
STATUTORY INSTRUMENTS

1993 No. 1313

The Margate Pier and Harbour Revision Order 1992

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Margate Pier and Harbour Revision Order 1992.

Interpretation

- 2.—(1) In this Order unless the context otherwise requires—
 - “the Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847(1);
 - “authorised works” means the works authorised by this Order, or any part of such works;
 - “coast protection authority” has the meaning given by section 1 of the Coast Protection Act 1949(2);
 - “the Company” means Margate Pier and Harbour Company (1984) Limited;
 - “the deposited plan” and “the deposited sections” mean respectively the plan and sections prepared in duplicate, signed by an Assistant Secretary of the Department of Transport and marked “Revised plan and sections referred to in the Margate Pier and Harbour Revision Order 1992” one copy of which is deposited at the offices of the Department of Transport and the other at the registered office of the Company;
 - “the harbour” means the harbour of Margate in the county of Kent having the limits described in article 4 (Limits of harbour) of this Order and includes the land, buildings, works, plant, property and conveniences referred to in that article;
 - “the harbour map” means the map marked “Harbour map referred to in the Margate Pier and Harbour Revision Order 1992” signed in duplicate by an Assistant Secretary of the Department of Transport one copy of which is deposited at the offices of the Department of Transport and the other at the registered office of the Company;
 - “the harbour master” means the harbour master of the Company and includes his authorised deputies and assistants and any person authorised by the Company to act in that capacity;
 - “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 statutory company” means the Company of Proprietors of the Margate Pier and Harbour;
 - “tidal works” means so much of any work authorised or vested in the Company by this Order as is on, under or over tidal waters or tidal lands and includes Margate Pier (otherwise known

(1) 1847 c. 27.
(2) 1949 c. 74.

as the Iron Jetty) and other works so vested, being works authorised by any local enactment in force immediately before the coming into force of this Order;

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

“the undertaking” means the undertaking of the statutory company as for the time being authorised by any enactment and includes works authorised by any enactment repealed by this Order;

“vessel” means every description of vessel, however propelled or moved, and includes hovercraft, any floating manufactured article, anything constructed or used to carry persons or goods by water, and, except for the purpose of levying rates, a seaplane on or in the water.

(2) This Order is to be read as if the words “or thereabouts” were inserted after each measurement mentioned in article 9 (Power to construct, etc., works) of this Order.

Incorporation of enactments

3.—(1) The Act of 1847 (except sections 6 to 22, 24 to 26, 31, 33, 37 to 42, 48 to 50, 66 to 68, 79 to 98 and 101), so far as applicable for the purposes of and not inconsistent with this Order, is incorporated with and forms part of this Order.

(2) In construing the provisions of the Act of 1847 as so incorporated—

“the special Act” means this Order;

“the harbour, dock or pier” means the harbour;

“the undertakers” means the Company;

“vessel” has the meaning given by article 2 (Interpretation) of this Order;

“rates” includes mooring rates and fees.

Limits of harbour

4. The limits of the harbour comprise the area shown coloured pink on the harbour map together with the land, buildings, works, plant, property and conveniences of the Company for the time being held by them in connection with the harbour.

PART II

TRANSFER OF UNDERTAKING, ETC.

Transfer of undertaking

5. As from the day on which this Order comes into operation the undertaking is transferred to the Company including—

(a) all that property vested in the statutory company which immediately before the commencement of this Order was held by them for the purposes of the undertaking;

(b) all rights, liabilities and obligations of the statutory company subsisting immediately before the commencement of this Order for the purpose of the undertaking and arising other than under any local enactment relating to the statutory company.

Winding up statutory company

6. On the day on which this Order comes into operation the statutory company shall be wound up.

Final accounts of statutory company

7.—(1) The accounts of the statutory company shall be made up to the day on which this Order comes into force and shall be audited by an auditor appointed by the Company, being a person qualified for appointment as auditor of a company by virtue of section 389 of the Companies Act 1985(3).

(2) The auditor's fee shall be payable by the Company.

(3) Any sum certified by the auditor to be due from any person to the statutory company shall be paid to the Company.

Books to remain evidence

8. All books and documents which, if this Order had not been made, would have been evidence in respect of any matter for or against the statutory company are admissible in respect of that matter for or against the Company.

