STATUTORY INSTRUMENTS

1986 No. 1901

SEA FISHERIES

SHELLFISH

The Portchester Channel Oyster Fishery Order 1986

Made - - - -	*6th November* 1986
Laid before Parliament	*14th November* 1986
Coming into Operation	*5th December* 1986

Whereas an application for an order under section 1 of the Sea Fisheries (Shellfish) Act 1967 (**a**) was made to the Minister of Agriculture, Fisheries and Food by Portsmouth Harbour Oyster Society Limited ("the Company");

And whereas the said Minister prepared a draft order and served a copy of it on the Company in accordance with paragraph 1 of Schedule 1 to the said Act;

And whereas the Company caused printed copies of the draft order to be published and circulated, and gave notice of the application, in accordance with paragraph 2 of the said Schedule;

And whereas the objections that were made to the said Minister under paragraph 3 of the said Schedule appear to him to be irrelevant;

Now, therefore, the said Minister, in exercise of the powers conferred on him by the said section 1 and of all other powers enabling him in that behalf, and with the consent of the Crown Estate Commissioners, hereby makes the following order:—

Title, commencement and interpretation

1.—(1) This order may be cited as the Portchester Channel Oyster Fishery Order 1986 and shall come into operation on 5th December 1986.

(2) In this order—

"the Company" means Portsmouth Harbour Oyster Society Limited whose registered office is at 135 Elm Grove, Southsea, Portsmouth PO5 1QB in the county of Hampshire;

"the definitive map" means the map sealed in duplicate by the Minister and marked "The Portchester Channel Oyster Fishery Order 1986 – Definitive map showing the situation and extent of the area concerned", one copy of which is in the possession of the Company and the other copy of which is in the possession of the Minister;

"the fishery" means that part of the area within Portsmouth Harbour in the county of Hampshire known as Portchester Channel which is shown coloured pink on the definitive map;

(**a**) 1967 c.83; section 1 was amended by section 15(2) of the Sea Fisheries Act 1968 (c.77) and paragraph 15 of Schedule 2 to the Fisheries Limits Act 1976 (c.86) and is to be read with section 15(3) to (5) of the Sea Fisheries Act 1968; Schedule 1 was amended by section 15(7) of the Sea Fisheries Act 1968.

"the Minister" means the Minister of Agriculture, Fisheries and Food.

Right of several fishery

2. There is hereby conferred on the Company for a period of 7 years beginning on 5th December 1986 the right of several fishery for oysters with respect to the fishery.

Marking of limits of fishery

3. The Company shall mark the limits of the fishery in such manner as the Minister and the Queen's Harbour Master, Portsmouth, may from time to time approve and shall maintain such marks in position and good repair.

Control of deposits

4. The Company shall not without the written consent of the Minister deposit or permit any other person to deposit within the limits of the fishery any oyster of the species *Ostrea edulis* and shall comply with any condition subject to which the Minister gives his consent to the deposit of any such oyster.

Taking of samples for the purpose of disease control

5. The Company shall permit any person authorised in that behalf by the Minister to do the following things for any purpose connected with preventing the spreading of disease—

(a) at any reasonable time to obtain samples of any shellfish found within the fishery and, provided they have been marked, labelled or otherwise made capable of identification, to remove them from the fishery;

(b) when the purpose for which any such sample was taken has been satisfied, to dispose of it as he may determine.

Assignment

6. The right of several fishery conferred by this order shall not be transferred to any other person without the written consent of the Minister.

Accounts of income and expenditure and other information

7. The Company shall render to the Minister annual accounts of its income and expenditure under this order, and shall furnish to the Minister all other information required by him with reference to this order and to the fishery in such form and at such times as he may require, and shall allow any person authorised by the Minister in that behalf to inspect the fishery and all books of account and other documents in the possession of the Company relating to this order and to the fishery, and shall give to such person any information relating thereto as he may require.

Rights of the Crown

8. Nothing in this order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, and in particular nothing herein contained shall authorise the Company 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, hereditament, subject or right of whatever description belonging to Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners.

Rights of various persons and bodies

9. Nothing in this order shall affect prejudicially—

(a) any right conferred on the operator of a telecommunications system by, or in accordance with, the telecommunications code contained in Schedule 2 to the Telecommunications Act 1984 (**a**);

(b) the powers of the Central Electricity Generating Board or the Southern Electricity Board or the Southern Water Authority in respect of any operation carried out by them in the exercise of their statutory functions; or

(c) the powers of any person or body to carry out coast protection work within the meaning of section 49(1) of the Coast Protection Act 1949(**b**) in accordance with any approval or consent given under that Act.

Dockyard Port Regulation Act 1865

10. The right of several fishery conferred by this order is subject to the Dockyard Port Regulation Act 1865 (**c**) and any Order in Council made thereunder.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 6th November 1986.

L.S.

Michael Jopling,
Minister of Agriculture, Fisheries and Food.

(**a**) 1984 c.12. (**b**) 1949 c.74. (**c**) 1865 c.125.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order confers on Portsmouth Harbour Oyster Society Limited the right of several fishery for oysters over part of Portchester Channel in Portsmouth Harbour for a period of 7 years.

The situation and extent of the fishery are shown in the definitive map described in article 1(2) of the order, which may be inspected by prior appointment during office hours at the offices of R V Stokes & Co, Solicitors to the Company at 108 Victoria Road North, Portsmouth PO5 1QQ or at the offices of the Minister of Agriculture, Fisheries and Food, Great Westminister House, Horseferry Road, London SW1P 2AE.

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