STATUTORY INSTRUMENTS

1981 No. 1632

HARBOURS, DOCKS, PIERS AND FERRIES

The Portsmouth Mile End Quay Revision Order 1981

Made - - - -	*19th June 1981*
Laid before Parliament	*17th July 1981*
Coming into Operation	*13th November* 1981

The Secretary of State for Transport in exercise of the 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 Portsmouth City Council, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Portsmouth Mile End Quay Revision Order 1981 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 Orders 1966 and 1973 and this Order may be cited as the Portsmouth Mile End Quay Revision Orders 1966 to 1981.

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(**d**);

"the authorised works" means the works authorised by this Order or any part of those works;

"the Council" means the Portsmouth City Council;

"the deposited plan" and "the deposited sections" mean the plan and sections prepared in triplicate, signed by an Assistant Secretary in the

(**a**) 1964 c.40. (**b**) S.I. 1981/238. (**c**) 1945 c.18 (9 & 10 Geo. 6); 1965 c.43.
(**d**) 1847 c.27.

Department of Transport and marked "Plan and sections referred to in the Portsmouth Mile End Quay Revision Order 1981", of which one is deposited at the offices of the Department of Transport, one at the offices of the Department of Trade and one at the offices of the City Secretary and Solicitor of the Council;

"enactment" means any enactment, whether public general, private 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 limits of deviation" means the limits of deviation shown on the deposited plan;

"the Mile End Quay undertaking" means the undertaking of the Council authorised by the Portsmouth Mile End Quay Revision Orders 1966 to 1981;

"the Order of 1966" means the Portsmouth Mile End Quay Revision Order 1966(**b**);

"the Order of 1973" means the Portsmouth Mile End Quay Revision Order 1973(**c**);

"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) 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 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 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) In the construction of the Act of 1847 so incorporated the expression "the special Act" shall mean this Order and the expression "vessel" shall have the meaning assigned to it by article 2(1) of this Order.

(**a**) 1968 c. 59. (**b**) S.I. 1966/982. (**c**) S.I. 1973/2135.

(3) For the purposes of section 83 of the Act of 1847 as so incorporated sections 236 to 238 of the Local Government Act 1972(a) shall apply to this Order as if it were such an enactment as is referred to in the said section 236, and for the purposes of the said section 236 the confirming authority for byelaws made under the said section 83 shall be the Secretary of State for Transport.

Application of provisions of Orders of 1966 and 1973

4.—(1) The following provisions in the Orders of 1966 and 1973 shall apply to this Order, and in respect of the authorised works, as they apply to, and in respect of the works authorised by, those orders respectively:—

In the Order of 1966—

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);

In the Order of 1973—

Article 8 (Power to dredge, etc.);

Article 10 (Fine for obstructing works);

Article 11 (Tidal works not to be executed without approval of Secretary of State);

Article 12 (Provision against danger to navigation);

Article 13 (Abatement of works abandoned or decayed);

Article 14 (Survey of tidal works);

Article 15 (Permanent lights on tidal works);

Article 16 (Lights on tidal works during construction);

Article 17 (Power to lease undertaking);

Article 23 (Crown rights);

Article 24 (Saving rights of Queen's Harbour Master);

Article 25 (Inquiries by Secretary of State).

(2) In the construction of the provisions specified in subsection (1) above as so applied to this Order expressions to which meanings are assigned in the Order of 1966 or, as the case may be, the Order of 1973 shall have the meanings so assigned, except that—

(*a*) any reference in those provisions to works or, as the case may be, authorised works shall be taken as a reference to the works authorised by this Order; and

(*b*) any reference in those provisions to the Mile End Quay undertaking shall be taken as a reference to that undertaking as defined in this Order.

Power to construct works

5.—(1) Subject to the provisions of this Order, the Council 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 north and west of the existing quay authorised by the Order of 1973 within an area of land enclosed by an im-

(a) 1972 c.70.

aginary line commencing at a point near the northern embankment of the existing quay at the southern end of Mill Wharf and passing in a westerly direction for a distance of 100 metres, thence in a north-westerly direction for a distance of 119 metres, thence in a westerly direction for a distance of 50 metres, thence in a south-westerly direction for a distance of 187 metres, thence in a southerly direction for a distance of 80 metres, thence in a south-westerly direction for a distance of 170 metres, thence in a southerly direction for a distance of 22 metres, thence in an east-south-easterly direction for a distance of 150 metres, thence in an east-north-easterly direction for a distance of 206 metres to a point at the south-western end of Berth No. 1 of the said existing quay and thence generally along the seaward face of the said existing quay to the point of commencement.

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

Power to deviate

6. In constructing the authorised works the Council 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 3 metres upwards and to such extent downwards as may be found necessary or convenient.

Period for completion of works

7. If the authorised works are not completed before the end of the tenth year after that in which the Order comes into operation, the powers conferred by this Order for the construction of those works shall cease except as to so much of those works as is then substantially commenced, but nothing in this article shall prejudice the powers conferred by article 8 (Power to dredge, etc.) of the Order of 1973 as applied to this Order in respect of the authorised works.

Further powers as to works

8. Subject to the provisions of this Order, the Council 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

9. Subject to the provisions of this Order, the Council may, in connection with the authorised works and 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 electrical works or equipment constructed, erected, laid down or placed or maintained, worked or used pursuant to the powers conferred by this article shall be so constructed, erected, laid down or placed, and so maintained, worked or used, that any electricity generated or conveyed by any such works or equipment or used therein or in connection therewith does not cause interference (whether by induction or otherwise) with any telegraphic line belonging to, or used by, the Post Office or with telecommunication by means of any such line.

Limits of harbour master's jurisdiction.

10.—(1) Subject to the provisions of paragraph (2) of this article, the limits within which the powers of the harbour master of the Council may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Order, shall extend—

(*a*) to a distance of 100 metres in every direction from the authorised works; and

(*b*) to so much of the dredged channels provided for access to the authorised works and the Twyford and Mill Wharves and for accommodation of vessels at the authorised works under article 8 (Power to dredge, etc.) of the Order of 1973, as applied to this Order in respect of the authorised works, as extend beyond 100 metres 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 authorised works or the said Wharves:

Provided that in case of conflict between any directions given by the harbour master of the Council and any directions given by the person for the time being appointed to be the Queen's Harbour Master of the Dockyard Port of Portsmouth under the Dockyard Ports Regulation Act 1865(**a**), the directions given by the Queen's Harbour Master shall prevail.

Further extension of section 86 of Portsmouth Corporation Act 1959

11. 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 and article 21 of the Order of 1973, 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.

Costs of order

12. All costs, charges and expenses preliminary to, and of and incidental to, the preparation of, 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 Transport 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 Council.

Norman Fowler,
Secretary of State for Transport.

19th June 1981.

(**a**) 1865 c.125. (**b**) 1959 c. xlv.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order authorises the construction of a new wharf and quay adjoining the existing Mile End Quay in Portsmouth Harbour for the extension of the Continental Ferry Port of the Portsmouth City Council; 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 certain adjoining wharves; and the extension of the limits of jurisdiction of the harbour master of the Portsmouth City Council.

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