PART III

WORKS

Power to construct, etc., works

9.—(1) Subject to the provisions of this Order, the Company may (within the lines and situations shown on the deposited plan and within the limits of deviation and according to the levels shown on the deposited sections) construct and maintain in the harbour the following works:—

Work No. 1

A harbour arm comprising—

- (a) a bund commencing at point E on the deposited plan (being a point 194 metres from the base of the existing lighthouse) by a junction with the existing quay wall of the harbour at its southern end, passing north-west for a distance of 82 metres to point F on the deposited plan, then passing in a northerly direction for a distance of 103 metres to point G on the deposited plan and there terminating;
- (b) a retaining wall commencing at point M (being a point 188 metres from the base of the existing lighthouse) on the deposited plan by a junction with the said quay wall, passing north-north-west for a distance of 100 metres to a point L on the deposited plan, then passing due north for a distance of 48 metres to point K on the deposited plan and there terminating;
- (c) a quay wall commencing at points G-K on the deposited plan by a junction with the bund and retaining wall, passing north-east for a distance of 70 metres to point J on the deposited plan and there terminating 83 metres north-east of the seaward end of the Stone Pier; and
- (d) a reclamation area between the bund and retaining wall within points E, F, G, K, L and M on the deposited plan.

Work No. 2

Two stop gates and an associated relief weir across the newly formed harbour entrance at the termination of Work No. 1.

(3) 1985 c. 6.

(2) The Company may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the authorised works.

Power to make subsidiary works

10. Subject to the provisions of this Order, the Company may from time to time erect, construct and maintain all such works, conveniences, appliances and apparatus as they from time to time deem necessary or convenient for the purposes of or in connection with or incidental to the construction, maintenance and use of the authorised works or the accommodation of vessels thereat.

Power to deviate

11. In constructing the authorised works the Company 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 two metres upwards and to such extent downwards as may be found necessary or convenient.

Power to dredge

12.—(1) The Company may from time to time deepen, dredge, scour, cleanse and improve the bed of the sea and foreshore adjoining or near to the authorised works for the purpose of affording uninterrupted means of access thereto or the accommodation of vessels within the harbour.

(2) All materials dredged up or removed by the Company in exercise of the powers of this article shall be the property of the Company and may be used, sold, deposited or otherwise disposed of as the Company think fit:

Provided that no such materials shall be laid down or deposited in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Fine for obstructing works

13. Any person who intentionally obstructs any person acting under the authority of the Company in setting out the lines of the authorised works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale, and shall in addition be liable to repay to the Company as a liquidated debt any expenses incurred by them in making good such damage.

Tidal works not to be executed without approval of Secretary of State

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

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

- (a) the Secretary of State may by notice in writing require the Company 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 30 days from the date when the notice is served upon the Company they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Company.

Provision against danger to navigation

15.—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof, the Company 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 Company 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 the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

16.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Company 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 Secretary of State thinks proper.

(2) Where a work 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 Secretary of State may include that part of the work, or any portion thereof, in any notice under this article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Company, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Company.

Survey of tidal works

17. The Secretary of State may at any time, if he deems 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 Secretary of State in any such survey and examination shall be recoverable from the Company.

Permanent lights on tidal work

18.—(1) After the completion of a tidal work the Company 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 Company 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 the statutory maximum and on conviction on indictment to a fine:

Provided that it shall be a defence for the Company to prove that all due diligence was used to secure compliance with any such direction.

Lights on tidal works during construction

19.—(1) The Company 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 Secretary of State shall from time to time direct.

(2) If the Company 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 the statutory maximum and on conviction on indictment to a fine:

Provided that it shall be a defence for the Company to prove that all due diligence was used to secure compliance with any such direction.

PART IV

JURISDICTION AND GENERAL POWERS

Jurisdiction of Company

20. The company shall have authority and may exercise their powers within the harbour.

General powers of Company in respect of harbour

21.—(1) The Company may, subject to the provisions of this Order, take such steps from time to time as they may consider necessary for the improvement, maintenance and management of the harbour and the facilities afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of the foregoing, the Company may—

- (a) improve, maintain, regulate, manage, mark and light the harbour;
- (b) alter, demolish and reconstruct structures and works in the harbour; and
- (c) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour.

