

Order made by the Minister of Transport, subject to special parliamentary procedure, and laid before Parliament under the Statutory Orders (Special Procedure) Act 1945, s. 1.

STATUTORY INSTRUMENTS

1966 No.

HARBOURS, DOCKS, PIERS AND FERRIES

The Portsmouth Mile End Quay Revision Order 1966

Made - - - - - 25th May 1966
Coming into Operation 1966

The Minister of Transport in exercise of the powers conferred on her by section 14 of the Harbours Act 1964(a), and of all other powers enabling her in that behalf and on the application of the Lord Mayor, Aldermen and Citizens of the City of Portsmouth, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Portsmouth Mile End Quay Revision Order 1966 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(b).

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(c);

“the Corporation” means the Lord Mayor, Aldermen and Citizens of the City of Portsmouth;

“the deposited plan” and “the deposited sections” mean respectively the plan and sections deposited in respect of the application for this Order with the Ministry of Transport and the Board of Trade and signed by an Assistant Secretary of the Ministry of Transport;

“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;

“hover vehicle” means a vehicle, however propelled, designed to be supported on a cushion of air;

“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;

“the Mile End Quay undertaking” means the undertaking of the Corporation authorised by this Order;

“the Minister” means the Minister of Transport;

“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 Dockyards Ports Regulation Act 1865(d);

“tidal work” means so much of any work authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water.

(a) 1964 c. 40.
(c) 10 & 11 Vict. c. 27.

(b) 9 & 10 Geo. 6. c. 18; 1965 c. 43.
(d) 28 & 29 Vict. c. 125.

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

“vessel” includes every description of vessel used in navigation however propelled, any hover vehicle and hydro-foil vessel and any aircraft designed to manoeuvre on the water;

“the works” means the works authorised by this Order or, as the case may require, any part thereof.

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

(3) Unless the context otherwise requires, any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment, including this Order.

(4) 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, 80 to 82, 84 to 90 and 95 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 and forms part of this Order.

Provided that—

(a) Section 28 of the Act of 1847 shall have effect as if in the said section for the words from “or any packet boat” to “any such boat or packet” there were substituted the words “or any vessel employed by or under the authority of the Postmaster General for the conveyance under contract of postal packets as defined by the Post Office Act 1953 (b) not being a vessel also conveying passengers or goods for hire or reward, or any mail bag as so defined conveyed by any such vessel”;

(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;

(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) For the purposes of the incorporation of the said Act the expression “the special Act” in the said Act shall mean this Order and the expression “vessel” shall have the meaning assigned to it by article 2(1) of this Order.

(3) For the purposes of section 83 of the Act of 1847 as so incorporated, sections 250 to 252 of the Local Government Act 1933(c) shall apply in relation to this Order as if it were such an enactment as is referred to in the said section 250, and for the purposes of the said section 250 the confirming authority in relation to byelaws made under the said section 83 shall be the Minister.

Power to construct, etc., works

4.—(1) Subject to the provisions of this Order the Corporation may within the limits of deviation make and maintain the works.

(a) 52 & 53 Vict. c. 63.

(b) 1 & 2 Eliz. 2. c. 36.

(c) 23 & 24 Geo. 5. c. 51.

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

Description of works

5. The works authorised by this Order are situate in the City of Portsmouth and comprise a new wharf or quay and embankment covering the area of land enclosed by an imaginary straight line commencing at a point on the line of the level of high water at the south-western corner of the saw mills of Bailey and Whites (Properties) Limited, and extending in a west-north-westerly direction for a distance of 112 yards, thence in a north-north-westerly direction for a distance of 169 yards, thence in an east-south-easterly direction for a distance of 130 yards to a point on the line of the level of high water 50 yards south of the southern quay wall of Bishop's Quay and thence in a south-westerly direction along the line of the level of high water to the point of commencement.

Further powers as to works

6. Subject to the provisions of this Order, the Corporation may by means of the 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 works.

Subsidiary works

7. Subject to the provisions of this Order the Corporation in connection with the works may 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 any electrical works, equipment, machinery, appliances and apparatus constructed or placed or maintained under the powers of this article shall be so constructed or placed and so maintained, worked and used as to prevent interference with any telegraphic line (as defined by the Telegraph Act 1878(a)) belonging to or used by the Postmaster General or with telegraphic communication by means of any such line.

