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STATUTORY INSTRUMENTS

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**1995 No. 1063**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Portsmouth (Camber Dock) Harbour Revision Order 1995**

*Made* - - - - *11th April 1995*

*Coming into force* - - *13th April 1995*

Whereas the Portsmouth City Council have applied for a harbour revision order under section 14 of the Harbours Act 1964(1);

And whereas the Secretary of State for Transport has, in pursuance of paragraph 1A of Schedule 3 to the said Act(2), determined that the application is made in relation to a project which falls within Annex II to Council Directive 85/337/EEC(3) on the assessment of the effects of certain public and private projects on the environment but whose characteristics do not require that it should be made subject to an environmental assessment;

And whereas objections to the application made pursuant to paragraph 3(a) of the said Schedule 3 have been withdrawn;

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

Now, therefore, the Secretary of State for Transport (being the appropriate Minister under subsection (7) of the said section 14(4)), in exercise of the powers conferred by that section and now vested in him(5), and of all other powers enabling him in that behalf, hereby makes the following Order:—

**Citation and commencement**

1. This Order may be cited as the Portsmouth (Camber Dock) Harbour Revision Order 1995 and shall come into force on 13th April 1995.

**Interpretation**

2.—(1) In this Order—

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- (1) 1964 c. 40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4, 12 and 14, and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraphs 1 and 10.  
(2) Paragraph 1A was inserted by the Harbour Works (Assessment of Environmental Effects) Regulations 1988 (S.I.1988/1336), regulations 3 and 4 and amended by S.I. 1992/1421.  
(3) OJ No. L175, 5.7.85, p.40.  
(4) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).  
(5) S.I. 1981/238.

“the Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847(6);

“the Council” means the Portsmouth City Council;

“deposited plan” and “deposited sections” mean respectively the plan and sections prepared in duplicate signed by an Assistant Secretary in the Department of Transport and marked “Plan and Sections referred to in the Portsmouth (Camber Dock) Harbour Revision Order 1995” of which one is deposited at the offices of the Department of Transport and one at the offices of the Head of Legal Services of the Council;

“enactment” means any enactment whether public general or local and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“the level of high water” means the level of mean high-water springs;

“the limits of deviation” means the limits of deviation shown on the deposited plan;

“Queen’s Harbour Master” means the person for the time being appointed to be Queen’s Harbour Master of the Dockyard Port of Portsmouth under the Dockyard Ports Regulation Act 1865(7);

“tidal work” means so much of the authorised works as is on, under or over any part of the seashore lying below the level of high water;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“vessel” includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on 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) Subject to paragraph (2) below, the Act of 1847 (except sections 6 to 13, 16 to 20, 23, 25 to 27, 31, 48, 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.

(2) In the Act of 1847 as so incorporated—

- (a) section 15 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 level 2 on the standard scale”;
- (b) section 34 shall have effect as if, after the word “may”, there were inserted the words “(on producing, if so required, a duly authenticated document showing his authority)”;
- (c) section 63 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; and
- (d) section 69 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 level 4 on the standard scale”.

(3) In the construction of the Act of 1847 as 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.

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(6) 1847 c. 27.

(7) 1865 c. 125.

(4) (a) For the purposes of section 83 of the Act of 1847 as so incorporated, sections 236 to 238 of the Local Government Act 1972(8) shall apply to this Order as if it were such an enactment as is referred to in the said section 236, and—

- (i) 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; and
  - (ii) the said section 236 shall have effect as if in subsection (7) thereof after the word “confirm” where it first occurs the words “with or without modification” were inserted.
- (b) If the Secretary of State, on considering byelaws made by the Council relating to the Camber Dock undertaking and submitted under the said section 236 as having effect in accordance with paragraph (a) above, proposes to make a modification which appears to him to be substantial, then—
- (i) he shall inform the Council and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification; and
  - (ii) he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for the Council and other persons who have been informed of the proposed modification to consider and comment on it.

