
STATUTORY INSTRUMENTS

2020 No. 474

The Lake Lothing (Lowestoft) Third Crossing Order 2020

PART 4

OPERATIONAL PROVISIONS

Operation of the new bridge

41.—(1) The undertaker must operate the new bridge in accordance with the Scheme of Operation.

(2) The Scheme of Operation may be varied or replaced by the undertaker at any time—

- (a) on the undertaker's own volition, with the consent of the harbour authority (such consent not to be unreasonably withheld) or, in accordance with paragraph (5), the consent of the Secretary of State; or
- (b) following receipt of a request made by the harbour authority for the undertaker to vary or replace the Scheme of Operation, which the undertaker must not unreasonably refuse to agree to, or then delay in proceeding with under this article.

(3) Before varying or replacing the Scheme of Operation under paragraph (2), the undertaker must request that the harbour authority consults the PMSC Stakeholder Group on the proposed variation to or replacement of the Scheme of Operation, and on receiving such a request the harbour authority must then consult the PMSC Stakeholder Group at the earliest opportunity.

(4) When consulting the PMSC Stakeholder Group under paragraph (3)—

- (a) the harbour authority must provide to the PMSC Stakeholder Group information relating to the outcome of any review by the harbour authority of its navigation risk assessment or of any other formal risk assessment it may have carried out in connection with the proposed variation to or replacement of the Scheme of Operation; and
- (b) the undertaker and the harbour authority must have regard to any representations made by the PMSC Stakeholder Group in relation to the proposed variation to or replacement of the Scheme of Operation, prior to the undertaker or the harbour authority providing its consent under paragraph (2)(a) or (b) (as applicable).

(5) If the consent of the undertaker or the harbour authority (as applicable) required under paragraph (2) is not given—

- (a) within 28 days of submission to the other party of an application for its consent to a proposed variation to or replacement of the Scheme of Operation; or
- (b) before the expiration of any extended deadline for that consent agreed to by the party proposing the amendment, the grant of such an extension not to be unreasonably withheld or delayed, then the proposed variation to or replacement of the Scheme of Operation must be submitted by the undertaker to the Secretary of State for approval.

(6) Any submission to the Secretary of State under paragraph (5) must also include a report setting out any representations of the PMSC Stakeholder Group made in response to the proposed variation to or replacement of the Scheme of Operation under paragraph (2).

(7) Following submission of the proposed variation to or replacement of the Scheme of Operation to the Secretary of State for approval under paragraph (5), the undertaker or the harbour authority (as applicable) may still grant its consent to the proposed variation to or replacement of the Scheme of Operation at any time prior to the Secretary of State's determination, but if the undertaker or the harbour authority does so it must on the same day inform the other party and the Secretary of State of its consent.

[^{F1}(8) The harbour authority must give a general direction imposing the requirements of the Scheme of Operation relating to the masters of vessels on the masters of vessels not less than 21 days prior to the new bridge opening for public use and, in relation to any variation to or replacement of the Scheme of Operation under paragraph (2), with such prior notice as the harbour authority considers appropriate in consultation with the undertaker or, in the event that prior notice cannot be given, as soon as practicable following any variation or replacement.]

(9) Article 62 (arbitration) does not apply to any dispute arising under this article.

[^{F2}(10) In paragraph (8) “general direction” means a harbour direction given by the harbour authority under section 40A of the Harbours Act 1964 that applies generally to Lowestoft Harbour.]

F1 Art. 41(8) substituted (22.10.2020) by [The Lake Lothing \(Lowestoft\) Third Crossing \(Correction\) Order 2020 \(S.I. 2020/1158\)](#), arts. 1, **2(2)**

F2 Art. 41(10) inserted (22.10.2020) by [The Lake Lothing \(Lowestoft\) Third Crossing \(Correction\) Order 2020 \(S.I. 2020/1158\)](#), arts. 1, **2(2)(a)**

Commencement Information

II Art. 41 in force at 21.5.2020, see [art. 1](#)

Extinguishment of right of navigation within Lake Lothing in connection with authorised development

42.—(1) For the purpose of protecting the new bridge, the public right of navigation within the areas of Lake Lothing identified in paragraph (2) is extinguished in accordance with the provisions of this article.

