

SCHEDULE 3

Model provisions for harbours

Preliminary

Interpretation

1.—(1) In this Order—

- “the 1847 Act” means the Harbours, Docks and Piers Clauses Act 1847(1);
- “the 1961 Act” means the Land Compensation Act 1961(2);
- “the 1965 Act” means the Compulsory Purchase Act 1965(3);
- “the 1980 Act” means the Highways Act 1980(4);
- “the 1990 Act” means the Town and Country Planning Act 1990(5);
- “the 1991 Act” means the New Roads and Street Works Act 1991(6);
- “the 2008 Act” means the Planning Act 2008(7);

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- (1) [1847 c.27](#). Sections 24, 94 and 95 were repealed by the Statute Law (Repeals) Act [1993 \(c.50\)](#); section 26 was repealed by section 56(4) of, and Schedule 11 to, the Courts Act [1971 \(c.23\)](#); section 28 was amended by section 141 of, and Schedule 11 to, the Post Office Act [1969 \(c.48\)](#); sections 54, 67 and 98 were amended by section 46 of the Criminal Justice Act [1982 \(c.48\)](#); section 71 was amended by [S.I.1987/37](#); section 91 was repealed by the Statute Law Revision Act [1894 \(c.56\)](#); section 93 was repealed by the Statute Law Revision Act [1875 \(c.66\)](#); and section 96 was repealed by the Perjury Act [1911 \(c.6\)](#), section 17. There are other amendments to the 1847 Act which are not relevant to this Order.
 - (2) [1961 c.33](#). Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act [1980 \(c.65\)](#). There are other amendments to the 1961 Act which are not relevant to this Order.
 - (3) [1965 c.56](#). Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the [Planning and Compensation Act 1991 \(c.34\)](#). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act [1985 \(c.71\)](#). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the [Planning and Compensation Act 1991 \(c.34\)](#). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act [1981 \(c.67\)](#) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the [Church of England \(Miscellaneous Provisions\) Measure 2006 \(2006 No.1\)](#). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act [1971 \(c.23\)](#). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act [2007 \(c.15\)](#). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the [Planning and Compensation Act 1991 \(c.34\)](#). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act [1973 \(c.39\)](#). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the [Planning and Compensation Act 1991 \(c.34\)](#) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the [Church of England \(Miscellaneous Provisions\) Measure 2006 \(2006 No.1\)](#). There are other amendments to the 1965 Act which are not relevant to this Order.
 - (4) [1980 c.66](#). Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act [1991 \(c.22\)](#); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act [1985 \(c.51\)](#); section 1(2A) was inserted by and section 1(3) was amended by section 259 (1), (2) and (3) of the Greater London Authority Act [1999 \(c.29\)](#); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act [1994 \(c.19\)](#). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act [1985 \(c.71\)](#), by [S.I. 2006/1177](#), by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act [1990 \(c.11\)](#), by section 64(1) (2) and (3) of the [Transport and Works Act \(c.42\)](#) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act [2000 \(c.37\)](#); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by [S.I. 2006/1177](#); section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act [1985 \(c.51\)](#); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act [1994 \(c.19\)](#). Section 329 was amended by section 112(4) of, and Schedule 18 to the Electricity Act [1989 \(c.29\)](#) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act [1989 \(c.15\)](#). There are other amendments to the 1980 Act which are not relevant to this Order.
 - (5) [1990 c.8](#). Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act [2008 \(c.29\)](#) (date in force to be appointed see section 241(3) and (4)(a) and (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
 - (6) [1991 c.22](#). Section 48(3A) was inserted by section 124 of the Local Transport Act [2008 \(c.26\)](#). Sections 79(4), 80(4) and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act [2004 \(c.18\)](#).
 - (7) [2008 c.29](#).

