c. 27.

of the Department of the Environment, one at the offices of the Department of Trade and Industry and one at the offices of the Town Clerk of the City of Portsmouth;

“enactment” means any enactment, whether public, general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“hovercraft” has the same meaning as in the Hovercraft Act 1968(a);

“the level of high water” means the level of mean high water springs;

“the limits of deviation” means the limits of deviation shown on the deposited plan;

“the Mile End Quay undertaking” means the undertaking of the Corporation authorised by the Portsmouth Mile End Quay Revision Orders 1966 and 1973;

“the Order of 1966” means the Portsmouth Mile End Quay Revision Order 1966;

“Queen’s harbour master” means the person for the time being appointed to be Queen’s harbour master of the Dockyard Port of Portsmouth under the Dockyard Ports Regulation Act 1865(b);

“the Secretary of State” means the Secretary of State for Trade and Industry;

“tidal work” means so much of any work as is on, under or over tidal waters or tidal lands below the level of high water.

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the Twyford and Mill Wharves” means the Twyford and Mill Wharves off Rudmore Road in the city of Portsmouth;

“vessel” includes every description of vessel used in navigation however propelled, any hovercraft and hydro-foil vessel and any aircraft designed to manoeuvre on the water.

(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.

(3) Unless the context otherwise requires, any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Order.

(4) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance and length.

Incorporation of Act of 1847

3.—(1) The Act of 1847 (except sections 6 to 13, 16 to 20, 25 to 27, 31, 49, 50, 67, 79 to 82, 84 to 90, 95, 97 and 98 and so much of the proviso to

(a) 1968 c. 59.

(b) 1865 c. 125.

(c) 1889 c. 63.

section 83 as follows the words “the special Act”), so far as the same is applicable for the purposes of, and is not inconsistent with, or varied by, the provisions of this Order, is hereby incorporated with, and forms part of, this Order:

Provided that—

- (a) Section 15 of the Act of 1847 shall have effect as if for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding £100”.
 - (b) section 63 of the Act of 1847 shall have effect as if the words “and a further sum of twenty shillings for every hour that such vessel shall remain within the limits aforesaid, after a reasonable time for removing the same has expired after such requisition” were omitted therefrom; and
 - (c) section 69 of the Act of 1847 shall have effect as if the words “for every hour such combustible thing shall remain in any such place as aforesaid after the expiration of two hours from the service of the said notice” were omitted therefrom.
- (2) For the purposes of the incorporation of the said Act, the expression “the special Act” in the said Act shall mean this Order and the expression “vessel” shall have the meaning assigned to it by Article 2(1) of this Order.
- (3) For the purposes of section 83 of the Act of 1847 as so incorporated, sections 250 to 252 of the Local Government Act 1933(a) shall apply in relation to this Order as if it were such an enactment as is referred to in the said section 250, and for the purposes of the said section 250 the confirming authority in relation to byelaws made under the said section 83 shall be the Secretary of State for the Environment.

Power to construct, etc., works

4.—(1) Subject to the provisions of this Order, the Corporation may, when they have acquired the necessary lands or obtained sufficient interests therein, make and maintain, within the limits of deviation shown therefor upon the deposited plan, the following works in the City of Portsmouth:—

A wharf or quay and embankment on the north side of the existing Albert Johnson Quay of the Corporation covering an area of land enclosed by an imaginary line commencing at a point on the line of the level of high water 53 metres south of the southern quay wall of Bishop’s Quay and passing along the north side of the said Albert Johnson Quay as existing at the commencement of this Order, thence extending seaward in a westerly and westerly by south-westerly direction for a distance of 290 metres, thence in a northerly direction for a distance of 172 metres, thence in an easterly direction to a point on the line of the level of high water 85 metres north of the northern quay wall of Bishop’s

(a) 1933 c. 51.

Quay and thence in a southerly direction along the line of the level of high water to the point of commencement.

(2) The Corporation may within the limits of deviation therefor extend, enlarge, alter, replace or relay the authorised works.

Period for completion of works

5. If the works authorised by this Order are not completed before 1st January 1983, the powers by this Order granted to the Corporation for constructing the said works shall on that day cease, except as to so much thereof as is then substantially commenced.

Provided that nothing in this section shall prejudice the powers conferred on the Corporation by Article 8 (Power to dredge etc.) of this Order.

Further powers as to works

6. Subject to the provisions of this Order, the Corporation may, by means of the authorised works, enclose and reclaim from the foreshore and bed of the sea, and may hold and use as part of the Mile End Quay undertaking so much of the foreshore and bed of the sea as is situate within the limits of deviation and is required for, or in connection with, the authorised works.