(2) The areas referred to in paragraph (1) are—

- (a) in relation to the pier located to the south of the north quay of Lowestoft Harbour, the area between the north quay wall and the outer edge of the fenders surrounding that pier; and
- (b) in relation to the pier located to the north of the south quay of Lowestoft Harbour, the area between the south quay wall and the outer edge of the fenders surrounding that pier.

(3) Paragraph (1) does not take effect until the undertaker has, following practical completion of the new bridge—

- (a) notified the harbour authority of the date from which the extinguishment is to have effect;
- (b) published notice of the extinguishment and the date from which the extinguishment is to have effect in *Lloyd's List* and once in each of two successive weeks in a local newspaper published or circulating in the area of East Suffolk Council, with an interval between the earliest and latest notices of not less than 7 clear days; and
- (c) displayed notice of the extinguishment and the date from which the extinguishment is to have effect in a conspicuous position adjacent to Lake Lothing from the date of the first notice published under sub-paragraph (b), until at least 7 days after the last notice published under sub-paragraph (b).

(4) The date that is notified, published and displayed pursuant to paragraph (3) as the date from which the extinguishment is to have effect must not be earlier than 14 days after the last date on which a notice is published pursuant to paragraph (3).

(5) As soon as possible following receipt by the harbour authority of notice given by the undertaker under paragraph (3), the harbour authority must issue a notice to mariners giving the commencement date and other particulars of the extinguishment to which the notice relates.

(6) A master of a vessel other than a vessel—

- (a) which is under the control of the harbour authority;
- (b) which is carrying out the statutory functions of the harbour authority, or
- (c) is directed by the harbour master,

must not, except in an emergency, allow a vessel to enter into the areas referred to in paragraph (2) without first obtaining the consent of the undertaker, which may attach reasonable conditions to any consent.

(7) Before granting consent under paragraph (6), the undertaker must consult with the harbour master.

Commencement Information

I2 Art. 42 in force at 21.5.2020, see [art. 1](#)

Maintenance of authorised development

43.—(1) The undertaker may at any time maintain the authorised development except to the extent that this Order, or an agreement made under this Order, provides otherwise.

(2) Paragraph (1) does not extend to any maintenance works which would give rise to any materially new or materially different environmental effects than those assessed in the environmental statement.

Commencement Information

I3 Art. 43 in force at 21.5.2020, see [art. 1](#)

Subsidiary works and operations in Lake Lothing

44.—(1) Subject to the provisions of this Order, the undertaker may within the Order limits—

- (a) carry out and maintain works for the accommodation or convenience of vessels within Lake Lothing (including but not limited to berthing and mooring facilities, ladders, buoys, bollards, dolphins, fenders, rubbing strips and fender panels, fender units and pontoons) as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the operation or maintenance of the authorised development; and
- (b) deepen, widen, capital dredge, maintenance dredge, scour, cleanse, alter and improve the bed of Lake Lothing for the purposes of maintaining the authorised development.

(2) Paragraph (1) does not extend to any works which would give rise to any materially new or materially different environmental effects than those assessed in the environmental statement.

(3) Except in the case of emergency, before exercising the powers of paragraph (1), the undertaker must use reasonable endeavours to notify the owner of any mooring and the owner or master of any vessel that may be affected by works undertaken in the exercise of the powers under this article.

(4) The undertaker must pay compensation to any person entitled to compensation under Part 1 (determination of questions of disputed compensation) of the 1961 Act who suffers any loss or damage from the exercise of the powers conferred by paragraph (1).

(5) Any dispute as to a person's entitlement to compensation under paragraph (4) or as to the amount of the compensation must be determined under Part 1 of the 1961 Act.

(6) All materials dredged up or removed by the undertaker in exercise of the powers under this article are the property of the undertaker and may be used, sold, deposited or otherwise disposed of by the undertaker.

