

**2016 No. 644**

**PORT HEALTH AUTHORITIES, ENGLAND**

**The River Tees Port Health Authority Order 2016**

*Made* - - - - *13th June 2016*

*Coming into force* - - *14th June 2016*

The Secretary of State for Health makes the following Order in exercise of powers conferred by sections 2(3) and (4)(b), 3, 4(1) and 5(2) of the Public Health (Control of Disease) Act 1984(a) and section 241 of the Local Government Act 1972(b).

The Secretary of State has given notice as required by sections 2(6) and 4(2) of the Public Health (Control of Disease) Act 1984(c) and has not received any notice of objection.

**Citation, commencement, application and interpretation**

**1.**—(1) This Order may be cited as the River Tees Port Health Authority Order 2016 and comes into force on 14th June 2016.

(2) This Order applies to England.

(3) In this Order—

“the Act” means the Public Health (Control of Disease) Act 1984;

“the joint board” means the joint board established under article 3;

“the Port of Tees and Hartlepool” means the port of that name as appointed for the purposes of customs and excise under section 19(1) of the Customs and Excise Management Act 1979(d) (appointment of ports etc.); and

“the relevant riparian authorities” means Redcar and Cleveland Borough Council, Stockton-on-Tees Borough Council, Middlesbrough Borough Council and Hartlepool Borough Council(e).

(4) References in this Order to reference points are to be construed as references to National Grid reference points.

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- (a) 1984 c.22; section 3 of the Public Health (Control of Disease) Act 1984 (“the Act”) was amended by the Food Safety Act 1990 (c.16), Schedule 3, paragraph 26, and section 5(2) of the Act was amended by the Health and Social Care Act 2008 (c.14), Schedule 11, paragraph 4.
- (b) 1972 c.70; section 241 has been extended by section 3(3) of the Act.
- (c) Where the Secretary of State proposes to make an order under section 2 of the Act, the Secretary of State is required, under section 2(6), to give notice of the proposal to every riparian authority who will under the order be liable to contribute to the expenses of the port health authority. In addition, if a port health authority order is to be revoked, under section 4(2), the Secretary of State must also give notice to the port health authority concerned and every authority which is, or under the proposed order will be, a constituent authority.
- (d) 1979 c.2; the Port of Tees and Hartlepool was appointed for these purposes under section 19(1) by S.I. 1980/485.
- (e) See section 2(2) of the Act for the meaning of “riparian authority”.

### **The port health district**

2.—(1) For the purposes of section 2 of the Act (port health districts and authorities), the area described in paragraph (2) is to constitute a port health district.

(2) The area described in this paragraph consists of those parts of the Port of Tees and Hartlepool together with such land and water as is specified in sub-paragraphs (a) to (c)—

- (a) that part of the Port of Tees and Hartlepool which lies upstream of a line drawn from the most northerly point of the North Gare Breakwater (reference point NZ5442 2843) and the South Gare Buzzer House (reference point NZ5580 2840), including those waters of the River Tees as far as the tide flows up stream to the Tees Barrage (reference point NZ4624 1903);
- (b) any wharf, dock, jetty or similar structure on the riverside of, or projecting into, that part of the Port of Tees and Hartlepool and the River Tees described in sub-paragraph (a); and
- (c) any structures and buildings on areas within the gates of any wharf, dock, jetty or similar structure within the districts of the relevant riparian authorities.

### **The port health authority**

3.—(1) The port health authority for the port health district constituted under article 2 is a joint board consisting of 17 members.

(2) The members of the joint board must be appointed by the relevant riparian authorities from the members of their respective councils as follows—

- (a) five members from Redcar and Cleveland Borough Council;
- (b) five members from Stockton-on-Tees Borough Council;
- (c) five members from Middlesbrough Borough Council; and
- (d) two members from Hartlepool Borough Council.

(3) The joint board constituted under paragraph (1) is to be a body corporate called the River Tees Port Heath Authority.

