

SCHEDULES

SCHEDULE 7

PROTECTION OF NAVIGATION

As to Queen's Harbour Master

10.—(1) The undertaker shall, before commencing any specified work or operation, supply to the Queen's Harbour Master proper and sufficient plans of the works or operation for his reasonable approval and shall not commence the same until such plans have been approved in writing by the Queen's Harbour Master, or, in the event of dispute, settled pursuant to paragraph 15.

(2) In considering plans for approval under this paragraph, the Queen's Harbour Master shall have regard not only to the interests of navigation but also to the desirability of facilitating the construction of the specified works and operations notwithstanding that they interfere with navigation, taking into account for this purpose that those works and operations will enable the provision of a public project for which statutory authority has been given.

(3) The approval of the Queen's Harbour Master under this paragraph shall not be unreasonably withheld or delayed but may be given subject to reasonable conditions including conditions requiring the undertaker to vacate the tunnel area in whole or in part upon a direction being given to that effect by the Queen's Harbour Master in an emergency or otherwise for naval operational requirements where it is not reasonably practical for those requirements otherwise to be met.

(4) If, within 56 days after plans have been supplied to the Queen's Harbour Master under this paragraph, the Queen's Harbour Master has not intimated his approval or his disapproval thereof and the grounds of his disapproval, he shall be deemed to have disapproved them.

11. Without prejudice to any conditions attached to an approval by the Queen's Harbour Master under paragraph 10 above but subject to the provisions of article 22 any specified work or operation shall be so constructed or carried out as to ensure that traffic in the harbour is not interfered with more than is reasonably necessary and that at all times an unobstructed main navigation channel for the safe passage of vessels is maintained and kept dredged by the undertaker to such depth as the Queen's Harbour Master may reasonably require and to a width of not less than 120 metres.

12.—(1) Notwithstanding anything in this Order but subject to paragraph (2), the whole of the harbour shall remain subject to the powers of the Queen's Harbour Master.

(2) Anything done pursuant to an approval given under paragraph 10 shall be treated as complying with the provisions of the Dockyard Port of Portsmouth Order 1978(1) and in so far as it would otherwise require a licence or consent from the Queen's Harbour Master under that Order shall be deemed to have been duly licensed or consented to pursuant to that Order.

13. The Undertaker shall—

- (a) at all times afford reasonable facilities to the Queen's Harbour Master for access to the specified works and operations during their construction; and

(1) [S.I. 1978/1881](#).

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- (b) supply the Queen's Harbour Master with all such information as he may reasonably require with regard to the specified works or the method of their execution.

14.—(1) The Queen's Harbour Master may recover from the undertaker any expenses (including a proper proportion of the overhead charges of the Queen's Harbour Master) which he may incur—

- (a) arising from the approval of plans and the inspection of the construction or carrying out of any specified work or operations;
- (b) by reason of any act or omission of the undertaker or of any person in their employ, or of their contractors or workmen whilst engaged upon any specified work or operation;
- (c) in dredging away any accumulation or silt consequent upon the execution or maintenance of any specified work or operation;

and the undertaker shall indemnify the Queen's Harbour Master from and against all claims and demands arising out of such construction or carrying out, act or omission and the fact that any act or thing may have been done by the Queen's Harbour Master on behalf of the undertaker or in accordance with plans approved by the Queen's Harbour Master or in accordance with any requirement of the Queen's Harbour Master or under his supervision shall not (if it was done without negligence on the part of the Queen's Harbour Master or of any person in his employ or of his contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

(2) The Queen's Harbour Master shall give to the undertaker reasonable notice for any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertaker.

15. Any difference arising between the undertaker and the Queen's Harbour Master under this paragraph (other than a difference as to its meaning or construction) shall be referred to and settled by the Secretary of State.

16. The provisions of paragraphs 10 to 15 shall have effect unless otherwise agreed in writing between the undertaker and the Queen's Harbour Master.