Commencement Information

I4 Art. 44 in force at 21.5.2020, see [art. 1](#)

Protection against dredging by the harbour authority

45.—(1) The harbour authority must not undertake a capital dredge in Lake Lothing within the limits of dredging without first submitting the plans of the proposed dredging operation to the undertaker for its approval.

(2) Approval under paragraph (1) is not to be unreasonably withheld by the undertaker and approval is deemed to have been granted if the undertaker fails to notify the harbour authority of its decision within 28 days of the submission of the plans.

(3) The harbour authority must carry out the dredging in accordance with the plans approved under this article or settled by arbitration under article 62 (arbitration).

(4) The harbour authority must notify the undertaker at least 5 days before undertaking any maintenance dredge in Lake Lothing within the limits of dredging.

Commencement Information

I5 Art. 45 in force at 21.5.2020, see [art. 1](#)

Byelaws

46.—(1) The undertaker may make byelaws regulating the use and operation of the new bridge and the new bridge infrastructure, the maintenance of order and the conduct of persons in the new bridge area and the mooring of vessels to, and the passage of vessels under, the new bridge.

(2) Without limiting the scope of paragraph (1), byelaws made under this article may make provision—

- (a) preventing interference with, or obstruction of, the operation of the new bridge, including from vessels or other facilities machinery apparatus tools or other things provided in connection with the operation of the new bridge;
- (b) preventing interference with the new bridge or the new bridge infrastructure;
- (c) preventing trespass in the new bridge area;
- (d) preventing nuisances on the new bridge or in the new bridge area;
- (e) requiring any person in charge of a motor vehicle which is at rest by reason of breakdown on any part of the new bridge or the new bridge approaches to report that fact and the position and circumstances in which the vehicle is at rest to the undertaker;
- (f) prohibiting any person, other than an appointed person—

- (i) from carrying out, or attempting to carry out a repair, adjustment or refuelling of such a vehicle to which sub-paragraph (e) applies except with permission expressly given by an appointed person; and
- (ii) from moving, or attempting to move, such a vehicle from the position in which it is at rest;
- (g) prohibiting a person from obstructing any action taken by an appointed person for the purpose of removing a vehicle;
- (h) ensuring the safety of vehicles passing over the new bridge and through the new bridge area; and
- (i) placing controls on the mooring and passage of vessels.

(3) The undertaker must consult the harbour authority before making byelaws under paragraph (1) and in the case of a byelaw the purpose of which is to control the navigation or mooring of vessels in the Order limits, must not make the byelaw without the consent of the harbour authority (such consent not to be unreasonably withheld).

(4) [^{F3}From the opening of the new bridge for public use,] the byelaws in Schedule 10 (the Lowestoft Third Crossing Byelaws 2020) have effect until such time as they are amended or revoked by byelaws made under paragraph (1) and in the meantime they are to be treated as if they had been made by the undertaker under that paragraph and approved by the harbour authority under paragraph (3).

(5) [^{F4}On a date appointed by the undertaker, which must follow—

- (za) the undertaker having first sought the harbour authority's written consent to the proposed date not less than 35 days before the date intended to be appointed; and
- (zb) the harbour authority having consented in writing to the date intended to be appointed (such consent not to be unreasonably withheld) not less than 28 days before that date,

the Lowestoft Harbour Byelaws 1993 are amended as follows—]

- (a) in Byelaw 4 (interpretation) insert the following definitions in the appropriate places alphabetically—

““the Order” means the Lake Lothing (Lowestoft) Third Crossing Order 2020”;

““the new bridge” means the bridge authorised by Work No. 1 in Schedule 1 (authorised development) to the Order”;

““the new bridge control building” means the bridge control building authorised by Work No. 6 in Schedule 1 (authorised development) to the Order”;

““the new bridge infrastructure” means the infrastructure elements supporting the new bridge including (without limitation) the cables, drainage, electricity and water supplies, and fenders relating to the new bridge, as well as any plant and machinery and any emergency, safety or communications equipment required for the construction, maintenance or operation of the new bridge”;

““the new bridge undertaker” means Suffolk County Council or a person to whom the benefit of the relevant provisions of the Order has been transferred under article 49 (transfer of benefit of Order, etc.) of the Order”;

