
STATUTORY INSTRUMENTS

2001 No. 3627

The South Hampshire Rapid Transit Order 2001

PART II

WORKS PROVISIONS

The Tunnel

As to Portsmouth to Gosport ferry, etc.

24.—(1) Subject to paragraphs (2) and (3) below and except as may otherwise be agreed in writing between the undertaker and the harbour company, if the undertaker in exercising its powers under article 35, article 42 or any other provision of this Order, takes possession of the Portsea landing-place or the site of the Portsea landing-place, it shall assume and may exercise, until such time as it may by agreement with the harbour company permanently reinstate or replace the Portsea landing-place to the reasonable satisfaction of the harbour company, all of the powers conferred upon the harbour company by the Portsea Harbour Company Act 1984⁽¹⁾ in relation to the landing-place and shall be subject to all the restrictions, liabilities and obligations in relation to the landing-place to which the harbour company is subject and shall perform the functions of the harbour company under the Act.

(2) Part I of Schedule 2 (protection of British Railways Board and Sealink U.K. Limited) to the Portsea Harbour Company Act 1984 shall not apply during any period during which the undertaker has assumed responsibility for the Portsea landing-place pursuant to paragraph (1) or otherwise in relation to anything done under this Order.

(3) Notwithstanding anything in the Portsea Harbour Company Act 1984 or any other enactment or rule of law, the undertaker may, during any period when it has assumed responsibility for the Portsea landing-place pursuant to paragraph (1) above and upon giving not less than 28 days' notice in a newspaper circulating in the area (which notice may be given in advance of the undertaker assuming responsibility for it), temporarily close the whole or any part of the Portsea landing-place for the purposes of or in connection with the construction of the authorised works.

(4) Section 6 (limits of jurisdiction) of the Portsea Harbour Company Act 1984 shall be amended as follows—

- (a) in section 2 (interpretation), the definition of “the signed plan” shall be omitted;
- (b) in subsection (1) of section 6 (limits of jurisdiction), the words “the area which is shown coloured pink on the signed plan and which is” shall be omitted and, at the end, there shall be inserted the words “but excluding any part of that area within 15 metres of any part of Work No 8A of the South Hampshire Rapid Transit Order 2001 as the same is constructed.”

(5) Schedule 2 (protective provisions) of the Portsea Harbour Company Act 1984 shall be amended by the insertion at the end of the following new Part—

(1) 1984 c. xviii.

“PART III

FOR PROTECTION OF TUNNEL

Nothing in this Act shall authorise the harbour company to do anything, or permit anything to be done, to or affecting the tunnel authorised by the South Hampshire Rapid Transit Order 2001 or any land vested in the undertaker (as defined in that Order) in connection with that tunnel, without the consent in writing of the undertaker.”.

(6) In section 48 (management of ferry works and lands, etc.) of the Hampshire Act 1983⁽²⁾, for the words “the ferry service” there shall be substituted the words “the provision of passenger transport services across Portsmouth harbour”.

(7) Without prejudice to any other power available to it, the undertaker may operate or secure the operation of ferry services across the harbour—

- (a) in connection with the construction of the tunnel, in so far as the construction or proposed construction of the tunnel adversely affects the availability of ferry services across the harbour; and
- (b) in connection with the operation of the tunnel, at any time when the tunnel is not available for the operation of transit services or is subject to limitations upon the operation of transit services.

(8) The undertaker may do anything which in its opinion is necessary or convenient for the purposes of the ferry services across the harbour and, without prejudice to the generality of the foregoing, may demand, take and recover or waive charges for the use of any such service.

(9) Notwithstanding anything in section 16 (appropriation of part of landing place) of the Portsea Harbour Company Act 1984 or any other enactment but subject to payment of any charges which are ordinarily applicable, the undertaker may use the Portsea landing-place and any other public landing stage or structure for the purposes of any ferry service provided under paragraph (7).

(10) Nothing in paragraph (7) above shall authorise the undertaker to provide a ferry service—

- (a) from the Portsea landing-place, or any other public landing stage or structure or any temporary replacement for any such facility, to the exclusion of any public scheduled ferry service across the harbour provided by any person at the time of the making of this Order or which, thereafter, has been let to a person under section 49 of the Hampshire Act 1983 (power to establish or assist a ferry service, etc.); or
- (b) unless and until any person providing such a service has ceased to provide a service which is reasonably sufficient or the undertaking of such person has been acquired by agreement by a local authority either under the Ferries (Acquisition by Local Authorities) Act 1919⁽³⁾ or otherwise.

(11) In this article “the harbour company” and “the Portsea landing-place” mean the harbour company and the landing-place as respectively defined in the Portsea Harbour Company Act 1984.

(2) 1983 c. v.
(3) 1919 c. 75.