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STATUTORY INSTRUMENTS

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**2001 No. 3627**

**The South Hampshire Rapid Transit Order 2001**

**PART II**

**WORKS PROVISIONS**

*The Tunnel*

**Prohibitions within tunnel area**

**22.**—(1) Notwithstanding anything in any other enactment or rule of law but subject to the provisions of this article and paragraph 10 of Schedule 7, the Queen's Harbour Master shall, at the request of the undertaker and at the undertakers' expense, at any time when it appears to the undertaker necessary or convenient for the purposes of the construction or maintenance of the tunnel, by direction close the whole or any part of the tunnel area to navigation by all vessels or by any class of vessel.

(2) Subject to paragraph (3)—

- (a) a direction under paragraph (1) above shall specify the duration of the closure, the part of the harbour affected and the vessels to which it applies; and
- (b) the written consent of the Secretary of State shall be required to the giving of any direction which prohibits, or has the effect of prohibiting, the passage of any vessel through the tunnel area—
  - (i) whether in combination with any other direction already given (other than any which are abandoned) or not, at any time other than during six 29 hour periods each commencing at 2300; or
  - (ii) after 0700, during any of those six 29 hour periods, for more than three periods each of which shall be no longer than three hours and shall be separated from any other such period by an interval of no less than three hours.

(3) The duration of a closure under this article may be extended by the Queen's Harbour Master until he is satisfied that any navigation channel to be opened following the closure has adequate depth and is free of obstruction.

(4) A person may not, without the written consent of the undertaker, within any part of the tunnel area, during a period when it is closed to navigation under this article—

- (a) navigate any vessel or cause or permit a vessel to be moored if the vessel concerned is subject to the closure,
- (b) lay down or place any mooring or apparatus, including mains, sewers, drains and cables, or
- (c) undertake or cause or permit any other operation or activity,

unless he does so in compliance with any direction which the Queen's Harbour Master has given either in an emergency or for military operational requirements which the Queen's Harbour Master is satisfied it is not reasonably practicable to fulfil at any other time.

(5) Any person who contravenes the requirements of paragraph (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Except in an emergency, the Queen's Harbour Master shall at the undertaker's expense publish notice of any direction given under paragraph (1) in a newspaper circulating in the city of Portsmouth not less than 14 days before the direction is to take effect.

(7) In making a request pursuant to paragraph (1), the undertaker shall ensure that no more of the tunnel area is closed to navigation at any time by all vessels, or by any class of vessel, than is at that time necessary in the circumstances.

(8) If complete closure of the tunnel area to all vessels or to any particular class of vessels is necessary at any time, the undertaker shall take all reasonable steps to secure that the minimum obstruction, delay or interference is caused to vessels which may be using or intending to use the tunnel area.

(9) Without prejudice to the provisions of article 36 (application of Part I of the Compulsory Purchase Act 1965) neither the undertaker nor the Queen's Harbour Master shall be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of any closure of the tunnel area under this article.

(10) A direction given under this article may be varied or revoked by a subsequent direction given under this article.