### **Appointment of members to and meetings of the joint board**

4.—(1) The relevant riparian authorities must appoint members to the joint board at meetings to be held in May of each year.

(2) The joint board must meet at least four times in each year.

(3) If a person appointed to the joint board is unable to attend any meeting of the joint board, another member of the council of the relevant riparian authority of which that person is a member may attend that meeting instead.

(4) Any vacancy occurring amongst members of the joint board must be filled by the relevant riparian authority in relation to whose representation the vacancy occurred at a meeting to be held as soon as possible after each such occurrence.

(5) At least 3 days before a meeting of a relevant riparian authority at which it is proposed to appoint a member of the joint board, the proper officer<sup>(a)</sup> of that authority must give notice of the meeting, and of the proposed appointment, to every member of that authority.

(6) The proper officer of a relevant riparian authority must immediately give notice in writing to the proper officer of the joint board of the name, address and occupation of any person appointed by that officer's authority to be a member of the joint board.

(7) A person appointed to the joint board ceases to be a member of the board if that person ceases to be a member of the council of the relevant riparian authority by which they were appointed.

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(a) Under section 74 of the Act (interpretation), a "proper officer" means, in relation to a purpose and to an authority, an officer appointed for that purpose by that authority.

### **Retirement of members**

5.—(1) All members of the joint board must retire from office and the newly appointed members come into office on the first Friday in June of each year.

(2) If, but for paragraph (1), a retiring member of a joint board is qualified to be appointed to the board, that member may be re-appointed for a further term of office.

### **Chair of the joint board**

6.—(1) The members of the joint board must elect the chair of the joint board annually from amongst the members.

(2) The election of the chair must be the first business transaction at the annual meeting of the joint board which takes place on the first Friday in June of each year.

(3) If, in the election of the chair, there is an equality of votes, the person presiding at the annual meeting has a casting vote in addition to any other vote which that person may have.

(4) Unless the chair resigns or becomes disqualified to act as chair, the chair is to continue in office until a successor is elected as chair.

(5) During a person's term of office as chair, that person is to continue to be a member of the joint board.

### **Jurisdiction**

7. The joint board as port health authority has jurisdiction over all waters and land within the port health district.

### **Application of provisions of Local Government Act 1972 to the joint board**

8.—(1) For the purposes of section 241 of the Local Government Act 1972(a) (power to apply provisions of Act to joint boards etc.), the provisions of that Act which are listed in Schedule 1 are to apply to the joint board as port health authority.

(2) In the application of those provisions by paragraph (1), a reference in that Act—

- (a) to local authorities or to any council, is to be read as a reference to the joint board;
- (b) to an office held under that Act or otherwise, is to be read as a reference to the office of member of the joint board; and
- (c) to functions, is to be read as functions conferred on the joint board as port health authority under this Order.

### **Functions assigned to the joint board**

9.—(1) The functions, rights and liabilities of a local authority or a food authority under the enactments specified in Schedule 2 are assigned to the joint board as port health authority in so far as they are applicable to a port health authority and to any land, waters, premises, vessels or persons within its jurisdiction.

(2) Subject to paragraph (3), the enactments specified in Schedule 2 in respect of the functions, rights and liabilities that are assigned to the joint board under paragraph (1), are to have effect as if—

- (a) any vessel lying within the jurisdiction of the joint board is a house, building or premises; and
- (b) the master or other officer or person in charge of the vessel is the occupier.

(3) This article does not apply to—

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(a) 1972 c.70.

- (a) any vessel belonging to Her Majesty; or
- (b) any vessel engaged in the service of Her Majesty, whether belonging to Her Majesty or not; or
- (c) any vessel belonging to the armed forces of any country to which the provisions of the Visiting Forces Act 1952(a) apply by virtue of section 1(b) (countries to which Act applies) of that Act.

