

**Pier and Harbour Order
(Langstone Harbour)
Confirmation Act, 1962
10 & 11 ELIZ. 2 Ch. Xxxviii**

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in schedule.
2. Short title.

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LANGSTONE HARBOUR

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CHAPTER xxxviii

An Act to confirm a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act, 1861, relating to Langstone Harbour.

[1st August 1962]

Whereas a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act, 1861, is not of any validity or force whatever until confirmation thereof by Act of Parliament:

And whereas it is expedient that the Provisional Order made by the Minister of Transport under the said Act which as amended is set out in the schedule to this Act be confirmed by Act of Parliament:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

1. The Order as set out in the schedule to this Act shall be and the same is hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force.

2. This Act may be cited as the Pier and Harbour Order (Langstone Harbour) Confirmation Act, 1962.

SCHEDULE

LANGSTONE HARBOUR

Provisional Order to provide for the constitution of a Joint Board of the Portsmouth and Havant and Waterloo Councils for the administration of Langstone Harbour; to confer powers on the Joint Board with reference thereto and the improvement thereof; and for other purposes.

PART I

PRELIMINARY

1. This Order may be cited as the Langstone Harbour Order 1962.
2. This Order is divided into Parts as follows:-
 - Part I Preliminary
 - Part II Establishment Constitution and Proceedings of Board
 - Part III Powers
 - Part IV Financial
 - Part V Miscellaneous
3. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as the commencement of this Order.

4. In this Order unless the context otherwise requires words and expressions to which by the enactments incorporated therewith or applied thereto respectively meanings are assigned have the same meanings and –

“the Act of 1933” means the Local Government Act 1933;

“the Board” means the Langstone Harbour Board constituted by Part II of this Order;

“the city” means the city of Portsmouth;

“the Councils” means the Portsmouth Council and the Havant and Waterloo Council;

“the district” means the urban district of Havant and Waterloo;

“enactment” includes any public general local or private Act and any order or other instrument having the force of an Act;

“financial year” means any period of twelve months ending on the thirty-first day of March;

“the harbour” means the Langstone Harbour as described in section 7 (Limits of harbour) of this Order;

“houseboat” means any vessel lying in the water or on the foreshore of the harbour which is used or capable of being used as a place of habitation and if so used whether such use be temporary intermittent or permanent or as a place for accommodating or receiving persons for purposes of shelter recreation entertainment or refreshment or as club premises or as offices but shall not include-

- (i) a vessel normally engaged in the transport of persons or goods; or
- (ii) any pleasure yacht used in navigation; or
- (iii) any lightship or watch barge; or
- (iv) any canal boat or other boat registered under Part X of the Public Health Act 1936; or
- (v) any vessel used by a bona fide fisherman in fishing as a means of livelihood;

“hover vehicle” means a vehicle designed to be supported on a cushion of air;

“the Havant and Waterloo Council” means the urban district council of the district;

“land” includes land covered by water;

“the Minister” means the Minister of Transport;

“the Portsmouth Council” means the lord mayor aldermen and citizens of the city acting by the council thereof;

“seaplane” includes a flying boat and any other aircraft designed to manoeuvre on the water;

“the undertaking” means and includes as the case may require the harbour or the entire undertaking of the board in connection with the harbour;

“vessel” includes any vessel ship lighter keel barge boat raft pontoon hover vehicle and craft of any kind howsoever navigated propelled or moved and (except for the purpose of levying charges) any seaplane on the surface of the water and in sections 32 and 33 of this Order any aircraft.

5. –(1) The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Order) are hereby incorporated with this Order:-

- (a) the Lands Clauses Acts (except so much thereof as relates to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking and except sections 127 to 133 and 150 and 151 of the Land Clauses Consolidation Act 1845);
- (b) the provisions of the Commissioners Clauses Act 1847 with respect to the following matters namely:-
 - the contracts to be entered into and the deeds to be executed by the commissioners (except section 57); and
 - the liabilities of the commissioners and legal proceedings by or against the commissioners.

(2) In the construction of the provision of the Lands Clauses Acts and the Commissioners Clauses Act 1847 incorporated with this Act the expressions “the promoters of the undertaking” “the Company” and “the commissioners” mean respectively the Board.

