

**2006 No. 1135**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Associated British Ports (Hull) Harbour Revision  
Order 2006**

*Made* - - - - - 13th April 2006

*Coming into force* - - - - - 25th April 2006

**ARRANGEMENT OF ARTICLES**

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**SCHEDULES**

Schedule 1 Application of permitted development rights

Schedule 2 Annexed plan

Associated British Ports have applied for a harbour revision order under section 14 of the Harbours Act 1964(a);

The Secretary of State is satisfied as mentioned in section 14(2)(b) of that Act;

The Secretary of State (being the appropriate Minister under section 14(7)(b) of that Act) makes the following Order in exercise of the powers conferred by section 14 and now vested in him(c):

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(a) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4(1) and 14, section 40 and Schedule 12 (Part II) and by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 1. See also the Criminal Justice Act 1982, sections 37 and 46.

(b) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(c) S.I. 1981/238.

## Citation and commencement

1. This Order may be cited as the Associated British Ports (Hull) Harbour Revision Order 2006 and comes into force on 25th April 2006.

## Interpretation

2.—(1) In this Order—

“A.B. Ports” means Associated British Ports;

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

“the annexed plan” means the map contained in Schedule 2 to this Order;

“the Act of 1907” means the Hull & Barnsley Railway Act 1907(b);

“the Act of 1947” means the London and North Eastern Railway Act 1947(c);

“the Act of 1966” means the British Transport Docks Act 1966(d);

“the Act of 1969” means the British Transport Docks Act 1969(e);

“the Act of 1971” means the British Transport Docks Act 1971(f);

“the Act of 1988” means the Associated British Ports (Barrow) Act 1988(g);

“the 1995 Order” means the Town and Country Planning (General Permitted Development) Order 1995(h);

“Chart Datum” in relation to any depth of dredging is 3.9 metres below Ordnance Datum (Newlyn);

“the deposited plan” and “the deposited sections” mean respectively the plan and sections prepared in triplicate, signed by the Head of the Ports Division in the Department for Transport and marked “Plan and sections referred to in the Associated British Ports (Hull) Harbour Revision Order 2006”, one copy of which is deposited at the Department for Transport and the others at the principal office of A.B. Ports in London and at its office in Hull;

“the Dock Master” means the Dock Master of A.B. Ports at Hull Docks;

“the dredging area” means the area shown shaded blue on the deposited plan;

“enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“the existing pier” means the pier in the river Humber together with any associated works authorised by the Act of 1907 and by the Act of 1947;

“the limits of deviation” means the limits of deviation shown on the deposited plan;

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

“the undertaking” means the undertaking of A.B. Ports as authorised from time to time;

“vessel” means every description of vessel, however propelled or moved, including a hovercraft (within the meaning of the Hovercraft Act 1968)(i), a hydrofoil vessel and anything constructed or used to carry persons or goods by water; and

“the works” means the works authorised by this Order.

(2) Any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

(3) All directions, distances and dimensions stated in any description of works shall be construed as if the words “or thereabouts” were inserted after each such direction, distance or dimension.

## Incorporation of general enactments

3.—(1) The Act of 1847, except sections 6 to 23, 25, 31, 48 to 50, 79, 80, 84 to 88, 90, 97 and 98, is incorporated with and forms part of this Order.

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(a) 1847 c. 27 (10 & 11 Vict.).

(b) 1907 c. lxxvii.

(c) 1947 c. xlii.

(d) 1966 c. xxxi.

(e) 1969 c. xxiii.

(f) 1971 c. lix.

(g) 1988 c. xviii.

(h) S.I. 1995/418 to which there have been amendments not relevant to this Order.

(i) 1968 c. 59.