#### **Power to construct works**

4.—(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, the following works in the City of Portsmouth—

A quay wall on the seaward side of the existing Town Quay Inner Camber Berths 5 to 10 commencing by a junction at the southern end of Berth 5 at a distance of 3 metres from the existing seaward face extending parallel to that face in a northerly direction for 61 metres, then turning easterly and 3 metres off and parallel to the existing seaward face of Berth 6 for a distance of 91 metres, then turning south-easterly 3.5 metres off and parallel to the existing seaward face of Berth 7 for a distance of 55 metres, then turning south-south-easterly 3 metres off and following the existing curved seaward face of Berth 8 for a distance of 69 metres, then turning west-south-westerly 2.5 metres off and parallel to the existing seaward face of Berths 9 and 10 for a distance of 112 metres terminating by a junction with the existing quay face of Lucas Quay.

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

(3) The Council may authorise any person to carry out the authorised works.

#### **Power to deviate**

5. 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 three 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 Council may, in connection with the construction of the authorised works, enclose and reclaim from the foreshore and bed of the sea, and may hold and use as part of the Camber Dock 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 construction of the authorised works.

### **Subsidiary works**

7.—(1) Subject to paragraph (2) below and to the other provisions of this Order, the Council may, in connection with the authorised 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, drops, weighbridges, stairs, stages, platforms, catwalks, 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.

(2) 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 telecommunications apparatus or with telecommunication by means of any such apparatus.

### **Jurisdiction and directions of Harbour Master**

8.—(1) Subject to paragraph (2) below, 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 and all other powers enabling him in that behalf 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 those works and for accommodation of vessels at those works under article 11 (Power to dredge etc) of this Order as extended beyond 100 metres from those works.

(2) The powers conferred by paragraph (1) above shall be limited to vessels going to, moored at or departing from the authorised works.

(3) Section 52 of the Act of 1847 as incorporated with this Order shall extend to empower the Harbour Master of the Council to give directions prohibiting the mooring of vessels in or near to any approach to the authorised works.

(4) In the case of conflict between any direction given by the Harbour Master of the Council 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**

9. In addition to the remedy given by section 44 of the Act of 1847 as incorporated with this Order (recovery of rates in respect of a vessel by distraint and sale of the vessel and its tackle), 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 Council may recover such rates as a debt in any court of competent jurisdiction.

### **Harbour Master may prevent sailing of vessels**

10. The Harbour Master of the Council 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 of passengers thereon or of the goods imported or exported therein.

### **Power to dredge etc**

**11.**—(1) The Council may with the consent of the Queen’s Harbour Master enter upon and from time to time dredge, scour, deepen and improve the bed, shores and channels of the sea adjoining or near to the authorised works for the purpose of affording uninterrupted means of access thereto or the accommodation of vessels thereat.

(2) Without prejudice to the generality of paragraph (1) above, the Council may exercise the powers of that paragraph so as to ensure a depth of 2 metres below Admiralty chart datum in the vicinity of, and in the approaches to, the authorised works.

(3) All chalk, gravel, rock and other materials dredged up or removed by the Council in the exercise of the powers of this article shall be the property of the Council; and they may use the same or any part thereof, or they may sell or otherwise dispose of or remove or deposit the same, as they think fit:

Provided that no such materials shall be laid down or deposited in any place below the level of high water—

- (a) otherwise than in such a position and under such conditions and restrictions as may be specified by the Secretary of State; and
- (b) without the consent in writing of the Queen’s Harbour Master having been first obtained.

(4) The powers of the Council under this article shall be exercisable subject to the provisions of articles 22 (Crown rights) and 23 (Saving rights of Queen’s Harbour Master) of this Order; and, in particular and without prejudice to that general limitation, any consent given to the exercise of such powers by the Crown Estate Commissioners on behalf of Her Majesty may be given subject to such restrictions and conditions (including the payment by the Council to the Crown Estate Commissioners of royalties, rents or sums of money in respect of materials raised from any place below the level of high water and sold by the Council under this article or in respect of any place below the level of high water upon which materials may be deposited) as may be fixed by the Crown Estate Commissioners.

