

2022 No. 709

HARBOURS, DOCKS, PIERS AND FERRIES

The Dover Harbour Revision Order 2022

Made - - - - 27th June 2022

Laid before Parliament 1st July 2022

Coming into force - - 22nd July 2022

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

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

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) of the Act, makes the following Order.

PART 1

PRELIMINARY

Citation, commencement and extent

- 1.—(1) This Order may be cited as the Dover Harbour Revision Order 2022.
- (2) This Order comes into force on 22nd July 2022.
- (3) The Dover Harbour Acts and Orders 1954 to 2016(f) and this Order may together be cited as the Dover Harbour Acts and Orders 1954 to 2022.
- (4) This Order extends to England and Wales.

Interpretation

- 2.—(1) In this Order—

“the Board” means the Dover Harbour Board(g);

“the deposited plan and section” means the plan and section which is prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “The Dover Harbour Revision Order 2022 Plan and Section” of which one copy has been deposited at the offices of the Marine Management Organisation and one copy has been deposited at the offices of the Board, and it is also available electronically on the Board’s website(h);

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- (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 1), by the Planning Act 2008 (c. 29), section 36 and Schedule 2, paragraphs 8 and 9, by S.I. 2009/1941, article 2 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 Schedule 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).
 - (b) S.I. 2010/674.
 - (c) 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).
 - (d) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1) of the Harbours Act 1964 (c. 40).
 - (e) The Marine Management Organisation was established by the Marine and Coastal Access Act 2009 (c. 23), section 1. The head office address of the Marine Management Organisation is located at Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH.
 - (f) Dover Harbour Consolidation Act 1954 (c. iv), Dover Harbour Act 1963 (c. xxix), the Defence (Transfer of Functions) (Dover Harbour) Order 1964 (S.I. 1964/932), the Dover Harbour Revision Order 1969 (S.I. 1969/1578), the Dover Harbour Revision Order 1975 (S.I. 1975/568) as revoked by the Dover Harbour (Constitution) Revision Order 2016 (S.I. 2016/250), the Dover Harbour Revision Order 1977 (S.I. 1977/2082) as revoked by the Dover Harbour Revision Order 2006 (S.I. 2006/2167), the Dover Harbour Revision Order 1978 (S.I. 1978/1069), the Dover (Pilotage) Harbour Revision Order 1988 (S.I. 1988/2298), the Dover Harbour Revision Order 2006 (S.I. 2006/2167), the Dover Harbour Revision Order 2012 (S.I. 2012/416), the Dover Harbour Revision Order 2014 (S.I. 2014/2720) and the Dover Harbour (Constitution) Revision Order 2016 (S.I. 2016/250).
 - (g) The office address of the Board is Harbour House, Dover, Kent CT17 9BU.
 - (h) <https://www.doverport.co.uk>.

“level of high water” means the level of mean high water springs;
“limits of deviation” means the limits of deviation shown on the deposited plan;
“the harbour” means Dover Harbour and has the meaning given by section 4 (interpretation) of the Dover Harbour Consolidation Act 1954(a);
“tidal work” means so much of any of the works as are on, under or over tidal waters or tidal lands below the level of high water;
“the Maritime and Coastguard Agency” means the Maritime and Coastguard Agency(b), an executive agency of the Department for Transport;
“Trinity House” means the Corporation of Trinity House of Deptford Strond(c);
“the UK Hydrographic Office” means the Hydrographic Office of the Ministry of Defence, Taunton, Somerset TA1 2DN; and
“the works” means the works authorised by this Order, or, as the case may require, any of, or any part of, those works.

(2) All directions, distances, lengths and grid references as stated in any description of the works are to be construed as if the words “or thereabouts” were inserted after each such direction, distance, length and grid reference and any reference in the description of works to a point is a reference to that point on the deposited plan.

(3) In this Order longitude and latitude are stated by reference to the World Geodetic System (WGS84), revised in 1984 and further revised in 2004.

