
STATUTORY INSTRUMENTS

2011 No. 3032

**The Portsmouth (Continental Ferry Port Berth
2 Extension) Harbour Revision Order 2011**

PART 2

HARBOUR REGULATIONS

Power to construct works

4.—(1) Subject to the provisions of this Order, the City Council may, when it has acquired the necessary lands or obtained sufficient interests therein, make and maintain within the limits of deviation the following works: two mooring dolphins extending the line of Berth 2 of the Mile End Quay undertaking in a westerly direction for a distance of 49.4 metres.

(2) The City Council may within the limits of deviation extend, enlarge, alter, replace or re-lay the authorised works.

(3) The City Council may authorise a person to carry out the authorised works, as agent of the City Council.

Power to Deviate

5. In constructing the authorised works the City Council or a person authorised by the City Council to carry out the authorised works may deviate laterally from the lines or situations shown on the deposited plan to the extent of the limits of deviation and may divert vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

Further powers as to works

6. Subject to the provisions of this Order, the City Council or a person authorised by the City Council to carry out the authorised works may, in connection with the construction of those 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 situated within the limits of deviation and is required for, or in connection with, the construction of those works.

Subsidiary works

7.—(1) Subject to paragraph (2) and to the other provisions of this Order, the City Council or a person authorised by the City Council to carry out the authorised works may, in connection with those works and within the limits of deviation, construct, erect, lay down, place, maintain, remove, replace, work or use all necessary or convenient bridges, abutments, booms, pontoons, fenders, bollards, ladders, tanks, pumps, conduits, pipes, wires, mains, cables, rails, signals, conveyors, cranes, lifts, hoists, passenger side loaders, drops, weighbridges, stairs, stages, platforms, catwalks, landing places, dolphins, piles, 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.

(2) Electrical works, mechanical works or equipment constructed, erected, laid down, placed, maintained, worked or used, pursuant to the powers conferred by this article, shall be so constructed, erected, laid down, placed, maintained, worked or used, that any electricity generated or conveyed by any such works or equipment used therein or in connection therewith does not cause interference (whether by induction or otherwise) with any telecommunications apparatus or with telecommunication by means of any such apparatus.

Power to appropriate all or part of the Mile End Quay undertaking for particular trades etc

8.—(1) Notwithstanding anything in any statutory provision of local application the City Council or a person authorised by the City Council to manage the Mile End Quay undertaking may from time to time for the purpose of or in connection with the management of the Mile End Quay undertaking set apart and appropriate all or any part of it for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessel, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the City Council may think fit.

(2) No person or vessel shall make use of any part of the Mile End Quay undertaking so set apart and appropriated without the consent of the Harbour Master and the Harbour Master may order any person or vessel making use thereof without such consent to leave or be removed and the provisions of section 58 (harbour master may remove vessels within docks &c) of the Act of 1847 shall extend and apply to and in relation to any such vessel.

Jurisdiction and directions of Harbour Master

9.—(1) Subject to paragraph (2), the limits within which the powers of the Harbour Master may be exercised under and subject to the provisions of the Act of 1847 shall extend to a distance of 100 metres in every direction from the authorised works.

(2) The powers exercisable by virtue of this article shall be limited to vessels going to, moored at, or departing from, the Mile End Quay undertaking.

(3) Section 52 (powers of harbour master) of the Act of 1847 shall extend to empower the Harbour Master to give directions prohibiting the mooring of vessels in or near any approach to the authorised works.

(4) In the case of conflict between any direction given by the Harbour Master and any direction given by the Queen's Harbour Master, the direction given by the Queen's Harbour Master shall prevail.

Recovery of rates in respect of vessels

10. In addition to the remedy for the recovery of rates given by section 44 (recovery of tonnage rates by distraint and sale of ship and tackle) of the Act of 1847, and whether or not the collector of rates has gone on board the vessel and demanded any rates which the master of the vessel has neglected or refused to pay, the City Council or an officer or manager authorised by the City Council may recover the rates as a debt in any court of competent jurisdiction.

Harbour Master may prevent sailing of vessels

11. The Harbour Master may prevent the removal or sailing from the authorised works of any vessel until evidence has been produced to him of the payment of any ship, passenger and goods dues and other charges payable in respect of the vessel or passengers thereon or the goods imported or exported therein.

Fine for obstructing works

12. Any person who, without lawful authority, intentionally or recklessly obstructs any person acting under the authority of the City Council, or a person authorised by the City Council to carry out the authorised works, in setting out the lines of those works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Provision against danger to navigation

13.—(1) In case of injury to, or destruction or decay of, a tidal work or any part of it forming part of the Mile End Quay undertaking the City Council shall as soon as reasonably practicable notify Trinity House and the Queen's Harbour Master 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 City Council fails to notify Trinity House or the Queen's Harbour Master as required by paragraph (1) or, subject to paragraph (3), to comply in any respect with a direction given under that paragraph, it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(3) It shall be a defence for the City Council to prove that all due diligence was used to secure compliance with a direction under paragraph (1).

Abatement of works abandoned or decayed

14.—(1) Where a tidal work forming part of the Mile End Quay undertaking is abandoned or suffered to fall into decay, the Secretary of State may by notice in writing require the City Council at its own expense either to repair and restore the work or any part of it, or to remove the work and restore its site 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 of it 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 City Council it has 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 him in so doing shall be recoverable from the City Council as a debt in any court of competent jurisdiction.

Survey of tidal works

15. If the Secretary of State at any time deems it expedient to do so, he may 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 City Council as a debt in any court of competent jurisdiction.

Lights on tidal works during construction

16.—(1) The City Council shall at or near a tidal work during the whole time of its construction, alteration, enlargement, replacement, re-laying or extension 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) Subject to paragraph (3), if the City Council fails to comply in any respect with a direction given under paragraph (1), it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(3) It shall be a defence for the City Council to prove that all due diligence was used to secure compliance with a direction under paragraph (1).

Permanent lights on tidal works

17.—(1) After the completion of a tidal work the City Council shall at its outer extremity 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) Subject to paragraph (3), if the City Council fails to comply in any respect with a direction given under paragraph (1), it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(3) It shall be a defence for the City Council to prove that all due diligence was used to secure compliance with a direction under paragraph (1).

Recovery of fines

18. All fines and forfeitures recoverable under the provisions of the Act of 1847 as incorporated with this Order or under any bye-law made in pursuance of section 83 of the Act of 1847 as so incorporated may be recovered summarily.

Power to lease

19. Once the construction of the authorised works is complete, the City Council or an officer or manager authorised by the City Council may, for harbour purposes, lease or grant the use or occupation of, or any right or interest in or over, any lands, works, buildings, equipment or other property forming part of the Mile End Quay undertaking for such period or periods and on such terms and conditions as shall be agreed between the City Council or the officer or manager and the person taking the same.

Extension of Section 86 of Portsmouth Corporation Act 1959

20. Section 86 (powers with respect to disposal of wrecks) of the Portsmouth Corporation Act 1959⁽¹⁾ as having effect in accordance with the Portsmouth Mile End Quay Harbour Revision Orders 1966 to 1994⁽²⁾ 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.

(1) 1959 c. xlv.

(2) See article 21 of S.I.1966/982, article 21 S.I.1973/2135, article 15 of S.I.1988/1519, article 24 of S.I.1991/993, article 21 of S.I.1993/2733 and article 23 of S.I.1994/2733.