- 6. Sections 1 to 27, 31, 32, 34 to 46, 48 to 76, 79 to 96, 101 and 103 of the Harbours, Docks and Piers Clauses Act 1847 shall not be incorporated with this Order.
- 7. –(1) The limits within which the Board shall have authority shall comprise the area coloured blue on the map certified on behalf of the Minister and deposited in accordance with the provisions of subsection (2) of this section and those limits are in this Order termed “the limits of the harbour”.

(2) A map showing the limits of the harbour having been signed in quadruplicate by an assistant secretary for the Ministry of Transport and one copy thereof having been deposited at the office of the Ministry of Transport another copy thereof shall be deposited at the office of the clerk of the Hampshire County Council another copy thereof shall be deposited at the Guildhall Portsmouth and another copy thereof shall be deposited at the offices of the Havant and Waterloo Council.

(3) The limits within which the power to levy charges may be exercised shall comprise the harbour.

PART II

ESTABLISHMENT CONSTITUTION AND PROCEEDINGS OF THE BOARD

- 8. For the purpose of carrying this Order into execution there shall be a Board of twelve members constituted and elected as by this Order provided and they and their successors from time to time elected and acting in pursuance of this Order shall be a body corporate under the name and style of “The Langstone Harbour Board” with perpetual succession and a common seal and with power to sue and be sued and to purchase take hold lease and dispose of lands and other property for the purposes of this Order

9. The constitution of the Board shall subject to adjustment as hereinafter provided be as follows:-
 - Six members to be elected by the Portsmouth Council from among the members thereof;
 - Six members to be elected by the Havant and Waterloo Council from among the members thereof.
10. –(1) The first election of members of the Board by each of the Councils shall take place at a meeting of each Council to be held within twelve weeks from the commencement of this Order or within such further time as the Minister shall allow and the members so elected shall subject to the provisions of this Order continue in office until the day of the annual meeting of the Board in the year nineteen hundred and sixty-three.
 - (2) Each of the Councils shall at their annual meeting in the year nineteen hundred and sixty-three and in each third successive year or failing this at a special meeting to be held with special notice of the object of such meeting elect from among themselves the number of members of the Board whom they are by this Order authorised to elect and each member so elected shall (subject to the provisions of this Order) hold office on and from the day of the annual meeting of the Board in the year in which he is so elected until the third annual meeting of the Board thereafter.
11. If either of the Councils fails to elect the first members of the Board or to fill an occasional vacancy as by this Order provided it shall be competent nevertheless for the other members of the Board to carry this Order into execution and if either of the Councils fails to elect members for the Board at any subsequent period of election the then existing members of the Board representing such Council (unless otherwise disqualified) shall continue in office until their successors are elected.
12. No person being a member of the Board by election from either of the Councils shall so long as he continues a member by virtue of such election be qualified to be also a member of the Board by election from the other Council and any such subsequent election shall be void and if the same person shall be elected a member of the Board by both of the councils at the same election he shall choose under which election he will serve and the other election shall be deemed void.
13. If a member of the Board elected by either of the Councils ceases to be a member of such Council or becomes disqualified from such membership he shall also cease to be a member of the Board:
14. If a member of the Board fails to attend three consecutive meetings of the Board he shall unless the failure was due to some reason approved by the Board cease to be a member of the Board.
15. Any member of the Board may at any time resign his office as such member by notice in writing signed by him and delivered to the clerk of

the Board and his resignation shall take effect upon the receipt of the notice by such clerk.