PART 2

WORKS

Power to construct and maintain works

3.—(1) Subject to the provisions of this Order, the Board may in the lines and situations and upon the lands delineated on the deposited plan and within the limits of deviation and according to the levels shown on the deposited section, construct and maintain the works described as follows, together with all necessary works and conveniences connected with, or incidental to it—

A wave wall of steel piled construction 70 metres in length, commencing at a point at 51°07'09.3"N, 1°19'14.2"E proceeding in an easterly direction and terminating at a point at 51°07'08.7"N, 1°19'17.6"E the location and a section of which are shown on the deposited plan and section respectively.

(2) Subject to the provisions of this Order, the Board may, within the limits of deviation, reconstruct, extend, enlarge, replace or relay the works authorised by paragraph (1) and may maintain the same as reconstructed, extended, enlarged, replaced or relaid.

Power to deviate

4. Subject to the provisions of this Order, in carrying out the works authorised by article 3 (power to construct and maintain works) the Board may—

- (a) deviate laterally from the lines or situations of those works as shown on the deposited plan to any extent not exceeding the limits of deviation; and
- (b) deviate vertically from the levels of those works as shown on the deposited section—
 - (i) to any extent not exceeding 3 metres upwards; and

(a) 1954 (c. iv); section 4 and the definition of “the harbour” was amended by the Dover Harbour Revision Order 2012 (S.I. 2012/416), article 3.

(b) Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG.

(c) The Corporation of Trinity House, Tower Hill, London EC3N 4DH.

- (ii) to such extent downwards as may be found necessary or convenient.

Subsidiary works

5.—(1) The Board may from time to time, within the limits of deviation, erect, construct, lay down, place, remove, replace, work or use and maintain whether temporarily or permanently all such works, conveniences and apparatus and take such measures as they from time to time consider fit for the purposes of or in connection with or incidental to the construction, maintenance and use of the works authorised by article 3 (power to construct and maintain works), including, in particular, navigation marks and lights.

(2) In the course of erecting, constructing, laying down, placing, removing and replacing the works authorised by article 3 (power to construct and maintain works), the Board may carry out temporary construction activity, including the temporary placing of plant and equipment in the waters adjoining the limits of deviation.

Obstruction of works

6. Any person who without lawful authority—

- (a) intentionally or recklessly obstructs any person acting under the authority of the Board in setting out the lines of or in constructing the works; or
- (b) without reasonable excuse interferes with, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and will in addition be liable to repay to the Board as a debt any expenses incurred by it in making good any damage resulting from such obstruction, interference, moving or removal.

Survey of tidal works

7. The Secretary of State may at any time, if the Secretary of State deems it expedient to do so, order a survey and examination of a tidal work or a site upon which it is proposed to construct such a tidal work and any expenditure incurred by the Secretary of State in connection with any such survey and examination will be recoverable from the Board.

Provision against danger to navigation

8.—(1) In the case of injury to, or destruction or decay of, a tidal work or any part thereof, the Board must—

- (a) as soon as reasonably practicable notify Trinity House, the Maritime and Coastguard Agency and the UK Hydrographic Office; and
- (b) lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may from time to time direct.

(2) If the Board fails to comply in any respect with the provisions of this article, it is guilty of an offence and liable—

- (a) on summary conviction to a fine; or
- (b) on conviction on indictment, to a fine.

Abatement of works abandoned or decayed

9.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Board at its own expense either to repair and restore the tidal work or any part of it, or to remove the tidal work and restore the site of the tidal work to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) If, on the expiration of 30 days from the date when a notice under this article is served upon the Board it has failed to comply with the requirements of the notice, the Secretary of State may execute works specified in that notice and any expenditure incurred by the Secretary of State in so doing will be recoverable from the Board.

Lights on tidal works during construction

10.—(1) During the whole time of the construction, demolition, replacement, reconstruction or alteration of a tidal work the Board must at the outer extremity thereof every night from sunset to sunrise exhibit such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) If the Board fails to comply in any respect with a direction given under paragraph (1), it is guilty of an offence and liable—

- (a) on summary conviction to a fine; or
- (b) on conviction on indictment to a fine.

Permanent lights on tidal works

11.—(1) After the completion of a tidal work the Board must at the outer extremity of such a tidal work exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) If the Board fails to comply in any respect with a direction given under paragraph (1), it is guilty of an offence and liable—

- (a) on summary conviction to a fine; or
- (b) on conviction on indictment to a fine.

