2004 No. 2469

HARBOURS, DOCKS, PIERS AND FERRIES

The Teignmouth Quays Harbour Revision Order 2004

Made - - - - - *17th September 2004*

Coming into force - - *24th September 2004*

ARRANGEMENT OF ARTICLES

1. Citation and commencement
2. Interpretation
3. Power to make works
4. Power to deviate
5. Fine for obstructing works
6. Power to dredge in river Teign
7. Tidal works not to be executed without approval of Secretary of State
8. Provision against danger to navigation
9. Abatement of works abandoned or decayed
10. Survey of tidal works
11. Permanent lights on tidal works
12. Lights on tidal works during construction
13. Limits of jurisdiction of Company
14. Works to form part of undertaking
15. Modification of power to give directions
16. As to use of land and water within jurisdiction of Company
17. Agreements with Teignbridge District Council
18. Saving for Crown Rights

Whereas Teignmouth Quay Company Limited have applied for a harbour revision order under section 14 of the Harbours Act 1964(**a**);

And whereas there were objections made to the application which were not withdrawn and an inquiry was held in accordance with paragraph 18 of Schedule 3 to the said Act;

And whereas the Secretary of State for Transport is satisfied as mentioned in subsection (2)(b) of the said section 14;

(**a**) 1964 c. 40: section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2, 3, 4(1) and 14 and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1.

[DfT 13408]

Now, therefore, the Secretary of State for Transport has considered the objections made and not withdrawn and the report of the person holding the inquiry, and (being the appropriate Minister under subsection (7) of the said section 14(**a**)), in exercise of the powers conferred by that section and now vested in him(**b**), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and Commencement

1.—(1) This Order may be cited as the Teignmouth Quays Harbour Revision Order 2004 and shall come into force on 24th September 2004.

(2) The Teignmouth Quays Orders 1887 and 1893 and this Order may be cited together as the Teignmouth Quays Orders 1887 to 2004.

Interpretation

2.—(1) In this Order—

"the Act of 1847" means the Harbours, Docks and Piers Clauses Act 1847(**c**) as incorporated with the Teignmouth Quays Orders 1887 and 1893;

"Chart Datum" in relation to any dredging is 2.65 metres below Ordnance Datum (Newlyn);

"the Commissioners" means the Teignmouth Harbour Commissioners;

"the Company" means Teignmouth Quay Company Limited;

"the deposited maps" means the maps consisting of a location plan numbered sheet 1, a plan of the works numbered sheet 2, and sections numbered sheet 3, prepared in duplicate, signed by the Head of Ports Division in the Department for Transport and marked "Maps referred to in the Teignmouth Quays Harbour Revision Order 2004" one copy of which is deposited at the Department and the other at the principal office of the Company;

"the harbour master" has the meaning given by section 2 of the Act of 1847;

"the level of high water" means the level of mean high-water springs;

"the limits of deviation" means the limits of deviation shown on sheet 2 of the deposited maps;

"the new quay" means the new quay referred to in article 3 below;

"reference point" means Ordnance Survey National Grid reference point;

"tidal work" means so much of any of the works 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 undertaking" means the undertaking of the Company authorised by the Teignmouth Quays Orders 1887 and 1893;

"the works" means the new quay and the works authorised by article 3 below.

(2) All directions, distances, points and dimensions stated in any descriptions of works shall be construed as if the words "or thereabouts" were inserted after each such direction, distance, point or dimension.

Power to make works

3.—(1) Subject to the provisions of this Order, the Company may, in the lines and situations shown on sheet 2 of the deposited maps and according to the levels shown on sheet 3 of the deposited maps make and maintain the following works in the district of Teignbridge in the County of Devon:

A new quay comprising a reclamation of the foreshore of the river Teign of which the seaward face commences by a junction with the eastern quay wall of the existing No. 1 Dock at reference point 293748: 072871, then proceeds in a westerly direction for a distance of 300 metres to reference point 293446: 072899, then proceeds in a northerly direction for a distance of 5 metres

---

(**a**) For the definition of "the Minister" (mentioned in section 14(7)), see section 57(1).
(**b**) S.I. 1981/238.
(**c**) 10 & 11 Vict. c. 27, as incorporated by section 19 of the General Pier and Harbour Act 1861 Amendment Act 1862 (25 Vict. c. 19).

to reference point 293446: 072904, then in a westerly direction for a distance of 20 metres to reference point 293427: 072908 and then in a northerly direction for a distance of 13 metres and terminates at reference point 293421: 072921 by a connection with the existing revetment, including an infilling of No. 1 Dock.