16. Every member of the Board going out of office shall if otherwise duly qualified be eligible immediately or at any future time for re-election and every person re-elected shall be deemed a new member.
17. If any member of the Board dies or resigns or is disqualified or ceases to be a member of the Board from any cause the Council whom he represented may if they think fit at any time after the occurrence of such vacancy elect a member to the Board in his place from amongst themselves and every member of the Board so elected shall continue in office subject to the provisions of this Part of this Order but only for so long as the person in whose place he is elected would have been entitled to continue in office.
18. Whenever an election of a member or members of the Board has been made the clerk of the Councils by whom the election has been made shall by writing under his hand certify the election to the Board and the clerk of each of the Councils shall forthwith on the first election by his Council transmit the certificate to the clerk of either Council and on every subsequent election to the clerk of the Board and every such certificate shall be conclusive evidence of such election.
19. The Board shall hold their first meeting at Portsmouth on the second Thursday after the last day provided by or under this Order for the first election of the members thereof (unless some other day shall be appointed for the purpose by the Minister and then on such day as shall be so appointed) and subsequent meetings (including annual meetings) shall be held at such place either within the district or within the city and on such days and at such times as the Board may from time to time appoint provided that the annual meeting of the Board shall be held not later than twenty-one days after the first day of June in each year.
20. In addition to the meetings to be held by appointment of the Board the chairman of the Board for the time being or any three or more members of the Board may at any time by writing addressed and sent to the clerk of the Board require a special meeting to be convened and the said clerk shall convene a meeting accordingly provided that at least two clear days notice thereof shall be given to each member of the Board by letter addressed to him and either sent by post to or delivered at his residence.
21. Any act of the Board or of any of the members thereof shall not be invalidated or be illegal by reason of any irregularity in the election of any member of the Board or by reason of any person not qualified or ceasing to be qualified acting as a member of the Board or by reason of any failure or omission on any occasion on the part of either of the councils to elect a member of the Board or by reason of any other irregularity error failure or omission in or about any election or in or about any matter preliminary or incidental thereto.

22. The first meeting of the Board shall be convened by the town clerk of the city and every subsequent meeting shall be convened by the clerk of the Board. Every meeting shall be convened by circular delivered to each member of the Board or sent by post to or delivered at his residence two clear days at least before the day of meeting.
23. The number of members of the Board present to constitute a meeting of the Board shall be three members elected by the Portsmouth Council and three members elected by the Havant and Waterloo Council.
24. (1) At their first meeting and subsequently at each annual meeting of the Board the Board shall appoint one of their number to be Chairman and another to be Vice-Chairman of the Board for the ensuing year provided that the Chairman and Vice-Chairman shall at no time be chosen from the members representing the same constituent Council.
(2) At all meetings of the Board the Chairman or in his absence the Vice-Chairman or in the absence of both the Chairman and the Vice-Chairman some member of the Board chosen by the members present shall preside.
(3) In the event of the death or permanent incapacity or resignation in writing of the Chairman or Vice-Chairman the Board shall appoint one of their members to fill the vacancy.
25. Minutes of the proceedings of every meeting shall be drawn up and preserved and shall be signed by the chairman of the meeting or of the next ensuing meeting.
26. Subject to the provisions of this Part of this Order the Board may make Standing Orders for the regulation of their proceedings and business and vary or revoke the same.
27. (1) Subject to subsection (3) of this section questions shall be decided by a majority of the votes of the members present and voting.
(2) The chairman shall not have a second or casting vote.
(3) If any question arising at a meeting of the Board shall be decided against the vote or more than two members elected by the Portsmouth Council or more than two members elected by the Havant and Waterloo Council that decision shall not be binding but the question shall be adjourned for further consideration at a subsequent meeting of the Board and if at that subsequent meeting the Board shall on that question again be unable to reach a binding decision the question may be referred for determination by the Councils and in default of their agreement for determination by an arbitrator to be agreed by the Councils or failing agreement appointed by the Minister.
28. The Board shall from time to time appoint and may remunerate a clerk and a treasurer and such other officers and servants as they may think fit (including officers for securing the observance of any byelaws made by the Board) and the officers and servants so appointed shall be removable by the Board at their pleasure. No member of the Board or of either of the

Councils shall be an officer of the Board but a person may be and continue an officer for the Board and of either of the Councils.

29. (1) There shall be established in accordance with the provisions of this section an Advisory Committee consisting of representatives appointed by the following bodies as under:-

Portsmouth Harbour Racing and Sailing Association-

4 representatives;

Royal Yachting Association-

1 representative;

Nature Conservancy-

1 representative

Hampshire and Isle of Wight Naturalists' Trust Ltd.-

1 representative

Langstone and District Wildfowlers' Association-

1 representative

Portsmouth and District Natural History Society-

1 representative

Local Fisheries Committee for the Southern Sea Fisheries District-

1 representative

Langstone Harbour Fishermen's Association-

1 representative

(2) A member of any Committee established under this section shall remain a member of the Committee for as long as the body appointing him shall think fit:

Provided that any member may resign his office at any time on giving notice in writing to such body.

(3) Every such Committee shall be consulted by the Board on any matter affecting the interests of those bodies represented on the Committee and such Committee shall be entitled to make representations to the Board as it thinks fit.

