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TO

Amend the procedure for dealing with applications for orders under section 14 or 16 of the Harbours Act 1964 and for making orders under section 15 of that Act; and for connected purposes.

**B**E IT 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 Amendment of procedure for dealing with applications for harbour orders**

- (1) Paragraph 18 of Schedule 3 to the 1964 Act (which provides for the holding of an inquiry or public hearing where an objection is made to an application for a harbour revision or empowerment order and is not withdrawn) shall be amended as follows. 5
- (2) For sub-paragraph (1) there shall be substituted—
- “(1) This paragraph applies if an objection to the application was made to the Secretary of State and has not been withdrawn unless—
- (a) he decides that the application shall not proceed further,
- (b) he considers the objection is frivolous or trivial, 10
- (c) the objection does not specify the grounds on which it is made, or
- (d) the objection was not made within the period allowed for making it.
- (1A) Before making his decision under paragraph 19, the Secretary of State may— 15
- (a) cause an inquiry to be held, or
- (b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by the Secretary of State. 20
- (1B) Where—
- (a) the objection referred to in sub-paragraph (1) is made by a person within sub-paragraph (1C), and

- (b) that person informs the Secretary of State in writing that he wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (1A)(b),  
the Secretary of State shall, before making his decision under paragraph 19, either cause an inquiry to be held or, if he so determines, cause the objection to be dealt with in accordance with sub-paragraph (1A)(b). 5
- (1C) The persons within this sub-paragraph are –
- (a) any local authority for an area in which the harbour (or any part of it) is situated, 10
  - (b) the relevant nature conservation body, and
  - (c) if the Order will authorise the compulsory acquisition of land, any person who is entitled to be served with notice under paragraph 11.”
- (3) In sub-paragraph (2), for “sub-paragraph (1)(a)” there shall be substituted “sub-paragraph (1A)(b)”. 15
- (4) In sub-paragraph (3), paragraph (a) is repealed.
- (5) After that sub-paragraph, there shall be inserted –
- “(4) In this paragraph –
- (a) “local authority” means – 20
    - (i) in England, a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a parish council and a parish meeting of a parish not having a separate parish council, and 25
    - (ii) in Wales, a county council, a county borough council and a community council, and
  - (b) “the relevant nature conservation body” means –
    - (i) if the harbour (or any part of it) is situated in England, English Nature, and 30
    - (ii) if the harbour (or any part of it) is situated in Wales, the Countryside Council for Wales.”
- 2 Amendment of procedure where harbour revision orders are made by the Secretary of State of his own motion**
- (1) For paragraph 28 of Schedule 3 to the 1964 Act there shall be substituted – 35
- “28 (1) This paragraph applies if an objection to the proposal was made to the Secretary of State and has not been withdrawn unless –
- (a) he decides that the proposal shall not proceed further,
  - (b) he considers the objection is frivolous or trivial,
  - (c) the objection does not specify the grounds on which it is made, or 40
  - (d) the objection was not made within the period allowed for making it.
- (2) Before making his decision under paragraph 29, the Secretary of State may – 45
- (a) cause an inquiry to be held, or

- (b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by the Secretary of State.
- (3) Where—
- (a) the objection referred to in sub-paragraph (1) is made by a person within sub-paragraph (4), and
- (b) that person informs the Secretary of State in writing that he wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (2)(b),
- the Secretary of State shall, before making his decision under paragraph 29, either cause an inquiry to be held or, if he so determines, cause the objection to be dealt with in accordance with sub-paragraph (2)(b).
- (4) The persons within this sub-paragraph are—
- (a) any local authority for an area in which the harbour (or any part of it) is situated; and
- (b) the relevant nature conservation body.
- (5) Where an objector is heard in accordance with sub-paragraph (2)(b), the Secretary of State shall allow such other persons as he thinks appropriate to be heard on the same occasion.
- (6) In this paragraph “local authority” and “the relevant nature conservation body” have the same meaning as in paragraph 18(4).”
- (2) In paragraph 29 of that Schedule (decision on harbour revision order proposed by Secretary of State), in sub-paragraph (1)(b), after “inquiry” there shall be inserted “and of any person appointed for the purpose of hearing an objector”.

### 3 Interpretation

In this Act “the 1964 Act” means the Harbours Act 1964 (c. 40).

### 4 Short title, commencement, transitional provision and extent

- (1) This Act may be cited as the Harbours Act 2004.
- (2) This Act shall come into force on the expiration of the period of two months beginning with the date on which it is passed.
- (3) Nothing in this Act applies—
- (a) in relation to an application for an order under section 14 or 16 of the 1964 Act which is made before this Act comes into force; or
- (b) in relation to a proposal by the Secretary of State to make a harbour revision order of his own motion in respect of which a notice is published in the London Gazette under paragraph 26(1)(a) of Schedule 3 to the 1964 Act before this Act comes into force.
- (4) This Act does not extend to Scotland or Northern Ireland.

# Harbours Bill [HL]

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To amend the procedure for dealing with applications for orders under section 14 or 16 of the Harbours Act 1964 and for making orders under section 15 of that Act; and for connected purposes.

*Brought from the Lords 25th March 2004.*

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