Power to dredge, etc.

8.—(1) The Corporation 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 works for the purpose of affording uninterrupted means of access thereto or the accommodation of vessels thereat.

(2) All chalk, gravel, rock and other materials dredged up or removed by the Corporation in the exercise of the powers of this article shall be the property of the Corporation, 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 restrictions and regulations as may be fixed by the Board of Trade; and

(a) 41 & 42 Vict. c. 76.

(b) without the consent in writing of the Queen's harbour master having been first obtained.

(3) The powers of the Corporation under this article shall be exercisable subject to the provisions of article 27 (Crown rights) and article 28 (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 Corporation 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 Corporation 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.

Power to deviate

9. Subject to the provisions of this Order, in constructing the works the Corporation 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 ten feet upwards and to such extent downwards as may be found necessary or convenient.

Fine for obstructing works

10. Any person who wilfully obstructs any person acting under the authority of the Corporation in setting out the lines of the works, or who damages, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall for every such offence be liable to a fine not exceeding five pounds.

Tidal works not to be executed without approval of Board of Trade

11.—(1) A tidal work shall not be constructed, altered, enlarged, replaced, relaid or extended except in accordance with plans and sections approved by the Board of Trade and subject to any conditions and restrictions imposed by the Board of Trade before the work is begun.

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

(a) the Board of Trade may by notice in writing require the Corporation at their 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 thirty days from the date when the notice is served upon the Corporation they have failed to comply with the requirements of the notice, the Board of Trade may execute the works specified in the notice; or

(b) if it appears to the Board of Trade urgently necessary so to do, they may themselves remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Board of Trade in so doing shall be recoverable from the Corporation as a simple contract debt.

Provision against danger to navigation

12.—(1) In case of injury to or destruction (or decay) of a tidal work or any part thereof, the Corporation shall forthwith notify Trinity House 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 Corporation fail to notify Trinity House as required by this article or to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

13.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Board of Trade may by notice in writing require the Corporation 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 Board of Trade think proper.

(2) Where a work authorised by this Order and 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 Board of Trade 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 Corporation, they have failed to comply with the requirements of the notice the Board of Trade may execute the works specified in the notice and any expenditure incurred by the Board of Trade in so doing shall be recoverable from the Corporation as a simple contract debt.

Survey of tidal works

14. The Board of Trade may at any time if they deem 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 Board of Trade in any such survey and examination shall be recoverable from the Corporation as a simple contract debt.

Permanent lights on tidal works

15.—(1) After the completion of a tidal work the Corporation 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 Corporation fail to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Lights on tidal works during construction

16.—(1) The Corporation 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 Board of Trade shall from time to time direct.

(2) If the Corporation fail to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Limits of harbour master's jurisdiction

17.—(1) Subject to the provisions of paragraph (2) of this article, the limits within which the powers of the harbour master of the Corporation may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Order, shall extend to a distance of one hundred yards in every direction from the works.

(2) The powers conferred by this article shall be limited to vessels going to, moored at or departing from the works.

Power to lease undertaking or charges

18.—(1) The corporation may with the previous consent of the Minister lease to any person for harbour purposes (a) the Mile End Quay undertaking or (b) the charges they are empowered to levy, collect and retain in connection with the Mile End Quay undertaking.

(2) As from the commencement of any lease made under the last preceding paragraph, the lessee, during the continuance of and to the extent provided in his lease, shall have and may exercise all or any of the powers conferred upon the Corporation by or which the Corporation have or might exercise under, this Order or otherwise in respect of the Mile End Quay undertaking and shall be subject to all the liabilities and obligations to which the Corporation are subject, and shall perform all the duties of the Corporation under this Order or otherwise in respect of the Mile End Quay undertaking. In this paragraph the expression "the Corporation" means the Corporation as previously defined in its capacity as harbour authority for the Mile End Quay undertaking.

(3) The Corporation shall within one month after the date of any lease made under this article deposit a certified copy thereof at the Ministry of Transport and shall upon failure to do so be liable to a fine not exceeding twenty pounds.