PART III

POWERS

30. (1) The Board may provide place lay down maintain use and have moorings buoys and like apparatus and conveniences for vessels and houseboats on land owned or leased by the Board and on any other land with the consent in writing of the owner and lessee thereof in the harbour or on banks belonging to the Board adjoining the harbour.

(2) The Board may demand receive and recover in respect of any vessel and houseboat using any of the moorings buoys or like apparatus or conveniences provided by the Board under this section or moored to banks belonging to the Board adjoining the harbour such reasonable charges as may from time to time be prescribed by the Board and approved by the Minister.

(3) The Board may compound with any person with respect to the payment of the charges prescribed by the Board under this section but so that no preference be in any case given to any person over any other person using the harbour under the like circumstances.

- (4) The Board may from time to time grant licences to any person to place lay down maintain use and have existing and future moorings buoys and like apparatus and conveniences for vessels and houseboats in the harbour:

Provided that-

- (i) the Board shall not grant a licence to any person to place lay down maintain use and have moorings buoys and like apparatus and conveniences on land (other than land owned or leased by the Board) without the consent in writing of the owner and lessee thereof;
- (ii) the Board shall not unreasonably refuse to grant a licence-
 - (a) to an owner or lessee of any land (other than land leased by the Board) to place lay down maintain use and have existing and future moorings buoys and like apparatus and conveniences on that land; or
 - (b) to any person to maintain use and have any mooring placed or laid down in the harbour on or before the first day of January nineteen hundred and sixty-one with the approval of the Queen's Harbour master for the Dockyard Port of Portsmouth;

and any question whether the grant of a licence has or has not been unreasonably refused shall be determined by the Minister.

31. Any person who-

- (a) wilfully obstructs any person acting under the authority of the Board in setting out moorings or buoys; or
- (b) pulls up or removes any moorings or buoys or any poles or stakes driven into the ground for the purpose of such moorings or buoys; or
- (c) causes a vessel to be anchored or moored except at a mooring or buoy or like apparatus or convenience provided or licensed by the Board under section 30 (Powers as to moorings etc.) of this Order; or
- (d) Places lays down maintains or uses any mooring buoy or like apparatus not provided or licensed by the Board under section 30 (Powers as to moorings etc.) of this Order;

shall for every such offence be liable to a fine not exceeding five pounds.

32. (1) In their application to the Board sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the Board with respect to and with respect to anything in or on any vessel sunk stranded or abandoned in such manner as to be an obstruction or danger to navigation in any part of the harbour or in or near any approach thereto) shall have effect-

- (a) subject to the provision of the next following section; and
- (b) in relation to a vessel sunk stranded or abandoned before as well as after the commencement of this Order.

(2) Subject to subsection (3) of this section and to any enactment for the time being in force limiting his liability the Board may recover as a simple

contract debt from the owner of any vessel in relation to which they have exercised their powers under the said section 530 any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the Board a case of emergency subsection (2) of this section shall not apply in relation to any vessel unless before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying the Board have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so and if before the notice expires the Board receive from the owner counter-notice in writing that he desires to dispose of the vessel himself and no direction is served in respect of the vessel under paragraph (b) of subsection (2) of the next following section he shall be at liberty to do so and the Board shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Board.

(4) Notice under the last foregoing subsection to the owner of any vessel may be served by the Board either by delivering it to him or by sending it to him by post in a registered letter addressed to him at his last known place of business or abode in the United Kingdom or if the owner or any such place of business or abode is not known to the Board by displaying the notice at the offices of the Board for the period of its duration.

(5) In this section the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking stranding or abandoning thereof.

33. (1) Without prejudice to section 741 of the Merchant Shipping Act 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty) as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906 the powers conferred on the Board by sections 530 and 532 of the said Act of 1894 shall not be exercisable –

(a) in relation to any vessel sunk stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;

(b) except with the consent of the Admiralty which may be given with or without such a direction as is referred to in paragraph (b) of the next following subsection in relation to any vessel which is not excluded from the exercise of these powers by virtue of being a vessel belonging to Her Majesty but which at the time when the vessel was sunk stranded or abandoned-

(i) had been required to be placed at the disposal of Her Majesty or of a government department; and

- (ii) was appropriated to the service under the direction and control of the Admiralty of Her Majesty's ships of war.