### **Fine for obstructing works**

**12.** Any person who intentionally obstructs any person acting under the authority of the Council in setting out the lines of the authorised 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.

### **Tidal works not to be executed without approval of Secretary of State**

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

(2) If a tidal work is constructed, altered, enlarged, replaced, relaid or extended in contravention of this article—

- (a) the Secretary of State may by notice in writing require the Council at their own expense to remove the tidal work or any part thereof and to restore the site thereof to its former condition; and, if on the expiration of thirty days from the date when the notice is served upon the Council they have 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 Council as a debt in any court of competent jurisdiction.

#### **Provision against danger to navigation**

14.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the 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 Council fail to notify Trinity House or the Queen's Harbour Master as required by paragraph (1) above or to comply in any respect with a direction given under that paragraph, they shall be 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**

15.—(1) Where a tidal work is abandoned or suffered to fall into decay, the Secretary of State may by notice in writing require the Council at their 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 this article.

(3) If on the expiration of thirty days from the date when a notice under this article is served upon the Council they have 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 Council as a debt in any court of competent jurisdiction.

#### **Survey of tidal works**

16. 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 Council as a debt in any court of competent jurisdiction.

#### **Permanent lights on tidal works**

17.—(1) After the completion of a tidal work the Council 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 shall from time to time direct.

(2) If the Council fail to comply in any respect with a direction given under paragraph (1) above, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

### **Lights on tidal works during construction**

**18.**—(1) The Council 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 Trinity House shall from time to time direct.

(2) If the Council fail to comply in any respect with a direction given under paragraph (1) above they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

### **Extension of section 86 of Portsmouth Corporation Act 1959**

**19.** Section 86 (Powers with respect to disposal of wrecks) of the Portsmouth Corporation Act 1959<sup>(9)</sup> shall have effect as if the references in subsections (1) and (7) of that section to any approach to the Inner and Outer Camber as extended by the quay works included references to any approach to the authorised works.

### **Extension of the Portsmouth (Camber Dock and Flathouse Wharf) Harbour Revision Order 1990**

**20.** The Portsmouth (Camber Dock and Flathouse Wharf) Harbour Revision Order 1990<sup>(10)</sup> shall have effect as if the references to the undertakings included references to the authorised works.

### **Protection of Southern Water Services Limited**

**21.**—(1) The following provisions of this article shall, unless otherwise agreed in writing between the Council and Southern Water Services Limited, have effect for the protection of that company (in this article referred to as “the Water Services Company”).

(2) In this article—

“the outfall” means the sewer and outfall situate at the end of East Street and discharging through the existing quay wall, including any alteration, replacement or renewal thereof;

“plans”, in relation to any specified work, means plans, drawings, sections and specifications describing the position and manner in which, and the level at which, the work is proposed to be carried out;

“specified work” means so much of the authorised works as is within 15 metres of the outfall.

(3) Not less than 56 days before commencing the construction of any specified work the Council shall submit to the Water Services Company for its approval plans for the work and such further particulars as the Water Services Company may, within 14 working days of the submission of the plans, reasonably require.

(4) The Water Services Company’s approval of plans submitted under paragraph (3) above shall not be unreasonably withheld; and if within 42 days after the submission of the plans and any further particulars supplied under the said paragraph (3) the Water Services Company has not approved or disapproved them, it shall be deemed to have approved them.

(5) The Council shall give to the Water Services Company not less than 14 days’ notice of their intention to commence the construction or renewal of a specified work and, except in case of emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out operations for the maintenance of a specified work.

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<sup>(9)</sup> 1959 c.xlv.

<sup>(10)</sup> S.I. 1990/1452.

(6) In carrying out any operations for the construction, renewal or maintenance of a specified work the Council shall comply with all reasonable requirements of the Water Services Company of which due notice is given to them, and shall provide new, extended, altered or substituted works for the protection of the outfall in such manner as the Water Services Company shall reasonably require to safeguard the outfall against damage or to secure that the efficiency of the outfall for drainage purposes is not impaired by reason of the specified work.

