

2014 No. 2720

HARBOURS, DOCKS, PIERS AND FERRIES

The Dover Harbour Revision Order 2014

Made - - - - *9th October 2014*

Laid before Parliament *14th October 2014*

Coming into force - - *5th November 2014*

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The Dover Harbour Board has applied in accordance with section 14(2)(a) of the Harbours Act 1964(a) (“the Act”) for a harbour revision order under section 14.

(a) 1964 c.40; section 14 was amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 4(1) and 14 and section 40 and Schedule 12 (Part II), by the Transport and Works Act 1992 (c.42), section 63(1) and Schedule 3, paragraph 1, by S.I. 2006/1177, regulation 2 and the Schedule (Part I), by the Planning Act 2008 (c.29), section 36 and Schedule 2, paragraphs 8 and 9, by S.I. 2009/1941, article 2(1) and Schedule 1, paragraph 12 and by the Criminal Justice Act 1982 (c.48), sections 37 and 46. Section 54 (orders and regulations) was amended by the Transport Act 1981 (c.56), sections 18 and 40 and Schedules 6 and 12 (Part II) and by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(2).

The Secretary of State, as the appropriate Minister for the purposes of section 14, has by an order(a) under section 42A of the Act(b) delegated the functions of the appropriate Minister under section 14(c) to the Marine Management Organisation(d).

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b) and in exercise of the powers conferred by section 14(1) and (3), makes the following Order.

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the Dover Harbour Revision Order 2014 and shall come into force on 5th November 2014.

(2) The Dover Harbour Acts and Orders 1954 to 2012 and this Order may together be cited as the Dover Harbour Acts and Orders 1954 to 2014.

Interpretation

2. In this Order—

“the 1954 Act” means the Dover Harbour Consolidation Act 1954(e);

“the 1963 Act” means the Dover Harbour Act 1963(f);

“the 2006 Order” means the Dover Harbour Revision Order 2006(g);

“the Board” means the Dover Harbour Board;

“harbour” means Dover Harbour and has the meaning given by section 4 of the 1954 Act;

“subsidiary” has the meaning given by section 1159(1) of the Companies Act 2006(h); and

“the undertaking” has the meaning given by section 4 of the 1954 Act.

General powers

General functions in respect of the harbour

3.—(1) The Board may take such steps as they may consider necessary or desirable from time to time for the operation, maintenance, management and improvement of—

(a) the harbour and its approaches; and

(b) the harbour facilities.

(2) For those purposes, and without limitation on the scope of paragraph (1), the Board may—

(a) improve, maintain, regulate, manage, mark and light the harbour and provide harbour facilities;

(b) acquire any undertaking or part of an undertaking; and

(a) S.I. 2010/674.

(b) Section 42A was inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(1).

(c) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(d) The Marine Management Organisation was established by the Marine and Coastal Access Act 2009 (c.23), section 1.

(e) 1954 c.iv.

(f) 1963 c.xxix.

(g) S.I. 2006/2167.

(h) 2006 c.46.

- (c) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour.

(3) This article is without prejudice to the powers of the Board under or by virtue of any other enactment.

Development of land etc.

4.—(1) If it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner, the Board may—

- (a) use or develop for any purpose, and deal with, any land within or in the vicinity of the harbour; or
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the harbour.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of a company referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Board would not themselves have the power to do that thing.

Other commercial activities

5.—(1) If it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner, the Board may, in addition to any other powers conferred on the Board—

- (a) carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person; or
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a company for carrying on any part of the undertaking or carrying on at any place a trade or business of any kind.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of a company referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Board would not themselves have the power to do that thing.

Powers to grant tenancies and to dispose of land

6.—(1) The Board may, for the purposes of or in connection with the carrying on of the undertaking, lease or grant the use or occupation of, or any right or interest in or over, any lands, works, buildings, machinery, equipment or other property forming part of the harbour for such period, at such rents and other considerations and on such terms and conditions as they think fit.