““the Scheme of Operation” means the Scheme of Operation having effect from time to time under article 41 (operation of the new bridge) of the Order”;

- (b) after Part IV (Conduct of Persons on Harbour) insert—

“PART IVA

NEW BRIDGE CONTROLS ON VESSELS

Mooring of vessels

- 37A.** A master of a vessel must not moor the vessel—
- (a) to any pier or any other part of the new bridge or the new bridge infrastructure; or
 - (b) in the vicinity of the new bridge if to do so might damage the new bridge or the new bridge infrastructure, or impede its operation in accordance with the Scheme of Operation,

without the prior consent of the new bridge undertaker.

Observation of signals and communications

37B. A master of a vessel must observe and comply with the river traffic control signal lights exhibited from the new bridge and follow any instructions issued by the new bridge undertaker.

37C. A master of a vessel approaching or departing the new bridge must make every reasonable effort to maintain continuous contact with the new bridge undertaker within the new bridge control building on VHF channel 14 or (if this becomes obsolete) such other means of communication instructed by the new bridge undertaker.

- 37D.** A master of a vessel awaiting passage under the new bridge must—
- (a) stay clear of the centre channel of Lake Lothing;
 - (b) give transiting vessels sufficient room to manoeuvre; and
 - (c) ensure that that the vessel does not advance beyond the outer edge of the fenders surrounding the new bridge until instructed to proceed by the new bridge undertaker.

Passage of vessels under the new bridge

37E. Unless otherwise directed by the harbour master, a master of a vessel must direct the vessel to pass under the new bridge by navigating between the two bridge piers which are within Lake Lothing, and must not allow the vessel to pass between a pier and the nearest quay wall of Lowestoft Harbour.

Collision with the new bridge

37F. A master of a vessel which has been involved in a collision with the new bridge must, as soon as reasonably practicable, report the occurrence to the new bridge undertaker and as soon as reasonably practicable thereafter provide the new bridge undertaker with details of the collision in writing.”.

[^{F5}(5A) The harbour authority must issue a notice to mariners setting out the changes to the Lowestoft Harbour Byelaws 1993 contained in paragraph (5) and the date on which those

changes will have effect, not less than 21 days before the date appointed by the undertaker under paragraph (5).]

(6) The harbour authority must not—

- (a) amend or revoke the byelaws inserted into the Lowestoft Harbour Byelaws 1993 by paragraph (5); or
- (b) make byelaws which affect the new bridge, the new bridge infrastructure or impede operation of the new bridge in accordance with the Scheme of Operation,

without first obtaining the consent of the undertaker, such consent not to be unreasonably withheld.

(7) Where there is any inconsistency between the provisions of the Lowestoft Harbour Byelaws 1993 as amended by paragraph (5) or any other byelaws made by the harbour authority and the byelaws made by the undertaker under paragraph (1), the byelaws made by the undertaker under paragraph (1) prevail.

(8) Subject to paragraph (9), the provisions of section 236(3) to (8), and (11) of the Local Government Act 1972 ^{M1} (procedure etc., for byelaws) apply in relation to byelaws made by the undertaker under paragraph (1).

(9) The undertaker may make byelaws under paragraph (1), in accordance with the procedure in the Byelaws (Alternative Procedure) (England) Regulations 2016 ^{M2} as if those regulations applied to the making, amending and revoking of byelaws under that paragraph.

(10) Byelaws made under this article are enforceable as follows—

- (a) in the case of byelaws made under paragraph (1), by an appointed person; or
- (b) in the case of the amendments to the Lowestoft Harbour Byelaws 1993, which have effect under paragraph (5), by an appointed person or the harbour authority.

(11) A person who breaches a byelaw made under paragraph (1) or (3) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(12) Where damage to the new bridge is attributable to a person in charge of a vessel being in breach of a byelaw made under paragraph (1), or the amendments to the Lowestoft Harbour Byelaws 1993, which have effect under paragraph (5), the undertaker may recover all expenses reasonably incurred in repairing the damage as a debt.