(7) All operations for the provision of new, extended, altered or substituted works in pursuance of paragraph (6) above shall be carried out to the reasonable satisfaction of the Water Services Company and, where so required by the Water Services Company, by or under the supervision (if given) of an officer of the Water Services Company duly appointed for the purpose; and all reasonable costs and expenses to which the Water Services Company may be put by reason of such works (whether in the course of the carrying out of the works, or in the preparation or examination of plans or designs, or in such supervision, or otherwise) shall be payable to the Water Services Company by the Council.

(8) When operations for the provision of any such new, extended, altered or substituted works in pursuance of paragraph (6) above have been completed, they shall be maintainable by the Water Services Company.

(9) If by reason of the carrying out of operations for the construction, renewal or maintenance of a specified work, or the failure of a specified work, the outfall is damaged or the efficiency of the outfall for drainage purposes is impaired, the damage shall be made good by the Council to the reasonable satisfaction of the Water Services Company or, failing that, the Water Services Company may make good the damage and recover from the Council the costs reasonably incurred in so doing.

(10) (a) The Council shall indemnify the Water Services Company against all claims, demands, costs, expenses, damages or loss which may be made against the Water Services Company as a result of the carrying out of a specified work or which the Water Services Company may incur or which it may sustain in consequence of any damage to, or interference with, the outfall caused by the construction of a specified work, or of the failure or want of maintenance of such a work, or any subsidence caused by the construction of any specified work or any act or omission of the Council, their contractors, agents, workmen or servants, while engaged upon the specified work.

(b) The Water Services Company shall give to the Council reasonable notice of any claim or demand, and no settlement or compromise shall be made without the agreement in writing of the Council.

(c) Nothing in this paragraph shall impose any liability on the Council with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the Water Services Company or its servants or agents.

(11) An officer of the Water Services Company duly appointed for the purpose may at all reasonable times enter upon and inspect any specified work.

(12) Any difference arising between the Council and the Water Services Company under this article shall be determined by a single arbitrator to be agreed between the parties or, in default of agreement, to be appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.

### **Crown rights**

**22.** Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular, nothing in this Order authorises the Council 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, hereditaments, subjects or rights of whatsoever description 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 on behalf of Her Majesty first had and obtained for that purpose.

### **Saving rights of Queen's Harbour Master**

**23.** Nothing in this Order shall take away, alter, prejudice or affect the jurisdiction or any rights, powers, authorities or privileges of the Queen's Harbour Master.

### **Inquiries by Secretary of State**

**24.** The Secretary of State may cause such inquiries to be held as he may consider necessary for the purposes of the exercise of any of his powers or duties under this Order, and subsections (2) to (5) inclusive of section 250 of the Local Government Act 1972 shall apply to any such inquiry as if it were a local inquiry held in pursuance of subsection (1) of that section.

Signed by authority of the Secretary of State for Transport

Department of Transport  
11th April 1995

*J. D. Henes*  
An Under-Secretary in the

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## SCHEDULE

Article 2(1)

## ENACTMENTS RELATING TO THE CAMBER DOCK UNDERTAKING

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1839 c.lxxii.	An Act for enlarging the Town Quay of the Borough of Portsmouth and for improving that Portion of the Harbour of Portsmouth called The Camber.
1868 c.cxxviii.	Portsmouth Camber Quays Act 1868.
1898 c.cci.	Portsmouth Camber Quays Order 1898 (confirmed by Pier and Harbour Orders Confirmation (No. 2) Act 1898).
1911 c.clviii.	Portsmouth Camber Dock and Flathouse Wharf Order 1911 (confirmed by Pier and Harbour Orders Confirmation (No. 2) Act 1911).
1959 c.xlv.	Portsmouth Corporation Act 1959.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order empowers Portsmouth City Council as the harbour authority for the Town Quay, Inner Camber, to construct a new quay wall in front of the existing quay wall. The Order also authorises the Council to dredge the channel giving access to the works and confers on the Harbour Master of the Council powers to control vessels using the Quay.