**Expenses**

10. Any expenses incurred by the joint board must be defrayed out of a common fund which is to be contributed to by the relevant riparian authority specified in column 1 of the following table in the proportion specified in relation to that authority in column 2 of that table—

**Table**

<i>Column 1</i>	<i>Column 2</i>
Redcar and Cleveland Borough Council	52%
Stockton-on-Tees Borough Council	31%
Middlesbrough Borough Council	15%
Hartlepool Borough Council	2%

**Accounts and audit**

11. All accounts of the joint board must be prepared and audited in accordance with the Local Audit and Accountability Act 2014(c).

**Revocation**

12. The River Tees Port Health Authority Order 1982(d) is revoked.

Signed on behalf of the Secretary of State for Health.

13th June 2016

*Ailsa Wight*  
Member of the Senior Civil Service  
Department of Health

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(a) 1952 c.67.  
 (b) Section 1 was amended by the Zanzibar Act 1963 (c.55), Schedule 1, paragraph 7; the Zambia Independence Act 1964 (c.65), Schedule 1, paragraph 7; the Botswana Independence Act 1966 (c.23), Schedule 1, paragraph 7; the Lesotho Independence Act 1966 (c.24), Schedule 1, paragraph 7; the Singapore Act 1966 (c.29), Schedule 1, paragraph 4; the Swaziland Independence Act 1968 (c.56), Schedule 1, paragraph 7; the Tonga Act 1970 (c.22), Schedule 1, paragraph 6; the Papua New Guinea, Western Samoa and Nauru (Miscellaneous Provisions) Act 1980 (c.2), Schedule, paragraph 9; the New Hebrides Act 1980 (c.16), Schedule 1, paragraph 4; the Bangladesh Act 1973 (c.49), Schedule 1, paragraph 2; the Brunei and Maldives Act 1985 (c.3), Schedule, paragraph 6; the Pakistan Act 1990 (c.14), Schedule, paragraph 5; the Namibia Act 1991 (c.4), Schedule, paragraph 4; the South Africa Act 1995 (c.3), Schedule 1, paragraph 5(1); the Commonwealth Act 2002 (c.39), Schedule 2, paragraph 3(1); S.I. 1978/1030, 1978/1899, 1979/917, 1980/701, 1981/1105 and 1983/882. There are other amending enactments but none is relevant.  
 (c) 2014 c.2. A port health authority for a port health district that is wholly in England is a “relevant authority” for the purposes of section 2(1) (relevant authorities) of the 2014 Act. See paragraph 15 of Schedule 2 (relevant authorities).  
 (d) S.I. 1982/1274.

## SCHEDULE 1

Article 8

### Provisions of the Local Government Act 1972 applied to the Port Health Authority

<b>Local Government Act 1972(a)</b>	
Sections 79-82	Qualifications and disqualifications
Section 84	Resignations
Section 85	Vacation of office by failure to attend meetings
Section 88(1) and (2)	Filling casual vacancy in the office of chairman
Section 92	Proceedings of disqualification
Sections 99 and Parts 1 and 6 of Schedule 12	Meetings and proceedings of local authorities
Section 100	Admission of the public and press to meetings
Sections 101-102	Arrangements for discharge of functions by local authorities and appointment of committees
Section 111	Subsidiary powers of local authorities
Section 112-117 and 119	Staff
Sections 120-123 and 128-131	Land transactions
Section 132	Provision of offices
Section 135	Contracts
Section 140	Insurance against accidents to members
Section 143	Subscription to associations
Sections 222-223	Legal proceedings
Sections 224-234	Documents and notices, etc.

## SCHEDULE 2

Article 9

### Functions etc. of authorities assigned to the Port Health Authority

<b>Public Health Act 1936(b)</b>	
Section 1(1) (insofar as it relates to sections 45, 49-52, 83 and 264)	Duty to enforce the Act
Section 45	Buildings with defective closets capable of repair
Section 48	Power to examine and test drains etc.
Section 49	Rooms over closets of certain types etc.
Section 50	Overflowing and leaking cesspools
Section 81	Byelaws for the prevention of certain nuisances
Section 82	Byelaws as to removal through streets of offensive matter or liquid
Sections 83 to 86	Filthy or verminous premises or articles, verminous persons and provision of cleansing stations
Section 140	Power to close, or restrict use of water from, polluted water supply

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(a) 1972 c.70  
(b) 1936 c.49.