(2) The Board may also dispose of, or grant the use or occupation for any purpose of, any lands, works, buildings, machinery, equipment or other property vested in them if they consider that—

- (a) the property is surplus to that which is required for the purpose of the harbour; or
- (b) it would conduce to the improvement, maintenance or management of the harbour in an efficient and economical manner for the property to be held by a person other than the Board,

for such consideration and on such terms and conditions as they think fit.

(3) Nothing in this article shall affect the provisions of section 33 of the 1954 Act (power to dispose of land).

Power to become a member of a company or subscribe for securities

7.—(1) The Board may for the purposes of or in connection with the carrying on of the undertaking subscribe for or acquire shares or securities in, or become a member of, any body corporate.

(2) The power in paragraph (1) is in addition to the powers in article 4(1)(b), article 5(1)(b), section 22(1)(c) of the 1963 Act (additional powers of Board) and article 7 of the 2006 Order (deposits and investments).

Power to delegate functions

8. Subject to paragraph 9B of Schedule 2 to the Harbours Act 1964^(a) (functions which cannot be delegated under a power conferred by a harbour revision order), the Board may delegate the performance of any of their functions to be carried out by any such company as is referred to in article 5(1)(b) or article 5 of the 2006 Order (power to form subsidiaries).

Financial

Power to borrow

9.—(1) The Board, including any subsidiary of the Board, may from time to time borrow, by any methods they see fit, such sums of money as they think necessary for the purposes of meeting their obligations in carrying out their functions^(b); and where moneys are borrowed by the Board or a subsidiary under this article, the Board or subsidiary may, if they see fit, borrow those moneys upon the security of some or all of their assets for the time being or of some or all of their revenues or of some or all of both their assets and their revenues.

(2) This power is in addition to article 19 of the 2006 Order (borrowing and guarantees).

Power to lend

10. The Board may, for the purposes of or in connection with the carrying on of the undertaking, lend money to—

- (a) any such company as is referred to in article 4(1)(b), 5(1)(b) or 7(1) or article 5 of the 2006 Order (power to form subsidiaries); or
- (b) any person carrying on or proposing to carry on harbour operations^(c) or any business within or in the vicinity of the harbour.

Reserve funds

11.—(1) The Board may establish and maintain reserve funds.

(2) The Board may if they think fit carry to a reserve fund any part of their receipts on revenue account as shall be available for the purpose.

Payment of subscriptions, etc.

12. The Board may pay or make reasonable subscriptions, payments or donations, whether annually or otherwise, to the funds of such associations, public institutions or charities as the Board think fit.

(a) 1964 c.40.

(b) For the definition of “functions” see section 57(1).

(c) For the definition of “harbour operations” see section 57(1).

Saving for Trinity House

13. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of the Corporation of Trinity House of Deptford Strond.

Signed by authority of the Marine Management Organisation

A S Beattie

An authorised employee of the Marine Management Organisation

9th October 2014

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers a power on the Dover Harbour Board to take necessary or desirable steps for the operation, maintenance, management and improvement of Dover Harbour, its facilities and approaches (article 3), as well as other connected powers:—

- (a) to use or develop land in or in the vicinity of the harbour either alone or jointly with others (article 4);
- (b) to engage in commercial activities either alone or jointly with others (article 5);
- (c) to lease or dispose of land and other property (article 6);
- (d) to become a member of, or subscribe for securities in, a company (article 7);
- (e) (subject to paragraph 9B of Schedule 2 to the Harbours Act 1964 (c.40)) to delegate functions to subsidiaries (defined in article 2) (article 8);
- (f) to borrow or lend money (articles 9 and 10);
- (g) to establish and maintain reserve funds (article 11);
- (h) to pay or make subscriptions, payments or donations (article 12).

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

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£4.25

UK2014100976 10/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/2720>

ISBN 978-0-11-112167-2



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