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“ancillary works” means the ancillary works described in Part 2 of Schedule A (authorised project) [and any other works authorised by the Order] and which are not development within the meaning of section 32 of the 2008 Act;

“area of seaward construction activity” means the area of the sea within the Order limits shown on the land plan;

“authorised development” means the development and associated development described in Part 1 of Schedule A (authorised project) [and any other development authorised by this Order], which is development within the meaning of section 32 of the 2008 Act;

“the authorised project” means the authorised development and the ancillary works authorised by this Order;

“the book of reference” means the book of reference certified by the decision-maker as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“conservancy authority” has the same meaning as in section 313 of the Merchant Shipping Act 1995⁽⁸⁾;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“the decision-maker” has the same meaning as in section 103 the 2008 Act;

“harbour” means the harbour constructed by the undertaker in pursuance of the powers conferred on them by [*insert title of Act/Orders*] Acts and Orders [*insert dates of Act/Orders*] and this Order and includes the open cut or channel also constructed under those powers, and all other works, land, buildings, ancillary works, plant, property and conveniences connected with them, as from time to time existing;

“the harbourmaster” means the harbourmaster appointed under this Order;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the land plan” means the plan certified as the land plan by the decision-maker for the purposes of this Order;

“level of high water” means the level of mean high-water springs;

“Order land” means the land shown on the land plan which is within the limits of land to be acquired and described in the book of reference;

“the Order limits” means the limits shown on the works plan within which the authorised project may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981⁽⁹⁾;

“relevant planning authority” means—

- (i) the district planning authority for the area in which the land to which the provisions of this Order apply is situated unless the provisions relate to the construction or alteration of a hazardous waste facility, in which case it means the county planning authority;
- (ii) a National Park Authority;
- (iii) the Broads Authority; and

⁽⁸⁾ 1995 c.21. There are amendments to section 313 which are not relevant to this Order.

⁽⁹⁾ 1981 c.67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). There are other amendments to the 1981 Act which are not relevant to this Order.

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(iv) the Greater London Authority if the land to which the provisions of this Order or requirements apply is situated in Greater London;

“rights plan” means the plan certified as the rights plan by the decision-maker for the purposes of this Order;

“the sections” means the sections shown on the plan certified as the section drawings plan by the decision-maker for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“tidal work” means so much of any work authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;

“tree preservation order” has the meaning given in section 198 of the 1990 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

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

“undertaker” means the person who has the benefit of this Order in accordance with section 156 of the 2008 Act;

“the undertaking” means the harbour undertaking of the undertaker as authorised from time to time;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plan” means the plan certified as the works plan by the decision-maker for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All points, directions, lengths, areas and other measurements stated in this Order are approximate and distances between points on a work comprised in the authorised project shall be taken to be measured along that work.

(4) Reference points specified in this Order shall be construed as references to Ordnance Survey National Grid reference points.

[NOTE: In the case of off-shore development, which is outside the area of any planning authority, it will be necessary to identify another appropriate body instead of the planning authority.]

Incorporation of the Harbours, Docks and Piers Clauses Act 1847

2.—(1) With the exception of sections 6 to 23, 25, 31, the proviso to section 32, sections 42, 45, 48 to 50, 60 to 63, 66 to 69, 73, 77 and 79 to 90, 92, 97 and 102, the 1847 Act is incorporated in this Order subject to the modifications stated in paragraphs (2) and (3).

(2) In construing the 1847 Act as so incorporated—

(a) the expression “the special Act” means this Order;

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- (b) the expressions “the Promoters of the undertaking” and “the undertakers” mean the *[insert relevant body]*.
- (c) the expression “the harbour, dock or pier” means the authorised project within the area of jurisdiction;
- (d) the expressions “limits” and “prescribed limits” mean the area of jurisdiction;
- (e) the expression “near the pier” does not extend beyond the area of jurisdiction;
- (f) the expression “the harbour master”, in relation to the authorised project, means the *[insert relevant body]*;
- (g) the definition of “vessel” in article 1(1) shall be substituted for the definition in section 3 of the 1847 Act;
- (h) section 53 of the 1847 Act shall not be construed as requiring the harbourmaster to serve written notice on the master of a vessel and directions given under that section may be communicated to the master of a vessel orally or otherwise; and
- (i) any requirement to comply with a notice or direction given by the harbour master shall be construed as including a requirement that, in complying with such notice or direction, a person who is subject to the notice or direction shall also comply with any relevant notice or direction given by the *[insert relevant authority]* or the harbour master in the exercise by either or both of them of any function conferred by or under any enactment (including this Order).