Sections 260, 264-265	Provisions relating to watercourses, ponds, ditches and culverts
Section 268(4)	Byelaws relating to nuisances arising from tents, vans, sheds, etc.
Part 12	Miscellaneous provisions (including powers of entry)
<b>Public Health Act 1961(a)</b>	
Section 36	Power to require vacation of premises during fumigation
Section 73	Derelict petrol tanks
<b>Slaughterhouses Act 1974(b)</b>	
Part 1	Slaughterhouses and knackers' yards
<b>Control of Pollution Act 1974(c)</b>	
Part 3	Noise
Part 5	Supplementary provisions (including powers of entry and inspection, obtaining information and default powers)
<b>Local Government (Miscellaneous Provisions) Act 1976(d)</b>	
Section 16	Power of local authorities to obtain particulars of persons interested in land
Section 32	Power of local authorities to execute works outside their areas
Section 41	Evidence of resolutions and minutes of proceedings etc.
<b>Public Health (Control of Disease) Act 1984(e)</b>	
Section 45M and all functions conferred under the Health Protection (Part 2A Orders) Regulations 2010(f)	Local authority power to apply to a justice of the peace for an order to protect human health from risk of infection or contamination
Section 46	Duty to arrange for a body to be buried or cremated
Section 48	Removal of body to mortuary or for immediate burial
<b>Building Act 1984(g)</b>	
Section 76	Powers to deal with defective premises
<b>Food Safety Act 1990(h)</b>	
	Food authority enforcement functions relating to food safety
<b>Water Industry Act 1991(i)</b>	
Part 3	Water supply
<b>Clean Air Act 1993(j)</b>	
	Air pollution
<b>Noise and Statutory Nuisance Act 1993(k)</b>	
	Noise pollution (street noise)
<b>The Private Water Supplies Regulations 2009(l)</b>	
	Private water supplies

- (a) 1961 c.64.  
(b) 1974 c.3.  
(c) 1974 c.40.  
(d) 1976 c.57.  
(e) 1984 c.22.  
(f) S.I. 2010/658.  
(g) 1984 c.55.  
(h) 1990 c.16.  
(i) 1991 c.56.  
(j) 1993 c.11.  
(k) 1993 c.40.  
(l) S.I. 2009/3101.

The Official Feed and Food Controls (England) Regulations 2009(a)	Execution and enforcement of import controls. Designation of competent authority.
The Health Protection (Local Authority Powers) Regulations 2010(b)	Health protection powers
The Transmissible Spongiform Encephalopathies (England) Regulations 2010(c)	Arrangements and enforcement to prevent, control and eradicate transmissible spongiform encephalopathies
The Plastic Kitchenware (Conditions on Imports from China) (England) Regulations 2011(d)	Execution and enforcement of conditions and procedures for the import of polyamide and melamine plastic kitchenware from China and Hong Kong.
The Animal By-Products (Enforcement) (England) Regulations 2013(e)	Enforcement

### EXPLANATORY NOTE

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

This Order constitutes the Port of Tees and Hartlepool port health district. It constitutes a joint board, consisting of representatives from the Redcar and Cleveland Borough Council, Stockton-on-Tees Borough Council, Middlesbrough Borough Council and Hartlepool Borough Council to be the port health authority for that district. Provision is also made for those authorities to contribute to the expenses of the joint board.

Articles 8 and 9 and Schedules 1 and 2 relate to the jurisdiction and functions of the joint board as port health authority.

Article 12 revokes the River Tees Port Health Authority Order 1982.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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- (a) S.I. 2009/3255.
  - (b) S.I. 2010/657.
  - (c) S.I. 2010/801.
  - (d) S.I. 2011/1517.
  - (e) S.I. 2013/2952.

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