Subsidiary works

7. Subject to the provisions of this Order the Corporation in connection with the works authorised by article 4 (Power to construct, etc. works) of this Order may, within the limits of deviation, construct or place and maintain all necessary or convenient bridges, abutments, booms, pontoons, fenders, tanks, pumps, conduits, pipes, wires, mains, cables, rails, signals, conveyors, cranes, lifts, hoists, drops, weighbridges, stairs, stages, platforms, landing places, dolphins, buoys, moorings, beacons, approaches, buildings, sheds, offices, depots, roads, walls, fences, gates, equipment, machinery and appliances and such other works and apparatus as they think fit:

Provided that any electrical works, equipment, machinery, appliances and apparatus constructed or placed or maintained under the powers of this Article shall be so constructed or placed, and so maintained, worked and used that any electricity generated or conveyed by or used in or in connection with any such works, equipment, machinery, appliances or apparatus does not cause interference (whether by induction or otherwise) with any telegraphic line (as defined by the Telegraph Act 1878(a)) belonging to, or used by, the Post Office or with telecommunication by means of any such line.

Power to dredge, etc.

8.—(1) The Corporation may, with the consent of the Queen's harbour master, enter upon and from time to time dredge, scour, deepen and improve the bed, shores and channels of the sea adjoining or near to the

(a) 1878 c. 76.

authorised works for the purpose of affording uninterrupted means of access thereto or the accommodation of vessels thereat or for the purpose of affording uninterrupted means of access to the Twyford and Mill Wharves.

(2) All chalk, gravel, rock and other materials dredged up or removed by the Corporation in the exercise of the powers of this Article shall be the property of the Corporation and they may use the same, or any part thereof, or they may sell, or otherwise dispose of or remove or deposit the same, as they think fit:

Provided that no such materials shall be laid down or deposited in any place below the level of high water—

- (a) otherwise than in such a position and under such conditions and restrictions as may be approved or prescribed by the Secretary of State; and
- (b) without the consent in writing of the Queen's harbour master having been first obtained.

(3) The powers of the Corporation under this Article shall be exercisable subject to the provisions of Article 23 (Crown rights) and Article 24 (Saving rights of Queen's harbour master) of this Order and in particular, and without prejudice to that general limitation, any consent given to the exercise of such powers by the Crown Estate Commissioners on behalf of Her Majesty may be given subject to such restrictions and conditions, including the payment by the Corporation to the Crown Estate Commissioners of royalties, rents or sums of money in respect of materials raised from any place below the level of high water and sold by the Corporation under this Article or in respect of any place below the level of high water upon which materials may be deposited, as may be fixed by the Crown Estate Commissioners.

Power to deviate

9. Subject to the provisions of this Order, in constructing the authorised works the Corporation may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding three metres upwards and to such extent downwards as may be found necessary or convenient.

Fine for obstructing works

10. Any person who wilfully obstructs any person acting under the authority of the Corporation in setting out the lines of the authorised works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall for every such offence be liable on summary conviction to a fine not exceeding ten pounds.

Tidal works not to be executed without approval of Secretary of State

11.—(1) A tidal work shall not be constructed altered, enlarged, replaced, relaid or extended except in accordance with plans and sections

approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, altered, enlarged, replaced, relaid or extended in contravention of this Article or of any condition or restriction imposed under this Article—

(a) the Secretary of State may by notice in writing require the Corporation at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of thirty days from the date when the notice is served upon the Corporation they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Corporation as a simple contract debt.

Provision against danger to navigation

12.—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof, the Corporation shall forthwith notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

(2) If the Corporation fail to notify Trinity House as required by this article or to comply in any respect with a direction given under this Article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

13.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Corporation at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this Article.

(3) If, on the expiration of thirty days from the date when a notice under this Article is served upon the Corporation, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred

by the Secretary of State in so doing shall be recoverable from the Corporation as a simple contract debt.

Survey of tidal works

14. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Corporation as a simple contract debt.

Permanent lights on tidal works

15.—(1) After the completion of a tidal work the Corporation shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House shall from time to time direct.

(2) If the Corporation fail to comply in any respect with a direction given under this Article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Lights on tidal works during construction

16.—(1) The Corporation shall at or near a tidal work during the whole time of the construction, alteration, enlargement, replacement, relaying or extension thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Corporation fail to comply in any respect with a direction given under this Article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Power to lease undertaking

17.—(1) The Corporation may, with the previous consent of the Secretary of State for the Environment, lease to any person for harbour purposes the Mile End Quay undertaking, or any part thereof.

(2) The Corporation shall one month after the date of any lease made under this Article deposit a certified copy thereof at the Department of the Environment and shall, upon failure to do so, be liable on summary conviction to a fine not exceeding twenty pounds.

