STATUTORY INSTRUMENTS

1964 No. 1386

HARBOURS, DOCKS, PIERS AND FERRIES

The Control of Harbour Development Order 1964

Made - - - -	28*th August* 1964
Laid before Parliament	8*th September* 1964
Coming into Operation	15*th September* 1964

The Minister of Transport, in exercise of his powers under section 9 of the Harbours Act 1964(a) and of all other enabling powers, hereby makes the following Order:—

1.—(1) This Order shall come into operation on the 15th September 1964, and may be cited as the Control of Harbour Development Order 1964.

(2) In this Order "the Act" means the Harbours Act 1964.

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

2. Subject as hereinafter provided, this Order applies to the following projects, that is to say:—

(*a*) the execution of any works for the construction, reconstruction, improvement or repair of a harbour;

(*b*) the execution of any works for the construction, reconstruction, improvement or repair of buildings or structures, being buildings or structures required for use or used wholly or mainly for the purpose of harbour operations;

(*c*) the acquisition or taking on hire of—

(i) dredgers required for use in the execution of any such works as aforesaid, or

(ii) cargo handling plant or cargo handling equipment (whether floating or land based, and whether fixed or mobile), being plant or equipment required for use wholly or mainly for the purpose of harbour operations.

3. Subject to the provisions of this Order, no person engaged in, or proposing to become engaged in, the improvement, maintenance or management of a harbour, or the carrying out of harbour operations, shall undertake, or secure the undertaking of, any project to which this Order applies, where—

(*a*) the cost of the project, ascertained in accordance with the provisions of Article 5 of this Order, exceeds £500,000, or

(*b*) the project forms part of a larger project the cost of which, ascertained as aforesaid, exceeds that sum, or

(*c*) the project forms part of a series of projects the cost of which, ascertained as aforesaid, in the aggregate exceeds that sum,

except under an authorisation in that behalf granted by the Minister under Section 9 of the Act.

(a) 1964 c. 40. (b) 52 & 53 Vict. c. 63.

4. The prohibition contained in Article 3 of this Order shall not apply in relation to the undertaking, or the securing of the undertaking, of—

(*a*) the execution of works of the nature of routine maintenance or works of the nature of routine repair, or

(*b*) the taking on temporary hire of plant or equipment for the purpose of replacing plant or equipment in need of, or undergoing, repair or maintenance, or

(*c*) any project which involves no expenditure of a capital nature, or

(*d*) any project in relation to which any tender has been invited, or any contract placed, or any work commenced, before the date of the coming into operation of this Order, or

(*e*) any project concerning, or concerning operations carried out at, a fishery harbour or marine work which becomes a harbour for the purposes of section 9 of the Act after the coming into operation of this Order, being a project in relation to which any tender has been invited, or any contract placed, or any work commenced, before the date on which that fishery harbour or marine work became a harbour for the purposes aforesaid.

5.—(1) The provisions of this Article shall apply for ascertaining the cost of a project for the purpose of Article 3 of this Order or of Section 9(7) of the Act.

(2) Where a reasonable and proper estimate in writing of the proposed expenditure on a project has been made by the person who proposes to undertake, or secure the undertaking of, that project, before any expenditure has been incurred on it, the cost of that project, so far as regards all matters comprised in the estimate, shall be ascertained for any purpose mentioned in paragraph (1) of this Article by reference to that estimate alone, but in all other cases the cost of a project shall be ascertained for any such purpose aforesaid by reference to the actual expenditure (if any) already incurred on the project up to the time when the ascertainment of cost is required to be made for that purpose together with a reasonable and proper estimate of the expenditure (if any) then still to be incurred in order to complete the project.

(3) In computing the cost of a project under the provisions of this Article there shall be included :—

(*a*) sums in respect of any consulting engineers', architects', surveyors' and other professional fees in connection with the project ;

(*b*) in a case where the project consists of, or involves, the taking on hire of plant or equipment, a sum in respect of the aggregate of any periodic payments under the hiring agreement during the continuance thereof, or, where the hiring is not for a fixed term, during the estimated continuance thereof ;

(*c*) in a case where the project involves the execution of works on land acquired for, or appropriated to the purpose of, the project, a sum in respect of the value of that land determined in accordance with the provisions of paragraph (4) of this Article ;

and such sums shall be ascertained (subject as hereinafter provided) by reference to estimated or actual expenditure as the provisions of paragraph (2) of this Article may require.

(4) For the purpose of paragraph (3) of this Article the value of land acquired for, or appropriated to the purpose of, a project shall be the sum which the land, or, in a case where a limited interest only in the

land is acquired or appropriated, that interest in the land, might be expected to realise, if sold in the open market by a willing seller at the time of ascertaining the cost of the project under the provisions of this Article, on the following assumptions, namely:—

(*a*) that planning permission would be granted for—

(i) any development included in the existing use of the land,

(ii) any development involved in carrying out the project for which the land is required,

(iii) any development in accordance with the current development plan comprising the land, and

(iv) any other development for which, not earlier than one year before the time of ascertaining the cost of the project as aforesaid, the local planning authority have granted, or have stated that they would grant, planning permission, and

(*b*) that in any case where the land, or the interest in the land, would be held subject to the reservation of a periodic rent or an obligation to make some other payment of a periodic nature, the amount of that rent or other payment were a nominal amount only.

(5) Where a project forms part of a larger project or of a series of projects, the foregoing provisions of this Article shall apply with the necessary modifications for ascertaining for the purpose of Article 3 of this Order or of Section 9(7) of the Act the cost of the larger project or the series of projects aforesaid.

6. Nothing in this Order shall apply in relation to a project in so far as it comprises—

(*a*) the execution of works for the construction, reconstruction or repair of a dry dock, or

(*b*) the execution of works for the construction, reconstruction or repair of buildings or structures, being buildings or structures required for use or used wholly or mainly for the purpose of the dry docking of a ship, or

(*c*) the acquisition or taking on hire of plant or equipment for use in a dry dock,

and in ascertaining the nature and extent of a project for the purpose of this Order the matters aforesaid shall be disregarded.

Given under the Official Seal of the Minister of Transport the 28th August 1964.

(L.S.)

Ernest Marples,
Minister of Transport.

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

The Order implements, and defines the extent of, the control, provided for in section 9 of the Harbours Act 1964, in relation to schemes of harbour development.

The projects (whether for the execution of works or for the acquisition or taking on hire of plant or equipment) to which the Order applies are

specified (Article 2) and provision is made (Article 3) that no such project is to be undertaken without the authorisation of the Minister of Transport in any case where the cost of the project exceeds £500,000, or where the project forms part of a larger project or of a series of projects the cost of which exceeds that sum.

Projects which consist of routine maintenance or repair works, or the taking on temporary hire of certain plant and equipment, or which involve no expenditure of a capital nature, or which were begun or put out to tender before the Order comes into operation are excluded from the control (Article 4) and projects relating to dry docks are similarly excluded (Article 6 and s. 9(10) of the Act).

The method of ascertaining the cost of projects and the items to be taken into account in ascertaining such cost are specified (Article 5).