- (2) For the purposes of construing the Act of 1847, as so incorporated—
- (a) the expression “the special Act” means this Order;
  - (b) the expression “the harbour, dock, or pier” means the works;
  - (c) the expression “the harbour master” means, in relation to the works, the Dock Master and includes any assistants of the Dock Master;
  - (d) for the definition of “vessel” in section 3 of the 1847 Act there is substituted the definition of “vessel” contained in article 2(1) above; and
  - (e) section 53 of the 1847 Act shall not be construed as requiring the Dock Master to serve upon the master of a vessel a notice in writing of his directions but such directions may be given orally or otherwise communicated to such master.
- (3) Section 33 of the Act of 1847, as so incorporated, shall not be construed as derogating from the power of A.B. Ports to discontinue any part of the undertaking.

#### **Power to make works**

4.—(1) A.B. Ports may, in the lines and situations shown on the deposited plan and according to the levels shown on the deposited sections, make and maintain the following works partly in the City of Kingston upon Hull and partly on the bed and foreshore of the river Humber—

#### **Work No. 1**

A reclamation of the bed of the river Humber comprising an area of 7.5 hectares enclosed by a solid wall commencing at the river wall 575 metres west of the western side of the entrance to the Alexandra Dock, then extending southwards for a distance of 141 metres, turning eastwards for a distance of 411 metres, turning in a north north-easterly direction for a distance of 225 metres and terminating at the western side of the entrance to Alexandra Dock.

- (2) A.B. Ports may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the works.
- (3) The works shall for all purposes form part of the undertaking.

#### **Power to make subsidiary works**

5.—(1) A.B. Ports may from time to time within the limits of deviation and the dredging area 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 and maintenance of Work No. 1 or the accommodation of vessels thereat.

(2) A.B. Ports may construct and maintain a noise barrier to a maximum height of 5 metres above the level of Work No. 1 at the position shown on the deposited plan.

#### **Power to deviate**

6. In constructing Work No. 1 A.B. Ports may deviate laterally from the lines or situations shown on the deposited plan and described in article 4 above 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 three metres upwards and to such extent downwards as may be found necessary or convenient.

#### **Fine for obstructing works**

7. Any person who intentionally obstructs any person acting under the authority of A.B. Ports in constructing the works or who intentionally or recklessly interferes with equipment or materials used in the construction of the works shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Diversion of riverside footpath**

8.—(1) A.B. Ports may permanently stop up and discontinue so much of the riverside footpath as lies between the points marked A and B on the annexed plan and may substitute between the said points respectively a new footpath along the same alignment to be carried for all or part of its length by a footbridge.

(2) Without prejudice to paragraph (4) below, the permanent stopping up of the riverside footpath authorised by paragraph (1) above shall not take place until the new footpath authorised by that paragraph is open for public use.

(3) Upon any such permanent stopping up all rights of way over or along that part of the riverside footpath stopped up shall be extinguished and A.B. Ports may appropriate and use the site and soil thereof so far as it is the owner of the same; and the new footpath and footbridge substituted therefor shall become a public footpath.

(4) A.B. Ports may during the construction of the works temporarily stop up so much of the riverside footpath as lies between the points marked A and C on the annexed plan and shall provide a reasonable temporary substitute in the position shown on the annexed plan between the points marked A, D, E and C throughout the period of such temporary stopping up.

(5) In this article “the riverside footpath” means the public footpath along the river wall on the north bank of the river Humber in the City of Kingston upon Hull.

### **Power to dredge in Humber**

9.—(1) For the purposes of affording uninterrupted means of access to the works and of enabling their use at all states of the tide, A.B. Ports may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river Humber adjoining or in the approaches to any of the works within the dredging area to a maximum depth of 11.5 metres below Chart Datum and may (subject to paragraph (2) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it in the course of any such operations.

(2) No materials referred to in this article shall—

- (a) be disposed of in contravention of the provisions of any enactment relating to the disposal of waste; or
- (b) be deposited below the level of mean high-water springs otherwise than in such places and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(3) The power to use, appropriate or dispose of materials referred to in this article does not extend to wreck (within the meaning of Part IX of the Merchant Shipping Act 1995)<sup>(a)</sup> found by A.B. Ports.