(3) Article 18 (Power to lease undertaking on charges) of the Order of 1966 is hereby revoked.

Limits of harbour master's jurisdiction

18.—(1) Subject to the provisions of paragraph (2) of this Article, the limits within which the powers of the harbour master of the Corporation

may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Order, shall extend to the limits of deviation, the dredged channels provided under Article 8 (Power to dredge, etc.) of this Order for access to the authorised works and the Twyford and Mill Wharves or for accommodation of vessels at the authorised works, and to a distance of one hundred metres in every direction from the authorised works (whichever shall be the greater distance in any direction from the authorised works).

(2) The powers conferred by this Article shall be limited to vessels going to, moored at, or departing from, the authorised works or the Twyford and Mill Wharves.

Power to borrow

19.—(1) Subject to the provisions of this Order, the Corporation shall have power in addition and without prejudice to their powers of borrowing under the Local Government Act 1933 from time to time to borrow without the consent of any sanctioning authority for, or in connection with, the purposes mentioned in column (1) of the following table the respective sums mentioned in column (2) of the said table and they shall pay off all moneys borrowed within such periods as the Corporation may determine not exceeding those respectively mentioned in column (3) of the said table (namely):—

(1) Purpose	(2) Amount	(3) Period for repayment calculated from the date or dates of borrowing
a) The acquisition of lands	The sum requisite	Sixty years
(b) The construction of the authorised works	£698,000	Sixty years
(c) The provision of improved access	£100,000	Sixty years
(d) The construction and layout of buildings	£175,000	Forty years
(e) The provision of cranes and other services and facilities	£133,000	Twenty years
(f) Dredging	£121,000	Ten years
(g) Costs, charges and expenses of this Order	The sum requisite	Ten years

(2) The provisions of Part IX (Borrowing) of the Local Government Act 1933, so far as they are not inconsistent with this Order, shall extend and apply to the borrowing of money under this Article and to money so borrowed as if it were borrowed under the said Part IX, and the period determined in accordance with paragraph (1) of this Article for the repayment of any money so borrowed shall as respects that money be the fixed period for the purposes of the said Part IX.

(3) In the application of the provisions of Part IX of the Local Government Act 1933 to the borrowing of moneys for the purposes of this Order the Secretary of State for the Environment shall be the sanctioning authority.

Savings for powers of Treasury

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

Further extension of section 86 of Portsmouth Corporation Act 1959

21. Section 86 (Powers with respect to disposal of wrecks) of the Portsmouth Corporation Act 1959(b), as having effect in accordance with Article 21 of the Order of 1966, shall have effect as if the references to any approach to the Flathouse Wharf and Quay in subsections (1) and (7) of that section included a reference to any approach to the authorised works.

Application of Articles of the Order of 1966

22. The following Articles of the Order of 1966 shall apply to, and in respect of, the authorised works as if re-enacted, with any necessary modifications, in this Order:—

- Article 22 (Directions of harbour master);
- Article 23 (Recovery of rates in respect of vessels);
- Article 24 (Recovery of fines);
- Article 26 (Harbour master may prevent sailing of vessels).

Crown rights

23. Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing herein contained authorises the Corporation to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description 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 on behalf of Her Majesty first had and obtained for that purpose.

Saving rights of Queen's harbour Master

24. Nothing in this Order shall take away, alter, prejudice or affect the jurisdiction or any rights, powers, authorities or privileges of the Queen's harbour master.

Inquiries by Secretary of State

25. The Secretary of State for the Environment or the Secretary of State (as the case may be) may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him, and the giving of any consent or approval or the making of any Order or the confirmation of any byelaw under this order, and subsections (2) to (5) of section 290 of the Local Government Act 1932 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section.

(a) 1946 c. 58.

(b) 1959 c. xlv.

Costs of order

26. All the costs, charges and expenses preliminary to, and of and incidental to, the preparation of, and the application for, and the obtaining of this Order or otherwise in relation thereto (other than those which any person is lawfully ordered to pay by the Secretary of State for the Environment or a joint Committee of both Houses of Parliament or any costs, charges and expenses incurred in opposing the Order) shall be paid by the Corporation out of the general rate fund or out of moneys to be borrowed under this Order for that purpose.

Signed by authority of the Secretary of State
7th July 1973.

John Peyton,
Minister for Transport Industries,
Department of the Environment.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order authorises the construction of a new wharf or quay adjoining the existing Mile End Quay in Portsmouth Harbour; the reclamation of the foreshore and bed of the sea by means of those works; dredging for the purpose of access to the works and to the Twyford and Mill Wharves adjoining; the extension of the limits of jurisdiction of the Harbour Master of the Portsmouth City Council; and the borrowing of money by the Portsmouth City Council for the construction of the works, dredging and other purposes.