(2) The Board shall give notice in writing to the Admiralty and to the Minister of any decision of the Board to exercise in relation to any vessel any of the powers aforesaid other than the power of lighting and buoying and except in a case which is in the opinion of the Board a case of emergency shall not proceed with the exercise thereof-

(a) except with the consent of the Admiralty and the Minister before the expiration of a period of fourteen days from the giving of the notice; or

(b) if before the expiration of the said period there is served on the Board a direction by the Admiralty or the Minister that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where in any such case as aforesaid the Board proceed to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid they shall not in the exercise of those powers use any explosives and if before the expiration of the period aforesaid such a direction as aforesaid is served on them shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of the last foregoing section:

Provided that-

- (i) the Board shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of the foregoing subsection but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the last foregoing section to have been duly served under paragraph (b) of this subsection;
- (ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Minister for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Board by the said section 530 the Board shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised removed or recovered under that section and any surplus proceeds of sale within the meaning of that section in accordance with such directions (if any) as may be given to them by the receiver of wreck and on exercising the said power of sale in the case of any property the Board shall discharge any sums payable in respect of that property by way of duties of customs or excise purchase tax

or surcharge in respect of sugar or molasses and any sums so discharged shall be deemed to be expenses incurred by the Board under that section.

(4) Any limitation on the powers of the Board in relation to any vessel arising by virtue of subsection (1) or subsection (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Trinity House by section 531 of the said Act of 1894.

34. (1) The Board may from time to time make such byelaws as to them seem meet for all or any of the following purposes:-

- (a) for the regulation of the mooring careening beaching or anchoring an keeping of vessels and houseboats in the harbour;
- (b) for the regulation of the placing laying down maintaining using and having existing and future moorings in the harbour and for the prescription of patterns of moorings in the harbour or on banks belonging to the Board adjoining the harbour;
- (c) for securing the good and orderly conduct of persons in charge of or using vessels or houseboats in the harbour;
- (d) for the prevention of nuisances and offences against decency in the harbour;
- (e) for the regulation of the disposal of rubbish and sewage from vessels or houseboats in the harbour;
- (f) for the prevention of the disposal of rubbish (including ballast stones earth clay or other refuse) in the harbour;
- (g) for the regulation and control in the harbour of the navigation and speed of vessels and the prevention of obstruction to vessels using the harbour:

Provided that before making byelaws for any of the purposes specified in this subsection the Board shall consult with the Hampshire River Board.

(2) The byelaws which may from time to time be made by the Board in exercise of the powers in that behalf conferred on them by subsection (1) of this section may provide for the imposition of a fine not exceeding five pounds for the breach or non-observance of any of the byelaws.

(3) The provisions of subsections (2) to (7) of section 250 and section 252 of the Act of 1933 shall apply to all byelaws to be made by the Board in respect of the undertaking and all penalties imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of penalties and the said sections 250 and 252 shall for the purposes of this subsection be construed as if the Board were a local authority within the meaning of those sections and the clerk of the Board were the clerk of the local authority.

(4) In the application of such last-mentioned provisions the Minister shall be the confirming authority.

35. All byelaws rules and regulations and all orders made by the Portsmouth Council under any enactment relating to the harbour or any part thereof and in force at the commencement of this Order shall remain in force until they are repealed or varied and all penalties incurred thereunder and all forfeitures which have ensued by reason thereof may be enforced and recovered by the Board in like manner as the same respectively might have

been enforced and recovered by the Portsmouth Council in case this Order had not been made.

36. Subject to the provision of this Order the Board may demand and recover such reasonable charges or other consideration as they may determine in respect of any services rendered by them in connection with the harbour.
37. In the performance of any functions with respect to the lighting and buoying of the harbour and of the approaches thereto the Board shall be a local lighthouse authority for the purposes of the Merchant Shipping Act 1894.
38. Subject to the provisions of this Order the Board may by agreement purchase and hold for the purposes of this Order any of the lands shown coloured blue on the map referred to in subsection (2) of section 7 (Limits of harbour) of this Order, and any additional lands not exceeding in the whole ten acres, but with respect to such lands nothing in this Order or in the Acts incorporated therewith shall exempt the Board from any indictment action or other proceedings for nuisance in the event of any nuisance being caused or permitted by them thereon.