(3) The Company shall not exercise the powers of paragraph (2)(b) above in respect of the Stone Pier without the written consent of the coast protection authority except in case of emergency, when the Company shall as soon as reasonably practicable notify the coast protection authority of the exercise of the powers and shall comply with all reasonable requirements of the coast protection authority as to the works carried out.

Power to provide boating facilities

22. Notwithstanding interference with public rights of navigation but subject to sections 34 to 36 of the Coast Protection Act 1949 and to the provisions of this Order the Company may construct, lay down, maintain and operate in the harbour such works for the provision of boating or marina facilities as they may consider requisite.

Preferential use of harbour facilities

23. The Company may appropriate facilities within the harbour for the preferential use of any vessel or class of vessels.

Powers as to moorings etc.

24.—(1) The Company may provide, place, lay down, maintain, use and have moorings for vessels and houseboats on land owned or leased by the Company or in which they hold an appropriate

interest and on any other land with the consent in writing of the owner and lessee thereof in the harbour.

(2) The Company may demand, receive and recover in respect of any vessel or houseboat using any of the moorings provided under this article or moored to land owned or leased by the Company such reasonable charges as the Company may from time to time prescribe.

(3) The Company may compound with any person with respect to the payment of the charges prescribed under paragraph (2) above.

- (a) (4) (a) The Company may give notice in writing to the person having the control of any vessel or houseboat using any mooring in the harbour at the commencement of this Order requiring him within 28 days to remove the mooring so as to enable the Company to provide, place or lay down moorings in accordance with paragraph (1) above;

Provided that the Company shall offer to make available to the person having the control of the vessel or houseboat referred to in the notice a mooring provided by them under paragraph (1) as soon as such mooring has been laid down.

- (b) If any person fails to comply with a notice given by the Company under this paragraph the Company may at any time after the expiration of 28 days from the date of the giving of the notice remove the mooring referred to in that notice.

- (a) (5) (a) The Company may from time to time grant licences to any person to place, lay down, maintain, use and have existing and future moorings, for vessels and houseboats in the harbour;

Provided that nothing in any such licence shall entitle a person to place, lay down, maintain, use and have any mooring on land not owned or leased by him or by the Company or in which he has no appropriate interest;

- (b) Any licence granted under sub-paragraph (a) above shall be valid only for a period of one year commencing with its date.
(c) The Company may charge for a licence granted under sub-paragraph (a) above such reasonable fee as the Company may from time to time prescribe.

(6) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Company in setting out moorings; or
(b) intentionally and without lawful authority pulls up or removes any mooring or any part thereof; or
(c) without reasonable excuse causes or permits a vessel to be moored at a mooring except at a mooring provided or licensed by the Company under this article or at a quay, jetty, slipway or other work or to land owned or leased by the Company; or
(d) places, lays down or maintains any mooring not provided or licensed by the Company under this article;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) If any person contravenes paragraph (6)(d) above the Company may remove the mooring in question and recover from that person the expenses incurred in doing so.

(8) In this article “mooring” includes any buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels.

Power to remove goods

25.—(1) If any goods are left in any part of the harbour the Company may require the owner of the goods to remove them, and if the goods are not so removed within six hours after such requirement or, in any case where it is not reasonably practicable to contact the owner of the goods, within six hours after leaving a notice on the goods requiring their removal the Company may cause them to be removed to their own or any other public warehouse or store and such removal shall be carried out at the expense and risk of the owner.

(2) In this article “goods” does not include fish or fishing tackle.

Power to give directions as to loading or unloading of certain goods

26.—(1) The Company may by resolution designate any part of the harbour for the loading and unloading of any goods to which this article applies.

(2) Where pursuant to paragraph (1) above the Company have designated a place for the loading or unloading of goods of any description the harbour master may direct that goods of the description, intended to be loaded onboard or unloaded from a vessel, shall not be deposited or received elsewhere than at the place so designated, and in the event of any person disobeying any such direction the Company may remove the goods to the place so designated, and any expense incurred by them in so doing shall be recoverable from that person.