### **Limits of jurisdiction of Dock Master**

10. The limits within which the powers of the Dock Master in relation to the works may be exercised under and subject to the provisions of the 1847 Act, as incorporated with this Order, extend to a distance of 200 metres in every direction from the works.

### **Application of byelaws of A.B. Ports**

11.—(1) The Hull Docks Byelaws 1927 and the Hull Docks Byelaws 1972 apply, subject to paragraph (2) below, in relation to the works as they applied in relation to the existing pier immediately before the coming into force of this Order, and nothing in this Order shall affect the right of A.B. Ports to enforce the byelaws or to amend or revoke them.

(2) In the Hull Docks Byelaws 1927 as applied by paragraph (1) above, references to “the prescribed limits” shall be construed as references to the limits within which the powers of the Dock Master may be exercised under article 10 of this Order.

(3) In this article “the Hull Docks Byelaws 1927” means the byelaws made by the London and North Eastern Railway Company on the 9th day of February 1927 and confirmed by the Minister of Transport on the 16th day of February 1927.

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(a) 1995 c. 21.

### **Works to be within City of Kingston upon Hull, etc.**

- 12.** So much of the works as are beyond low water shall be deemed to be within—
- (a) the City of Kingston upon Hull; and
  - (b) the petty sessional division of Kingston upon Hull.

### **Incorporation of works provisions**

**13.—(1)** The following provisions of the under-mentioned Acts are incorporated with and form part of this Order—

The Act of 1966—

Section 21 (Tidal works not to be executed without approval of Board of Trade),

Section 23 (Abatement of works abandoned or decayed),

Section 26 (Lights on tidal works during construction);

The Act of 1969—

Section 17 (Provision against danger to navigation);

The Act of 1971—

Section 16 (Permanent lights on works);

The Act of 1988—

Section 11 (Crown rights),

and in those provisions as so incorporated—

- (a) for references to the works authorised by those Acts there are substituted references to the works authorised by this Order; and
- (b) for references to those Acts there are substituted references to this Order.

(2) For “one hundred pounds” in subsection (2) of each of the said sections 26, 17 and 16, as so incorporated, there is substituted “level 4 on the standard scale”.

(3) In proceedings for an offence under any of the said sections 26, 17 and 16, as so incorporated, it shall be a defence for A.B. Ports to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; provided that, if in any case that defence involves the allegation that the commission of the offence was due to the act or default of another person, A.B. Ports shall not, without leave of the court, be entitled to rely on that defence unless, not less than seven clear days before the hearing, it has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in its possession.

### **Application of permitted development rights**

- 14.** Schedule 1 to this Order shall have effect.

### **Repeal, etc., of obligations as to existing pier**

**15.—(1)** For the purpose of constructing the works A.B. Ports may dismantle, remove, deal with and dispose of the existing pier; and any public rights over that pier are hereby extinguished.

(2) The following provisions of the 1907 Act are repealed—

- (a) section 44 (Confirmation of agreement with Kingston upon Hull Corporation), insofar as that section relates to clauses 4, 6, 7 and 8 of the agreement set out in the Second Schedule to that Act; and
- (b) in that agreement, the said clauses 4, 6, 7 and 8.

Signed by authority of the Secretary of State for Transport

13th April 2006

*Phil Carey*  
Head of the Ports Division,  
Department for Transport

APPLICATION OF PERMITTED DEVELOPMENT RIGHTS

PART I

*Time limits*

1.—(1) In their application to the works article 3 of, and Part 11 of Schedule 2 to, the 1995 Order (which permit development authorised by a harbour revision order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the planning permission granted by that Order were limited to such of the works as are substantially commenced within ten years from the coming into force of this Order, or such extended period as the Secretary of State may, on the application of A.B. Ports before the end of that ten year period, allow.