PART IV
FINANCIAL

39. (1) The provisions of Part IX of the Act of 1933 and of the regulations made thereunder or under section 125 of the Local Government Act 1948 so far as they are not inconsistent with the provisions of this Order shall extend and apply to the Board and to money borrowed by the Board as if-
 - (a) the Board were a local authority within the meaning of the Act of 1933;
 - (b) the money so borrowed were borrowed under the aid Part IX; and
 - (c) the revenues of the Board were the general rate fund or the revenues of a local authority;

and subject to any other modifications which may be necessary to adapt the said Part IX and regulations for the purpose of this section.

(2) In the application of the provisions of Part IX of the Act of 1933 to the borrowing of moneys for the purposes of this Order the Minister shall be the sanctioning authority.

40. (1) The Portsmouth Council or the Havant and Waterloo Council may lend to the Board any sum or sums which the Board are empowered to borrow on such terms and conditions and in such form as may be agreed between the Board and the Councils as the case may be.
 - (2) The Portsmouth Council or the Havant and Waterloo Council may from time to time borrow at interest such sums as may be requisite for the purpose of providing any sum or sums which such Council may lend to the Board under the provisions of subsection (1) of this section.
 - (3) It shall not be lawful to exercise the powers of borrowing conferred by subsection (2) of this section except in compliance with any order for the

time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

(4) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Order shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act.

41. (1) All receipts of the Board shall be carried to a common fund and all expenses incurred by the Board shall be defrayed out of that fund.

(2) The Board shall make safe and efficient arrangements for the receipt of moneys paid to them and the issue of moneys payable by them and those arrangements shall be carried out under the supervision of the treasurer of the Board.

42. (1) Any deficiency in the revenues of the Board in any financial year shall be made good in the first instance out of the reserve fund (if any) provided under section 44 (Reserve fund) of this Order or if there be no such reserve fund the Board shall apportion the deficiency equally between the Councils or if the reserve fund shall be insufficient for the purpose of meeting the deficiency the Board shall apportion the residue of the deficiency equally between the Councils.

(2) The Board shall issue to each of the Councils a precept for a sum equal to the sum apportioned to that authority in pursuance of this section and each of the Councils shall within two months after the receipt of the said precept pay to the Board the sum stated in the precept.

(3) Any sum mentioned in a precept issued under this section by the Board to the Councils shall be a debt due from that Council and may be recovered accordingly without prejudice however to the right of the Board to exercise any powers conferred upon them by section 13 of the Rating and Valuation Act 1925.

43. (1) The Board shall apply the revenues of the Board except borrowed money in manner following:-

first in payment of the working and establishment expenses and cost of maintenance of the undertaking;

secondly in payment of the interest on moneys borrowed by the Board under any statutory borrowing power;

thirdly in providing the requisite appropriations instalments or sinking fund payments in respect of moneys borrowed by the Board under any statutory borrowing power;

fourthly in payment of all other expenses properly chargeable to revenue.

(2) Subject to the provisions of subsection (1) of this section the Board may apply the revenues of the board except borrowed money for all or any of the following purposes:-

(a) in extending improving and constructing any works for the purpose of the undertaking; or

(b) in providing working capital; or

(c) in providing a reserve fund in accordance with the next succeeding section ; or

- (d) in repayment to the Councils of any sums paid by them to the Board in pursuance of section 42 (Apportionment of deficiency) or of section 45 (Contributions by Councils to expenses of Board) of this Order; or
- (e) for such other purpose as may be approved by the Minister.

(3) If after the application of the revenues of the Board in the manner provided for in subsections (1) and (2) of this section there remains in any year a balance by way of profit such balance shall be divided equally between the two Councils.

44. (1) The Board may (if they think fit) provide a reserve fund in respect of the undertaking by setting aside such an amount as they may from time to time think reasonable and (unless the amounts so set aside are applied in any other manner authorised by any enactment) investing the same in any securities in which trustees are for the time being authorised by law to invest trust funds until the fund so provided amounts to the maximum reserve fund for the time being prescribed by the Board.