(3) The goods to which this article applies are goods in bulk and goods the nature or character of which is such as, in the opinion of the Company, to give rise to special risk of contamination, taint, stain, injury or danger to other goods or to persons, property or water or to necessitate the provision of special facilities for the handling thereof or for the safety, protection, welfare or accommodation of persons employed in, or in connection with, such handling but not including fish or fishing tackle.

Parking places

27. The Company may provide facilities within the harbour for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms, and other conveniences and may make reasonable charges for the use of such facilities.

Removal of vehicles, etc.

28.—(1) If a vehicle or boat is left without the permission of the Company—

- (a) in any place where it is likely to obstruct or interfere with the use of the harbour; or
- (b) in any part of the harbour where the parking of vehicles or boats is prohibited by notice erected by the Company;

the Company may, at the risk of the owner, remove the vehicle or boat or cause it to be removed.

(2) Any notice erected under paragraph (1)(b) above shall be conspicuously posted in or close to the place to which it relates.

- (a) (3) (a) Where the Company in exercise of the powers of this article remove a vehicle or boat or cause it to be removed they shall as soon as practicable inform the police.
- (b) The expense of and incidental to the removal of a vehicle or boat under this article shall be recoverable from any person responsible.

(4) For the purposes of paragraph (3) above “person responsible” has the same meaning as in section 102(8) of the Road Traffic Regulation Act 1984(4).

(5) If the Company in exercise of the powers of this article remove a vehicle to a place not readily visible from the place whence it is so removed they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1971⁽⁵⁾ or any other regulations having the like effect for the time being in force, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this article and of the place to which the vehicle has been removed.

(6) A notice stating the general effect of paragraph (1) above shall be displayed in a prominent position at each place where a road accessible to vehicle enters any part of the harbour.

Byelaws as to harbour

29.—(1) Subject to the provisions of this Order the Company may make, in relation to the harbour, byelaws for all or any of the following purposes—

- (a) for regulating the exercise of the powers vested in the harbour master;
- (b) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour;
- (c) for regulating the conduct of all persons in the harbour, not being members of a police force or officers or servants of the Crown whilst in the exercise of their duties;
- (d) for regulating the placing and maintenance of moorings;
- (e) for preventing and removing obstructions or impediments within the harbour;
- (f) for regulating the launching of vessels within the harbour;
- (g) for regulating or preventing the use in the harbour or on board any vessel therein of fires, lights or any other equipment, tools or appliances which the Company consider involves a risk of fire;
- (h) for prohibiting the use of or regulating the movement, speed and parking of vehicles within the harbour;
- (i) for requiring the use of effectual silencers and the control of noise generally on vessels in the harbour;
- (j) for regulating vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality of the foregoing, to prescribe rules for regulating the speed and manner of navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating or mooring within the harbour;
- (k) for prescribing the lights and signals to be exhibited or made—
 - (i) by vessels aground within the harbour;
 - (ii) by devices used for marking obstructions within the harbour;
 - (iii) at the entrance to any pier or other work for assisting the navigation or mooring within the harbour;
- (l) for regulating—
 - (i) fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf, or other installation or structure of any kind within the harbour;
 - (ii) or preventing bathing, and for securing the protection of bathers, within the harbour;
 - (iii) or preventing the use by vehicles of the foreshore;

(m) for preventing the disposal of any waste matter except at places or in a manner prescribed by the Company.

(2) In this article “signals” include sound signals and different byelaws may be made under this article in relation to different classes of vessels and vehicles.

(3) Byelaws made under this article may provide for the imposition on any person offending against any byelaws of a fine on summary conviction not exceeding level 4 on the standard scale.

Confirmation of byelaws and fines thereunder

(a) **30.** (1) (a) All byelaws made by the Company under this Order shall be subject to the provisions contained in subsections (3) to (8) of section 236 and section 238 of the Local Government Act 1972⁽⁶⁾ and those sections shall for the purposes of this article be construed as if the Company were a local authority within the meaning of the said Act of 1972 and the reference to “the proper officer of the authority” included a reference to the Secretary of the Company.