Power to borrow

19.—(1) Subject to the provisions of this Order, the Corporation shall have power in addition and without prejudice to their powers of borrowing under the Local Government Act 1933 from time to time to borrow without the consent of any sanctioning authority for or in connection with the purposes mentioned in column (1) of the following table the respective sums mentioned in column (2) of the said table and they shall pay off all moneys so borrowed within such periods as the Corporation may determine not exceeding those respectively mentioned in column (3) of the said table (namely):—

(1) Purpose	(2) Amount	(3) Period for repayment calculated from the date or dates of borrowing
(a) The works and lands required in connection therewith	£ 197,000	Sixty years.
(b) Dredging	64,300	Ten years.
(c) Cranes and other services and facilities ...	178,000	Thirty years.
(d) Costs, charges and expenses of this Order	The sum requisite	Five years.

(2) The provisions of Part IX (Borrowing) of the Local Government Act 1933 so far as they are not inconsistent with this Order, shall extend and apply to the borrowing of money under this article and to money so borrowed as if it were borrowed under the said Part IX and the period fixed by this article for the repayment of any money so borrowed shall as respects that money be the fixed period for the purposes of the said Part IX.

(3) In the application of the provisions of Part IX of the Local Government Act 1933 to the borrowing of moneys for the purposes of this Order the Minister shall be the sanctioning authority.

Saving for powers of Treasury

20. It shall not be lawful to exercise the powers of borrowing conferred by this Order otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946(a).

Amendment of section 86 of Portsmouth Corporation Act, 1959

21. Section 86 (Powers with respect to disposal of wrecks) of the Portsmouth Corporation Act 1959(b) 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 works.

Directions of harbour master

22. Subject to the provisions of article 17 of this Order section 52 of the Act of 1847 in its application to the Corporation and the harbour master shall extend to empower the harbour master to give directions prohibiting the mooring of vessels in or near to any approach to the works.

Recovery of rates in respect of vessels

23. In addition to the remedy given by section 44 of the Act of 1847 as incorporated with this Order and whether the demand which may be made under that section has been made or not the Corporation may recover any rates to which that section applies as a debt in any court of competent jurisdiction.

Recovery of fines

24.—(1) All fines and forfeitures recoverable under the provisions of the Act of 1847 as incorporated with this Order or under any byelaw made in pursuance of section 83 of the Act of 1847 as so incorporated may be recovered in a summary manner.

(2) Any costs or expenses recoverable as aforesaid may be recovered summarily as civil debts where the amount recoverable does not exceed twenty pounds.

Corporation may act as warehousemen etc.

25. The Corporation may in connection with the Mile End Quay undertaking act as warehousemen, wharfingers and storekeepers and render such services as are usually rendered by dock companies on payment by the owners of the goods warehoused or deposited, or the person in charge of such goods, of such reasonable rents or charges as shall from time to time be fixed by the Corporation.

(a) 9 & 10 Geo. 6. c. 58.

(b) 7 & 8 Eliz. 2. c. xlv.

Harbour master may prevent sailing of vessels

26. The harbour master may prevent the removal or sailing from the works of any vessel until evidence has been produced to him of the payment to the collector of any rates payable in respect of the vessel or of the goods imported or exported therein.

Crown rights

27. Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing herein contained authorises the Corporation 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

28. 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 Minister and Board of Trade

29. The Minister or the Board of Trade as the case may be may cause to be held such inquiries as he or they may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him or them and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Order, and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section.

Costs of order

30. All the costs, charges and expenses preliminary to and of and incidental to the preparation of and the application for and the obtaining of this Order or otherwise in relation thereto shall be paid by the Corporation out of the general rate fund or out of moneys to be borrowed under this Order for that purpose.

Given under the Official Seal of the Minister of Transport the 25th May 1966.

(L.S.)

Denis O'Neill,

An Under Secretary of the Ministry of Transport.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order authorises the construction of a new wharf and quay near the existing Flathouse Quay to provide additional facilities urgently required to deal with increased trade with the Channel Islands and French ports.

The Order being subject to special parliamentary procedure, the provisions of the Acts of 1945 and 1965 determine the date upon which it comes into operation.

The applicants for this Order are the Portsmouth City Council, Guildhall, Portsmouth.

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HER MAJESTY'S STATIONERY OFFICE: 1966

ONE SHILLING NET

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