(2) Nothing in paragraph (1) above affects the carrying out of any development which consists of any reconstruction, renewal, alteration, replacement or relaying of the works.

*Planning restrictions*

2.—(1) In their application to the works, article 3 of, and Part 11 of Schedule 2 to, the 1995 Order shall have effect as if the planning permission granted by that Order were subject to the restrictions contained in paragraphs 3 to 11 below.

(2) In their application to other development carried out on land which falls to be treated as operational land of a dock or harbour undertaker by virtue of this Order, article 3 of, and Part 17 of Schedule 2 to, the 1995 Order shall have effect as if the planning permission granted by that Order, were subject to the restrictions contained in paragraphs 3 to 11 below.

(3) The restrictions contained in paragraphs 3 to 8 below do not apply to temporary construction activity.

(4) For the purpose of the Town and Country Planning Act 1990(a), the restrictions contained in paragraphs 3 to 11 below shall be deemed to be conditions imposed on the grant of planning permission.

*Operational restrictions*

3. The port operational use of the works shall be restricted to the handling of load-on load-off container traffic, and any use which is incidental or ancillary to the handling of such traffic.

4. Container stacks shall not exceed a maximum height of 13 metres above the level of Work No. 1.

5. No shore cranes shall exceed, with booms raised, a height of 80 metres above the level of Work No. 1.

6. No lighting columns shall exceed a height of 30 metres above the level of Work No. 1.

7.—(1) Before the commencement of operations at the site, and for so long as such operations continue, A.B. Ports shall provide and maintain the noise barrier authorised by article 5(2) at a height of 5 metres above the level of Work No. 1.

(2) In sub-paragraph (1), “the site” has the meaning given by paragraph 8(4) below.

8.—(1) Operational noise emitted from the site (excluding noise arising from construction activities), shall be monitored in accordance with sub-paragraph (2) below and, to the extent that such noise is under the control of A.B. Ports, it shall be controlled so as not to exceed the limits stated in Table 1 measured at the specified location.

Table 1 Limits for Operating Noise

| (1)<br><i>Period</i>  | (2)<br><i>Time</i>                  | (3)<br><i>Noise Limit</i> |             |
|---|-------------------------------------|---------------------------|-------------|
| Daytime: Monday—Friday<br>Saturday                            | 0700–1900<br>0900–1900              | 53 dB LAeq (1 hour)       |             |
| Evening: Monday—Saturday<br>Daytime: Sunday and bank holidays | 1900–2300<br>0900–1900              | 46 dB LAeq (1 hour)       |             |
| Night-time: Monday—Friday<br>Friday—Sunday<br>Sunday—Monday   | 2300–0700<br>2300–0900<br>1900–0700 | 44 dB LAeq (1 hour)       | 48 dB LAmax |

(a) 1990 c. 8.

Note 1:  $L_{Aeq(1\text{ hour})}$  shall be the highest recorded value over the time period.

Note 2: Measurements shall be disregarded if the wind speed measured at the location where the noise level is measured exceeds 5 metres per second.

Note 3: Measurements shall be disregarded if the level of background noise determined using the same units in accordance with sub-paragraph (2)(a) below is within 3 dB of the levels stated in Table 1.

Note 4: “Bank holiday” means a day specified as a bank holiday in or under the Banking and Financial Dealings Act 1971(a).

(2) Before the commencement of operations at the site, a scheme for monitoring noise arising from those operations at the site shall have been submitted to and approved in writing by Kingston upon Hull City Council (“HCC”). The scheme shall provide for—

- (a) the supply, installation and maintenance of a monitoring system at the specified location, and at a location determined by calculation or measurement as suitable (by virtue of additional distance from the works, such that site-related noise is at least 7 dB lower than at the specified location) for measurement of background noise for a period of not less than six months ending not later than the time when operations at the site commence;
- (b) the monitoring system to be capable of inspection and interrogation by HCC and A.B. Ports at any time; and
- (c) continuous measurement and recording of wind speed either at the specified location or at a location from which the wind speed at the specified location can be inferred;

and once approved, the scheme shall be implemented in accordance with its terms.