(b) In its application to byelaws made by the Company subsection (7) of the said section 236 shall be construed as if it had been amended by the insertion of the words “or confirm with modifications” after the word “confirm” in the second place where that word occurs:

Provided that where the confirming authority proposes to make a modification which appears to him to be substantial, he shall inform the Company and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification and shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Company and by other persons who have been informed of it.

(2) The confirming authority for the purposes of this article and of the said section 236 in its application to the Company shall be the Secretary of State.

Power to grant tenancies and to dispose of land

31.—(1) The Company may grant licences, tenancies and leases of land within the harbour so far as they consider desirable in the interests of efficient and economical management of the harbour for any term.

(2) The Company may also dispose of any interest in land within the harbour which they consider to be surplus to that required by them for the purposes of the undertaking.

PART V CHARGES

Charges for services or facilities

32. In addition to their power to demand ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Company may demand, take and recover such reasonable charges for services and facilities provided by them at the harbour as they may from time to time determine.

(6) 1972 c. 70.

Payment of charges

33.—(1) The charges which the Company are for the time being authorised to demand, take and recover in respect of vessels and goods or otherwise under any enactment shall be payable before the removal from the harbour of any vessel or goods in respect of which they are payable, and may be demanded, taken and recovered by such persons, at such places, at such times and under such conditions as the Company may from time to time specify in their published list of charges.

(2) Charges payable to the Company shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(3) Where charges payable to the Company may be recovered by them from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

Deposit for charges

34. The Company may, if they think fit, require any person who is liable, or may become liable, to pay charges to the Company to deposit with their collector, or to guarantee, such sum as in the opinion of the Company is reasonable having regard to the probable amount of the charges.

Recovery of charges

35. In addition to any other remedy given by this Order and by the Act of 1847 as incorporated with this Order, and whether the demand required by section 44 of that Act has been made or not, the Company may recover any dues, rates, rents or other charges payable to them as a debt in any court of competent jurisdiction.

PART VI

GENERAL

Access to harbour by reason of force majeure

36. The harbour shall, on payment of any rates, dues and charges from time to time levied by the Company, be open to any vessel (whether for the unshipping of goods or the landing of passengers therefrom or otherwise) in any case where it is obliged to use the harbour from stress of weather, mechanical breakdown or other sufficient cause.

Advisory Committee

37.—(1) There shall be established in accordance with this article an Advisory Committee consisting of not less than four nor more than ten members appointed by the Company on the nomination of the following bodies:—

Nominating body	Number of members nominated
Thanet District Council	One
Margate Yacht Club	One
East Kent Yachting Association	One
Margate Fishermen's Association	One
Any additional body or bodies which may be nominated by the Company	One member for each such additional body

(2) If it appears to the Company in the case of any of the appointments referred to in paragraph (1) above that the body by whom the appointment is to be made has refused or failed to appoint a member after being requested by the Company to do so, or that the body by whom any of the said appointments is to be made has ceased to have an identifiable existence, the appointment in question—

- (a) shall be made by the Company, after consultation with the advisory Committee; and
- (b) shall be representative of the interests appearing to the Company to be represented or, as the case may be, to have been represented by the appointing body in question.

(3) Subject to paragraph (4) below, a member of the Advisory Committee shall remain a member of the Committee for so long as the appointing body concerned shall think fit.

(4) Any member of the Advisory Committee may resign his office at any time on giving notice in writing to the appointing body concerned.

(5) The Advisory Committee shall appoint its own chairman and determine its own procedure.

(6) The Company shall, except in a case of special urgency or where it would be detrimental to the commercial interests of the Company to do so, consult the Advisory Committee on all matters substantially affecting the preservation, protection, regulation, management, maintenance and improvement of the harbour and its navigation, and particularly, but without prejudice to the generality of the foregoing, on every proposal—

- (a) to construct any works in the harbour; or
- (b) to dredge, lay down, alter or interfere with moorings in, or change any navigational mark, light or channel of, the harbour; or
- (c) to make byelaws.

(7) The Company shall take into consideration any matter which relates to the preservation, protection, regulation, management, maintenance and improvement of the harbour and its navigation as is from time to time referred to it by the Advisory Committee, whether or not that committee has been consulted on the matter so referred.

(8) The Company shall defray such reasonable expenses as may be incurred by the Advisory Committee in connection with the provision of secretarial services for the Advisory Committee.