(2) In connection with the construction of the western end of the new quay the Company may relocate the existing public slipway.

(3) The Company may from time to time within the limits of deviation erect, construct and maintain all such works, buildings, conveniences, appliances and apparatus as it from time to time deems necessary or convenient for the purposes of or in connection with or incidental to, the construction and maintenance of the new quay or the accommodation of vessels or the carrying out of dock operations at or on the new quay.

(4) The Company may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the works.

Power to deviate

4. In constructing the new quay the Company may deviate laterally from the lines or situations shown on sheet 2 of the deposited maps and described in article 3 (Power to make works) above to the extent of the limits of deviation and may deviate vertically from the levels shown on sheet 3 of the deposited maps to any extent not exceeding two metres upwards and to such extent downwards as may be found necessary or convenient.

Fine for obstructing works

5. Any person who intentionally obstructs any person acting under the authority of the Company in constructing the works or intentionally or recklessly interferes with equipment or materials used in the construction of the works shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to dredge in river Teign

6.—(1) For the purposes of affording uninterrupted means of access to the new quay and the existing Eastern Quay and of enabling their use at all states of the tide, the Company may from time to time deepen, dredge, scour, cleanse, alter and improve the bed of the river Teign within an area extending (including side slopes) up to 50 metres from the outer face of the existing Eastern Quay and of the new quay between reference points 293826: 072771 and 293446: 072899 to a depth of down to 5 metres below Chart Datum and between reference points 293446: 072904 and 293427: 072908 to a depth of down to 1.5 metres below Chart Datum and may (subject to paragraph (2) or (3) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it in the course of any such operations.

(2) No materials referred to in this article shall:

(a) be disposed of in contravention of the provisions of any enactment relating to the disposal of waste; or

(b) be deposited below the level of mean high-water springs otherwise than in such places and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(3) The power to use, appropriate or dispose of materials referred to in this article shall not extend to wreck (within the meaning of Part IX of the Merchant Shipping Act 1995(**a**)) found by the Company.

(4) The Company shall not exercise the powers in paragraph (1) above without first notifying in writing the Commissioners.

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

7.—(1) A tidal work shall not be constructed, altered, enlarged, replaced, relaid, extended or reconstructed 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.

(**a**) 1995 c. 21.

(2) If a tidal work is constructed, altered, enlarged, replaced, relaid, extended or reconstructed 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 Company at its 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 30 days from the date when the notice is served upon the Company it has 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 Company.

Provision against danger to navigation

8.—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof, the Company shall as soon as reasonably practicable notify the Commissioners and Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House after consulting the Commissioners shall from time to time direct.

(2) If without reasonable excuse the Company fails to notify the Commissioners and Trinity House as required by paragraph (1) above or to comply in any respect with a direction given under the said paragraph, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

9.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Company at its 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 paragraph (1) above.

(3) If, on the expiration of 30 days from the date when a notice under paragraph (1) above is served upon the Company, 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 the Secretary of State in so doing shall be recoverable from the Company.

Survey of tidal works

10. 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 Company.

Permanent lights on tidal works

11.—(1) After the completion of a tidal work the Company 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 after consulting the Commissioners shall from time to time direct.

(2) If the Company fails to comply in any respect with a direction given under paragraph (1) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine; but it shall be a defence for the Company to prove that all due diligence was used to secure compliance with the direction.

Lights on tidal works during construction

12.—(1) The Company 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 after consulting the Commissioners shall from time to time direct.

(2) If the Company fails to comply in any respect with a direction given under paragraph (1) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine; but it shall be a defence for the Company to prove that all due diligence was used to secure compliance with the direction.