- (3) (a) In the event that noise levels at the specified location exceed the limits in Table 1, subject to the provisos of Note 2 and Note 3, A.B. Ports shall undertake further measurements to investigate and such further measures as may be necessary to identify the cause, and insofar as the source of the noise is under their control, take remedial action to reduce noise emission from the site to within the limits in Table 1 and take all reasonable action to prevent any repetition of a breach of the limits.
- (b) In the event that A.B. Ports is unable to identify the cause of increased noise levels, HCC may, by itself or through its duly authorised agent and at the expense of A.B. Ports, undertake such reasonable measurements and investigations as it deems necessary to identify the cause; and, in the further event that the cause is established by HCC, and that the source is under A.B. Ports’ control, shall submit a programme of reasonable remedial action to reduce noise emission and prevent repetition and A.B. Ports shall promptly undertake, at its own expense, the action specified.

(4) In sub-paragraphs (1) to (3)—

“the site” means the area of Work No. 1 as constructed and any area dredged under article 9;

“the specified location” means a free-field location 4m above local ground level near and to the south of 27 Corinthian Way.

#### *Construction restrictions*

**9.** For the purpose of constructing Work No. 1 the amount of fill material to be transported by road shall not exceed 200,000m<sup>3</sup>.

**10.** The dredging of the berth area adjoining the quay face of Work No. 1 shall not be carried out until after completion of the noise barrier authorised by article 5(2) above.

**11.—(1)** A code of construction practice shall be submitted to and approved in writing by HCC before commencement of construction of the works, and save insofar as any requirements of the code of construction practice may be waived by any requirements imposed in a notice served under section 60 or a consent given under section 61 of the Control of Pollution Act 1974(b), such construction shall be carried out in accordance with the approved code of construction practice.

(2) In this paragraph “code of construction practice” means a code setting out measures to be employed in the construction of the works so as to mitigate the impact of those works, based on the measures identified in the environmental information submitted to the Secretary of State in connection with the application for this Order.

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(a) 1971 c. 80; *see* section 1 and Schedule 1.

(b) 1974 c. 40.

## PART II

**12.** Regulation 60 of the Conservation (Natural Habitats, &c.) Regulations 1994<sup>(a)</sup> (“the Habitats Regulations”) shall not apply to any planning permission which relates to the works and which is granted by article 3(1) of the 1995 Order for the class of development described as permitted development in Part 11 of Schedule 2 to that Order.