For protection of Southern Water Services Limited

38. For the protection of Southern Water Services Limited (in this article referred to as “the Water Services Company”) the following provisions shall, unless otherwise agreed in writing between the Company and the Water Services Company apply and have effect:—

(1) In this article—

“the outfalls” means the surface water outfall known as the Tivoli outfall extending seaward from Marine Drive at National Grid Reference TR 3518 7084 or thereabouts and the foul sewer overflow outfall extending seaward from The Parade at National Grid Reference TR 3530 7107 or thereabouts, including any alteration, replacement or renewal of either of those outfalls, and “outfall” means either of the outfalls;

“plans”, in relation to any specified work, means plans, drawings, sections and specifications describing the position and manner in which, and the level at which, the work is proposed to be carried out;

“specified work” means any of the works carried out within 15 metres of either of the outfalls:

(2) Not less than 56 days before commencing the construction of any specified work the Company shall submit to the Water Services Company for their approval plans for the work and such further particulars as the Water Services Company may, within 28 days of the submission of the plans, reasonably require:

(3) The Water Services Company's approval of plans submitted under paragraph (2) above shall not be unreasonably withheld; and if within 56 days after the submission of the plans the Water Services Company have not approved or disapproved them, they shall be deemed to have approved them:

(4) The Company shall give to the Water Services Company not less than 14 days' notice of their intention to commence the construction or renewal of a specified work and, except in case of emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out works of maintenance of a specified work:

(5) In carrying out any specified work the Company shall comply with all reasonable requirements of the Water Services Company of which due notice is given to them, and shall provide new, altered or substituted works or works for the protection of the outfalls in such manner as the Water Services Company shall reasonably require to safeguard the outfalls against damage or to secure that their efficiency for drainage purposes is not impaired by reason of the specified work:

(6) All works for the provision of new, altered or substituted works or protective works in pursuance of paragraph (5) above shall be carried out to the reasonable satisfaction of the Water Services Company and where so required by the Water Services Company, by or under the supervision (if given) of an officer of the Water Services Company duly appointed for the purpose; and all reasonable costs and expenses to which the Water Services Company may be put by reason of such works whether in the course of the carrying out of the works, or in the preparation or examination of plans or designs or in such supervision, or otherwise, shall be payable to the Water Services Company by the Company:

(7) When works for the provision of any such new, altered or substituted works or protective works in pursuance of paragraph (5) above have been completed they shall be maintainable by the Water Services Company:

(8) If by reason of the carrying out of a specified work, or the failure of a specified work, either outfall is damaged or the efficiency of an outfall for drainage purposes is impaired, the damage shall be made good by the Company to the reasonable satisfaction of the Water Services Company or, failing that, the Water Services Company may make good the damage and recover from the Company costs reasonably incurred in so doing.

(a) (9) (a) The Company shall indemnify the Water Services Company against all claims, demands, costs, expenses, damages or loss which may be made on or against the Water Services Company or which the Water Services Company may incur or which they may sustain in consequence of any damage of, or interference with, an outfall which may be caused by the construction of a specified work, or of the failure or want of maintenance of such a work, or any subsidence caused by the construction of any specified work or any act or omission of the Company, their contractors, agents, workmen or servants, while engaged upon the specified work.

(b) The Water Services Company shall give to the Company reasonable notice of any claim or demand and no settlement or compromise shall be made without the agreement in writing of the Company.

(c) Nothing in this paragraph shall impose any liability on the Company with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the Water Services Company or their servants or agents.

(10) An officer of the Water Services Company duly appointed for the purpose may at all reasonable times enter upon and inspect any specified work:

(11) Any difference arising between the Company and the Water Services Company under this article shall be determined by a single arbitrator to be agreed between the parties or, in default of agreement, to be appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.

Crown rights

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

Repeals

40. The local Acts specified in columns (1) and (2) of Part I of the Schedule to this Order, and the Confirmation Acts and Orders specified in Part II of that Schedule, are hereby repealed to the extent mentioned in column (3) of that Schedule.

Signed by authority of the Secretary of State for Transport

9th March 1992

Patrick McLoughlin
Parliamentary Under Secretary of State,
Department of Transport