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STATUTORY INSTRUMENTS

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**1992 No. 1623**

**HARBOUR, DOCKS, PIERS AND FERRIES**

**The Portsmouth Mile End (Albert Johnson Quay) Harbour Revision Order 1992**

*Made* - - - - - *1st July 1992*  
*Coming into force* - - - - - *2nd July 1992*

Whereas the Secretary of State has, in pursuance of paragraph 1A of Schedule 3 to the Harbours Act 1964(1), determined that the application for this Harbour Revision Order is made in relation to a project which falls within Annex II to the Council Directive No.85/337/EEC(2) on 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 the making of this Order is not opposed:

Now therefore, the Secretary of State for Transport (being the appropriate Minister under section 14(7) of that Act for the purpose of making this Order), in exercise of the powers conferred by the said section 14 and now vested in him(3) 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**

1.—(1) This Order may be cited as the Portsmouth Mile End (Albert Johnson Quay) Harbour Revision Order 1992 and shall come into force on 2nd July 1992.

(2) The Portsmouth Mile End Quay Harbour Revision Orders 1966 to 1991 and this Order may be cited as the Portsmouth Mile End Quay Harbour Revisions Orders 1966 to 1992.

**Interpretation**

2.—(1) In this Order the following expressions have the meanings hereby assigned to them respectively:—

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(4);

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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; Schedule 3 was also amended by the Harbour Works (Assessment of Environmental Effects) Regulations 1988 (S.I.1988/1336).  
(2) O/J No. L175, 5.7.85, p40.  
(3) S.I. 1981/238.  
(4) 1847 c. 27.

“the authorised works” means the works authorised by this Order or any part of those works and where any part of those works remain uncompleted, includes the site thereof;

“the Council” means the Portsmouth City Council;

“the deposited plan” means the plan prepared in duplicate signed by an Assistant Secretary in the Department of Transport and marked “Plan and Sections referred to in the Portsmouth Mile End (Albert Johnson Quay) Harbour Revision Order 1992”, of which one is deposited at the offices of the Department of Transport and one at the offices of the City Secretary and Solicitor of the Council;

“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 Council authorised by the Portsmouth Mile End Quay Harbour Revision Orders 1966 to 1992;

“the Order of 1966” means the Portsmouth Mile End Quay Revision Order 1966<sup>(5)</sup>;

“the Order of 1991” means the Portsmouth Mile End Quay Harbour Revision Order 1991<sup>(6)</sup>;

“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) The Act of 1847 (except sections 6 to 13, 16 to 20, 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:

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 level 2 on the standard scale”;
- (b) section 23 of the Act of 1847 shall have effect as if the words “provided that no such lease be granted for a longer term than three years” were omitted;
- (c) section 34 of the Act of 1847 shall have effect as if after the word “may”, there be inserted the words “producing if so required a duly authenticated document giving his authority”;
- (d) 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; and
- (e) section 69 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 level 4 on the standard scale”:

(2) 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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<sup>(5)</sup> S.I. 1966/982.

<sup>(6)</sup> S.I. 1991/993.

- (a) (3) (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(7) 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 for Transport; and
  - (ii) the said section 236 shall have effect as if in subsection (7) thereof after the word “confirm” where it firstly occurs in the subsection the words “with or without modification” were inserted.
- (b) If the Secretary of State, on considering byelaws relating to the Mile End Quay undertaking made by the Council 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 he shall inform the Council and require it to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Council and by other persons who have been informed of it.

#### **Application of Provisions of Orders of 1966 and 1991**

4.—(1) The following provisions in the Orders of 1966 and 1991 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);

In the Order of 1991:

- Article 8 (Power to appropriate lands and works for particular trades etc);
- Article 9 (Limits of Harbour Master’s jurisdiction);
- Article 11 (Harbour Master may prevent sailing of vessels);
- Article 12 (Power to dredge etc.);
- Article 13 (Fine for obstructing works);
- Article 14 (Tidal works not to be executed without approval of Secretary of State);
- Article 15 (Provision against danger to navigation);
- Article 16 (Abatement of works abandoned or decayed);
- Article 17 (Survey of tidal works);
- Article 18 (Permanent lights on tidal works);
- Article 19 (Lights on tidal works during construction);
- Article 20 (Recovery of fines);
- Article 21 (Power to lease);
- Article 22 (Parking places);
- Article 23 (Removal of vehicles);
- Article 24 (Further extension of section 86 of Portsmouth Corporation Act 1959);
- Article 26 (Crown rights);

Article 27 (Saving rights of Queen’s Harbour Master);

Article 28 (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 Orders of 1966 or 1991 as the case may be, 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;
- (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; and
- (c) in article 22 of the Order of 1966, for the reference to article 17 of that Order there shall be substituted reference to article 9 of the Order of 1991.

### **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 quay wall on the seaward side of the existing Albert Johnson Quay commencing by a junction at its northern end at a distance of 2 metres from the existing seaward face extending parallel to that face in a southerly direction for 290 metres then turning south-westerly for a distance of 4 metres terminating by a junction with the existing face of Berth 1 Flathouse Quay; and the reclamation of two areas contained within the extended quay wall and marked “proposed reclamation” on the deposited plan. The demolition of existing quay structure to the west of the extended quay wall.

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

(3) The Council may authorise any person, company or undertaking to carry out the authorised works, as agent of the Council or otherwise.

### **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.

### **Further Powers as to Works**

7. 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**

8. Subject to the 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, 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, passenger side loaders, 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:

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 telecommunications apparatus or with telecommunication by means of any such apparatus.

Signed by authority of the Secretary of State for Transport

1st July 1992

*H. B. Wenban-Smith*  
An Under Secretary in the  
Department of Transport

**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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## **EXPLANATORY NOTE**

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

This Order empowers Portsmouth City Council as the harbour authority for the Mile End and Albert Johnson Quays to construct works extending the Albert Johnson Quay to the existing face of Berth 1 Flathouse Quay, to reclaim land between the existing Albert Johnson Quay and Flathouse Quay to provide additional back-up land and quay facilities, to demolish existing quay structure to the west of the extended quay wall to achieve the required dredged depths for the quay and to dredge the approaches to the works. It extends certain provisions contained in the Portsmouth Mile End Quay Harbour Revision Orders 1966 to 1992 to cover the area of the works.

The applicant for the Order is Portsmouth City Council.