(2) A reserve fund formed under this section shall be applicable-

- (a) to answer any deficiency at any time happening in the income of the Board or to meet any extraordinary claim or demand at any time arising against the Board or for payment of the cost of renewing improving or extending any part of the works forming part of the undertaking or otherwise for the benefit of the undertaking;
- (b) in or towards the payment of the cost of renewing improving or extending any works buildings machinery plant or conveniences forming part of the undertaking or otherwise for the benefit thereof;
- (c) in repaying any capital moneys borrowed for the purposes of the undertaking (but not in making the annual payments required to be made therefor);

and so that if the fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction occurs.

(3) Resort may be had to the reserve fund formed under the foregoing provisions of this section although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

(4) The income of the reserve fund shall be treated as part of the revenues of the Board.

45. (1) The Board shall in the month of January in each year estimate the amount of money (if any) required by them for expenditure in excess of their income in the next ensuing financial year.

(2) Each of the Councils shall contribute and pay to the Board one-half of the amount so estimated by instalments as demanded by the treasurer to the Board.

46. The Board shall cause the treasurer of the Board to keep proper books of account and other books in relation thereto and to prepare annual accounts.

47. The Board shall within three months of the close of each financial year or such longer period as the Minister may allow send to the Minister a copy of the annual accounts of the undertaking.

48. (1) The accounts of the Board shall at all reasonable times be open to inspection and transcription without payment by any member of the Portsmouth Council or the Havant and Waterloo Councils or by any officer of either of those Councils authorised by that Council for that purpose.

(2) (a) The accounts of the Board shall be audited annually.

(b) The Board shall by a resolution (in this section referred to as “the initial resolution”) adopt either the system of district audit or the system of professional audit. The initial resolution must be passed not later than six months after the first meeting of the Board at a meeting of the Board specially convened for the purpose with notice of the object of the meeting of which not less than one month’s previous notice must be given to every member of the Board.

(c) The provisions of Part X of the Act of 1933 (other than those of sections 237 238 242 and 243) shall mutates mutandis and with all necessary modifications extend and apply to the board as if the Board were the council or a borough:

Provided that-

(i) the following paragraph shall be substituted for paragraph (b) of subsection (3) of section 239 of the Act of 1933:-

“(b) No person shall be qualified to be so appointed unless he is a member of one or more of the following bodies:-

the Institute of Chartered Accountants in England and Wales;

the Institute of Chartered Accountants of Scotland

the Association of Certified and Corporate Accountants;

the Institute of Chartered Accountants in Ireland;

the Institute of Municipal Treasurers and Accountants;

any body of accountants established in the United Kingdom and for the time being recognised for the purposes of paragraph (a) of subsection (1) of section 161 of the Companies Act 1948 by the Board of Trade” and

(ii) subsection (4) of the said section 239 shall not apply to the initial resolution.

(3) It shall be lawful for the Board at any time after the expiration of a period of five years from the date of the initial resolution and thereafter from time to time by means of a subsequent resolution passed and confirmed in accordance with subsection (4) of the said section 239 to adopt the other of the two systems which are referred to in the said section 239.

(4) As soon as practicable after the completion of the audit in every financial year the treasurer to the Board shall forward to each of the councils a copy of the annual accounts of the Board for that year and of any report to the Board made by an auditor.

PART V
MISCELLANEOUS

49. The Board may from time to time pay or contribute towards the cost of advertising by means of handbooks leaflets posters advertisements in newspapers or otherwise the harbour the tides tolls depth of harbour and boat and other services connected with the undertaking and the facilities provided or available in or in connection with the harbour.
50. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Order and section 290 of the Local Government Act 1933 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Board were a local authority.
51. Nothing in this Order shall prejudicially affect the powers of the Local Fisheries Committee for the Southern Sea Fisheries District or any byelaws from time to time made by that Committee.
52. The owners of land within the limits of the harbour shall conform with the provisions of the Order but subject thereto nothing in this Order shall by implication or otherwise extend or be construed to extend to prejudice take away or affect any estate property right title or interest in any land within the limits or the harbour.
53. Nothing in this Order shall authorise the Board to take use or in any manner interfere with any land hereditaments subjects or rights or whatsoever description from time to time vested in Nature Conservancy without the consent in writing of the Nature Conservancy first had and obtained for that purpose.
54. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Board 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 of 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.
55. This Order shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.
56. All costs charges and expenses of and incident to the preparing and obtaining of this Order and otherwise incurred in reference thereto shall be

paid as to one-half by the Portsmouth Council and as to the other half by the Havant and Waterloo Council.