Period for completion of works

12.—(1) Subject to paragraph (2), if the works authorised by article 3 (power to construct and maintain works) are not substantially completed within ten years from the coming into force of this Order or such extended time as the Secretary of State may on the application of the Board allow, then on the expiration of that period, or such extended time (as the case may be), the powers by this Order granted to the Board for making and maintaining those works will cease except as to so much of them as is then substantially commenced.

(2) Nothing in paragraph (1) affects the carrying out of any works under paragraph (2) of article 3 (power to construct and maintain works) or article 5 (subsidiary works).

Works to be deemed part of the harbour

13. The works will be deemed for all purposes to be part of the harbour and all the enactments relating to the harbour, and the byelaws, directions, rules and regulations of the Board for the time being in force relating to the harbour, apply (so far as they are applicable and are not inconsistent with or varied by this Order) to the works and may be enforced by the Board accordingly.

PART 3

MISCELLANEOUS AND GENERAL

Defence of due diligence

14.—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2) it will be a defence for the Board to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

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

- (a) article 8 (provision against danger to navigation);
- (b) article 10 (lights on tidal works during construction); and
- (c) article 11 (permanent lights on tidal works).

(3) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the Board will not, without leave of the court, be entitled to rely on that defence unless, within a period of seven clear days before the hearing, they have served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in their possession.

Saving for Trinity House

15. Nothing in this Order may prejudice or derogate from any of the rights, duties or privileges of Trinity House.

Crown rights

16.—(1) Nothing in this Order shall—

- (a) prejudicially affect any estate, right, power, privilege, authority or exemption of the Crown; or
- (b) authorise the Board to take, use, enter upon or in any manner interfere with any land, hereditaments or rights of whatsoever description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary) belonging to—
 - (i) Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
 - (ii) a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under paragraph (1)(b) may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.

Signed by authority of the Marine Management Organisation

Tom McCormack
Chief Executive Officer

Date An employee of the Marine Management Organisation

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises the Dover Harbour Board (“the Board”) to construct and maintain works at Dover Harbour in the County of Kent.

The principal work comprises the construction of a wave wall (article 3) which may be constructed within the limits of deviation (article 4). The Board is also authorised to carry out subsidiary works within the limits of deviation in connection with the construction of the wave wall as well as temporary construction activity in the waters adjacent to those limits (article 5).

The Order creates an offence of intentionally or recklessly obstructing or, without reasonable excuse, interfering with the construction of the works, with a person guilty of such an offence being liable on summary conviction to a fine not exceeding level 3 on the standard scale (article 6).

The Secretary of State may order a survey and examination of a tidal work or of the site on which that work is to be constructed (article 7).

Provision is made against danger to navigation in the event of injury to, or destruction or decay of, a tidal work (article 8) and for the abatement of a tidal work in the event that they become abandoned or decayed (article 9).

Provision is made for the lighting of a tidal work during its construction or any alteration (article 10) and for the permanent lighting of a tidal work after it has been constructed (article 11).

In the event that the works authorised by article 3 are not substantially completed within ten years from the coming into force of the Order (or such extended time as the Secretary of State may allow) then provision is made for the powers to construct and maintain those works to cease except as to so much of them as is then substantially commenced (article 12).

Provision is made for the works authorised by the Order to be deemed for all purposes to be part of the harbour (defined in article 2(1)) (article 13) so that all enactments relating to the harbour and the byelaws, directions, rules and regulations of the Board for the time being in force relating to the harbour, apply to the works and may be enforced by the Board.

A defence of due diligence is available to the Board in respect of offences under articles 8, 10 and 11 (article 14).

The Order provides a saving for Trinity House (article 15) and protection for the Crown (article 16).

The deposited plan and section referred to in article 2(1) may be inspected during working hours at the offices of Dover Harbour Board at Harbour House, Dover, Kent CT17 9BU and at the offices of the Marine Management Organisation at Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH. It is also available for inspection on the Dover Harbour Board website, <https://www.doverport.co.uk>.

An impact assessment has not been prepared for this Order as there is no, or no significant, impact predicted on businesses, charities, voluntary bodies or the public sector.

An Explanatory Memorandum together with a copy of the deposited plan and section is available alongside the instrument on the UK legislation website, www.legislation.gov.uk.

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