Limits of jurisdiction of Company

13. The limits within which the powers of the Company and of its officers in relation to the works may be exercised shall extend to a distance of 30 metres seawards from those works.

Works to form part of undertaking

14.—(1) Subject to article 17 (Agreements with Teignbridge District Council) below the works shall form part of the undertaking and all enactments conferring rights, powers, privileges or immunities or imposing duties, obligations or liabilities upon the Company or its officers, and all byelaws for the time being in force in relation to the works authorised by the Teignmouth Quays Orders 1887 and 1893, shall so far as relevant, apply to the works.

(2) In the Teignmouth Quays Byelaws 1950 as applied by paragraph (1) above, reference to "the Area" shall be construed as extending to the limits within which the powers of the Company may be exercised under article 13 (Limits of jurisdiction of Company) above.

(3) In this article "the Teignmouth Quays Byelaws 1950" means the byelaws made by the Company on 22nd December 1950 and confirmed by the Minister of Transport on 2nd January 1951.

Modification of power to give directions

15.—(1) Section 52 of the Act of 1847 shall not be construed so as to require the harbour master to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section; but in pursuance of that section for all or any of the purposes thereof, the harbour master may give general directions applicable to all vessels or to particular classes of vessels.

(2) Section 53 of the Act of 1847 shall not be construed so as to require the harbour master to serve a notice in writing of his direction upon the master of a vessel, and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

As to use of land and water within jurisdiction of Company

16.—(1) The Company may from time to time set apart and appropriate any part of the land and water within its jurisdiction for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Company may think fit.

(2) No person or vessel shall make use of any part of the land and waters so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Company; and—

(a) the harbour master or, as the case may be, such officer, may order any person or vessel making use thereof without such consent to leave or be removed; and

(b) the provisions of section 58 (powers of harbour master as to mooring of vessels in harbour) of the Act of 1847 shall extend and apply in relation to any such vessel as if for references to directions of the harbour master there were substituted references to an order under paragraph (2)(a).

(3) This article has effect subject to the provisions of the enactments relating to town and country planning.

Agreements with Teignbridge District Council

17.—(1) The Company and the Council may enter into and carry into effect agreements for the vesting in the Council of the relevant works.

(2) Subject to paragraph (3) below upon such vesting the functions of the Company under this Order relating to the relevant works shall be transferred to the Council and accordingly the provisions of this Order shall apply to those works as if for references to the Company there were substituted references to the Council.

(3) Paragraph (2) above shall not apply in relation to articles 13 to 16 of this Order, and following the vesting authorised by this article those provisions shall not apply to the relevant works.

(4) In this article—

"the Council" means Teignbridge District Council; and

"the relevant works" means the relocated slipway referred to in article 3(2) above and so much of the new quay as lies between reference point 293446: 072904 and its termination.

Saving for Crown Rights

18.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown, and in particular, nothing in this Order authorises the Company to take, use, enter upon or in any manner interfere with any land, hereditaments, or rights of whatsoever description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) 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; or

(b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under paragraph (1) above may be given unconditionally or subject to such conditions or upon such terms as may be considered necessary or appropriate.

Signed by authority of the Secretary of State for Transport

Phil Carey
Head of Ports Division in the
Department for Transport

17th September 2004

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Teignmouth Quay Company Limited to construct a new quay at Teignmouth and to infill Dock No. 1 and confers ancillary powers in connection with the works. The Company is authorised to dredge an area in front of the new quay and the existing Eastern quay. The Order also makes provision as to the use of land and water within the Company's jurisdiction and modifies the power of the harbour master to give directions contained in sections 52 and 53 of the Harbours, Docks and Piers Clauses Act 1847.

The deposited maps defined in article 2 of the Order may be inspected during normal hours at the offices of Teignmouth Quay Company Limited at Old Quay, Teignmouth, Devon TQ14 8ES.

STATUTORY INSTRUMENTS

2004 No. 2469

HARBOURS, DOCKS, PIERS AND FERRIES

The Teignmouth Quays Harbour Revision Order 2004

ISBN 0-11-049845-3

9 780110 498454

£3.00

© Crown copyright 2004

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1212 9/2004 141212 19585