



Harbours Act 1964

1964 CHAPTER 40

Harbour Revision and Empowerment Orders

16 Ministers' powers, on application of intending undertakers, or others, to make orders conferring powers for improvement, construction, &c., of harbours.

- (1) In a case where a person is desirous of securing the achievement of any of the following objects, namely,—
- (a) the improvement, maintenance or management of a harbour (whether natural or artificial) navigated by sea-going ships (not being a fishery harbour or a marine work) or of a port, haven, estuary, tidal or other river or inland waterway so navigated (not being a fishery harbour or a marine work);
 - (b) the construction of an artificial harbour navigable by sea-going ships or an inland waterway so navigable, other than a harbour or waterway which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work; and
 - (c) the construction, improvement, maintenance or management of a dock elsewhere than at a fishery harbour or marine work or of a wharf elsewhere than at such a harbour or work;

but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Minister for the making by him of an order conferring on the applicant, some other designated person or a body to be constituted for the purpose by the order (according as may be specified in the application) all such powers (including, in particular, power to acquire land compulsorily and to levy charges other than ship, passenger and goods dues) as are requisite for enabling that object to be achieved.

- (2) In a case where a person is desirous of securing the achievement of either or both of the following objects, namely,—
- (a) the improvement, maintenance or management of a fishery harbour; and
 - (b) the construction, improvement, maintenance or management of a dock at a fishery harbour or of a wharf at such a harbour;

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but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Minister of Agriculture, Fisheries and Food for the making by him of such an order as aforesaid.

- (3) In a case where a person is desirous of securing the achievement of any of the following objects, namely,—
- (a) the improvement, maintenance or management of a marine work, being a harbour (whether natural or artificial) navigated by sea-going ships or being a port, haven, estuary, tidal or other river or inland waterway so navigated;
 - (b) the construction of an artificial harbour navigable by sea-going ships which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work or an inland waterway so navigable which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work; and
 - (c) the construction, improvement, maintenance or management of a dock at a marine work or of a wharf at such a work;

but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Secretary of State for the making by him of such an order as is mentioned subsection (1) of this section.

[^{F1}(3A) Subsections (1) to (3) are subject to—

- (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);
- (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).]

- (4) An order under this section is in this Act referred to as a “harbour empowerment order”.
- (5) Neither the Minister, nor the Minister of Agriculture, Fisheries and Food nor the Secretary of State shall make a harbour empowerment order unless he is satisfied that the making thereof is desirable in the interests of facilitating the efficient and economic transport of goods or passengers by sea [^{F2}or in the interests of the recreational use of sea-going ships].
- (6) A harbour empowerment order may include all such provisions as appear to the Minister of the Crown by whom it is made to be requisite or expedient for giving full effect to any provision included in the order by virtue of the foregoing provisions of this section and any [^{F3}supplementary, consequential or incidental] provisions appearing to him to be requisite or expedient for the purposes of, or in connection with, the order, including, but without prejudice to the generality of the foregoing words, penal provisions and provisions incorporating, with or without modifications, any provision of the Lands Clauses Acts or any other enactment [^{F4}and provisions for excluding or modifying any provision of any Act or of any instrument made under any Act (including this Act)] [^{F5}and for repealing any statutory provision of local application affecting the area in relation to which the powers are intended to be exercised]; but no penal provision of a harbour empowerment order shall be so framed as to permit of a person’s being punished otherwise than on his conviction or as to permit—
- (a) on his being summarily convicted, of the infliction on him of a penalty other than a fine or of [^{F6}—
 - (i) in the case of an offence triable either summarily or on indictment, the infliction on him of a fine exceeding the prescribed sum within

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- the meaning of section 32 of the ^{M1}Magistrates' Courts Act 1980 or section 289B of the ^{M2}Criminal Procedure (Scotland) Act 1975;
- (ii) in the case of an offence triable only summarily, the infliction on him of a fine exceeding [^{F7}level 4 on the standard scale] or, in the case of a continuing offence, a daily fine exceeding £50 for each day on which the offence continues after conviction;]
- (b) on his being convicted on indictment, of the infliction on him of [^{F8}a penalty other than a fine].
- (7) Where a harbour empowerment order includes provision for the compulsory acquisition of land, there must, in the case of each parcel of land proposed to be acquired compulsorily, be annexed to the order a [^{F9}map of a scale not less than 1:2500] on which the boundaries of that parcel are plainly delineated.
- ^{F10}[(7A) Where a harbour empowerment order includes provision for extinguishing or diverting a public right of way over a footpath [^{F11}or bridleway][^{F11}, bridleway or restricted byway], there must be annexed to the order a map of a scale not less than 1:2500 on which the path or way concerned, and in the case of a diversion the new path or way, are plainly delineated.]
- (8) ^{F12}

Textual Amendments

- F1** S. 16(3A) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), [Sch. 2 para. 10](#) (with s. 226); [S.I. 2010/101](#), [art. 2](#) (with [art. 6](#))
- F2** Words in s. 16(5) added (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 2\(2\)](#); [S.I. 1992/1347](#), [art. 2](#), Sch. (subject as mentioned in art. 3)
- F3** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 3](#)
- F4** Words in s. 16(6) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 2\(3\)](#); [S.I. 1992/1347](#), [art. 2](#), Sch. (subject as mentioned in art. 3)
- F5** Words in s. 16(6) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 2\(2\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 26](#)
- F6** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 14\(2\)](#)
- F7** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s.54](#))
- F8** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 14\(3\)](#)
- F9** Words in s. 16(7) substituted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 2\(4\)](#); [S.I. 1992/1347](#), [art. 2](#), Sch. (subject as mentioned in art. 3)
- F10** S. 16(7A) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 2\(5\)](#); [S.I. 1992/1347](#), [art. 2](#), [Sch.](#) (subject as mentioned in art. 3)
- F11** Words in s. 16(7A) substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), [Sch. Pt. I](#) (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))
- F12** S. 16(8) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 4\(1\)\(8\)](#), [Sch. 12 Pt. II](#) except as to a harbour revision or empowerment order in relation to which the notices required by para. 3(a) or 7(a) of [Sch. 3](#) to this Act have been published before 1.10.1981

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Modifications etc. (not altering text)

- C1** Functions of Minister of Agriculture, Fisheries and Food under s. 16 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: [S.I. 1969/388, art. 3, Sch. 2](#) and 1978/272, art.2, Sch. 1
- C2** S. 16: transfer of certain functions (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)
- C3** S. 16 applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\), reg. 1\(2\)\(4\), 2\(1\), Sch. Pt. I](#) (see [S.I. 2006/1172, art. 2\(a\)-\(d\) \(with art. 3\)](#) and [S.I. 2006/1279, art. 2\(a\)-\(d\) \(with art. 3\)](#))
- C4** Ss. 14-17: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 29\(2\)\(b\)\(ii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278, reg. 2, Sch.](#))
- C5** References in s. 16(1)(b), (3)(b) to Minister and Secretary of State to have effect as references to Secretary of State for the time being concerned with harbours generally and Secretary of State for Scotland: [S.I. 1970/1681, Sch. 3 para. 11\(1\)](#)
- C6** S. 16(5) excluded by [Docks and Harbours Act 1966 \(c. 28, SIF 58\), s. 36\(2\)](#)
- C7** S. 16(6) explained by [Docks and Harbours Act 1966 \(c. 28, SIF 58\), s. 45](#)

Marginal Citations

- M1** [1980 c. 43 \(82\)](#).
- M2** [1975 c. 21 \(39:1\)](#).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act modified by [2023 c. 8 s. 9\(7\)](#)