(13) The harbour authority must, within ten days of the receipt of such a request provide all information reasonably requested by the undertaker where the undertaker reasonably suspects that a breach of a byelaw made under paragraph (1) or the amendments to the Lowestoft Harbour Byelaws 1993 which have effect under paragraph (5) has been committed by a person in charge of a vessel.

(14) In this article—

“breakdown” in relation to a motor vehicle, includes mechanical defect, lack of fuel, oil or water required for the vehicle, and any other circumstances in which a person in charge of the vehicle could not immediately, safely and without damage to the vehicle or its accessories, drive it under its own power away from the new bridge; and

“prescribed” means prescribed by byelaws made under paragraph (1).

F3 Words in art. 46(4) inserted (22.10.2020) by [The Lake Lothing \(Lowestoft\) Third Crossing \(Correction\) Order 2020 \(S.I. 2020/1158\)](#), arts. 1, **2(3)**

F4 Words in art. 46(5) substituted (22.10.2020) by virtue of [The Lake Lothing \(Lowestoft\) Third Crossing \(Correction\) Order 2020 \(S.I. 2020/1158\)](#), arts. 1, **2(4)**

F5 [Art. 46\(5A\) inserted \(22.10.2020\) by The Lake Lothing \(Lowestoft\) Third Crossing \(Correction\) Order 2020 \(S.I. 2020/1158\)](#), arts. 1, **2(5)**

Commencement Information

I6 Art. 46 in force at 21.5.2020, see **art. 1**

Marginal Citations

M1 1972 c. 70.

M2 S.I. 2016/165.

Fixed penalty notices

47.—(1) This article applies where it appears to an appointed person, or in the case of a byelaw having effect by virtue of article 46(5), the harbour authority, that a person has committed an offence as a result of byelaws made under article 46 (byelaws).

- (2) The appointed person may serve on that person a fixed penalty notice in respect of the offence.
- (3) Where a person is given a fixed penalty notice under this article in respect of an offence—
 - (a) no proceedings may be instituted for that offence before the expiration of 14 days after the date of the notice; and
 - (b) that person may not be convicted of the offence if the fixed penalty is paid before the expiration of 14 days after the date of the notice.
- (4) A fixed penalty notice must state—
 - (a) the amount of the fixed penalty;
 - (b) particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence;
 - (c) the time by which and the manner (including the number to be used for payments by credit or debit card) in which the fixed penalty must be paid; and
 - (d) that proceedings may be instituted if payment is not made within the time specified in the fixed penalty notice.
- (5) The amount of the fixed penalty is—
 - (a) one fifth of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction provided that person pays the fixed penalty in full within 7 days of issue of the fixed penalty notice; or
 - (b) one half of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction.
- (6) An appointed person may require a person to whom this article applies to pay a deposit of one tenth of the maximum amount of the fine to which a person may be liable under level 3 on the standard scale on accepting a fixed penalty notice if that person fails to provide, when requested, a residential address in the United Kingdom.
- (7) Payment of the deposit must be made—
 - (a) in person to the appointed person by cash, credit or debit card, if the appointed person has the necessary means to accept payment in that manner;
 - (b) by telephone by credit or debit card to the number stipulated in the fixed penalty notice for making payments; or
 - (c) by App.
- (8) The undertaker must apply the deposit towards payment of the fixed penalty.
- (9) In any proceedings a certificate which—

- (a) purports to be signed on behalf an officer of the undertaker appointed under section 151 (financial administration) of the Local Government Act 1972; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In this article—

“App” means a software application for use on an electronic device which provides for payment by credit or debit card and which is provided by the undertaker for that purpose;

“credit card” means a card or similar thing issued to any person, use of which enables the holder to defer payment of the deposit;

“debit card” means a card or similar thing issued by any person, use of which causes the deposit to be paid by the electronic transfer of funds from any current account of the holder at a bank or other institution providing banking facilities; and

“fixed penalty notice” means a notice offering the opportunity of the discharge of liability to conviction of an offence under byelaws made under article 46.

Commencement Information

I7 Art. 47 in force at 21.5.2020, see [art. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Lake Lothing (Lowestoft) Third Crossing Order 2020, PART 4.