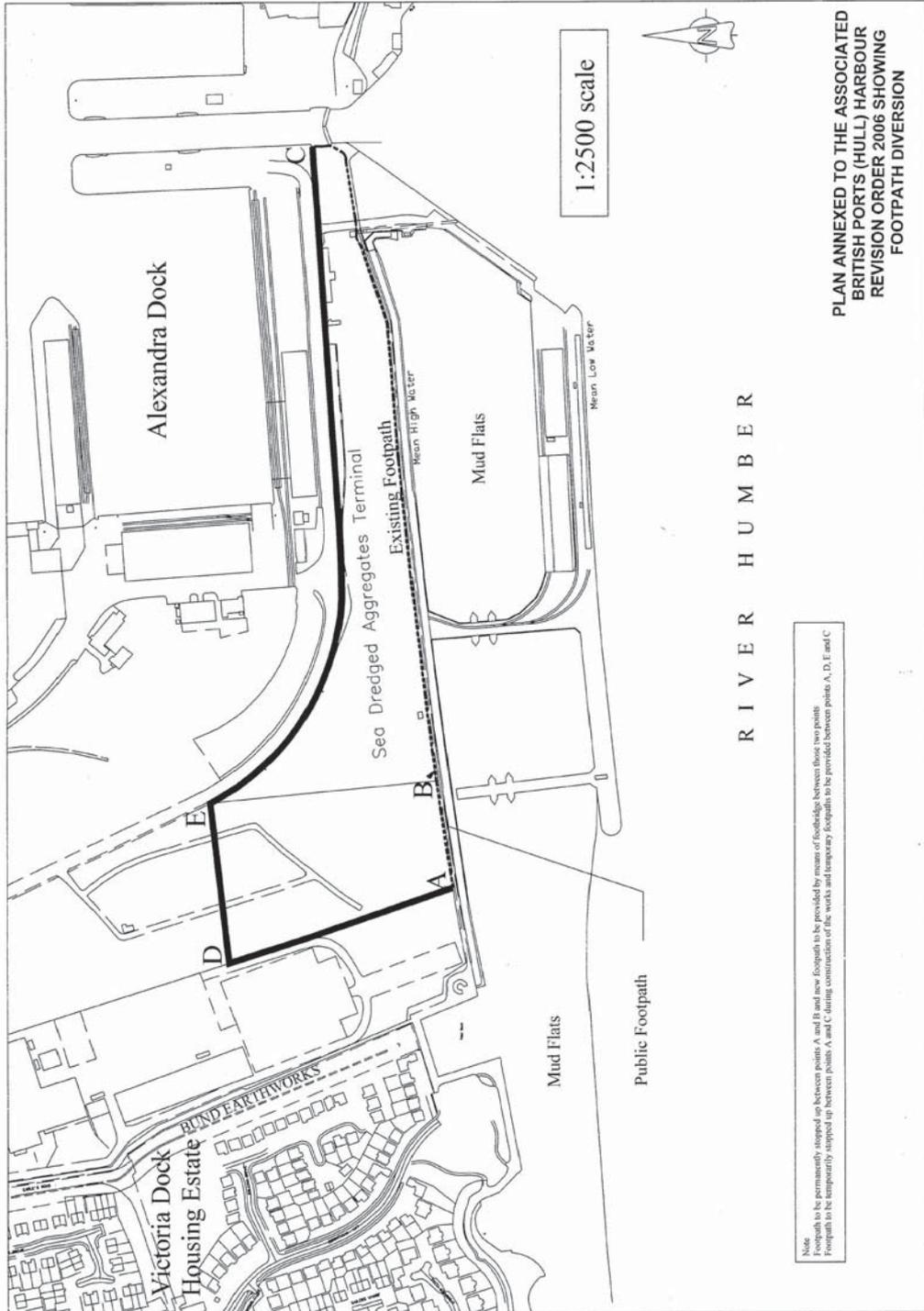
**13.** If and to the extent that the works—

- (a) do not form part of the plan and project which was subject to an appropriate assessment in accordance with regulation 48 of the Habitats Regulations in connection with the making of this Order; and
- (b) are not subject to a further consent, permission or authorisation by a competent authority as defined in the Habitats Regulations,

paragraph 12 above shall not have the effect of disapplying regulation 60 of the Habitats Regulations in relation to any planning permission for the works.

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<sup>(a)</sup> S.I. 1994/2716.



## **EXPLANATORY NOTE**

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

This Order authorises Associated British Ports to construct and maintain a new quay on the River Humber adjoining Alexandra Dock and confers ancillary powers in connection with the works including powers for dredging; for extending the limits of jurisdiction of the Dock Master; and for removing the existing pier. The Order also authorises the diversion of the riverside footpath during the construction of the works and the stopping up and substitution of a part of it with a footbridge and provides for the repeal of enactments relating to the existing pier.

The deposited plan and sections defined in article 2 of the Order may be inspected during normal hours at the offices of Associated British Ports at 150 Holborn, London EC1N 2LR and at Port House, Northern Gateway, King George Dock, Hull HU9 5PQ.



**2006 No. 1135**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Associated British Ports (Hull) Harbour Revision  
Order 2006**

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