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STATUTORY INSTRUMENTS

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**2010 No. 0000**

**MERCHANT SHIPPING**

**MARITIME SECURITY**

**The Port Security (Port of Dover) Order 2010**

<i>Made</i>	- - - -	2010
<i>Laid before Parliament</i>		2010
<i>Coming into force</i>	- -	2010

The Secretary of State for Transport makes this Order in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a):

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to port security, measures relating to the safety of ships and the health and safety of persons on them, and maritime transport(b).

**Citation and commencement**

1. This Order may be cited as the Port Security (Port of Dover) Order 2010 and comes into force on [INSERT DATE] 2010.

**Port boundary**

2. For the purposes of regulation 3(2) of the Port Security Regulations 2009(c) the boundaries of the port of Dover are those delineated by red lines on the plan set out in Schedule 1.

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(a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).  
(b) S.I. 1993/595, 1994/757 and 2004/706.  
(c) S.I. 2009/2048.

**Port of Dover Security Authority**

3.—(1) For the purposes of the Port Security Regulations 2009, a body to be known as the Port of Dover Security Authority is designated as the port security authority for the port of Dover.

(2) Schedule 2 has effect with respect to the Port of Dover Security Authority.

Signed by authority of the Secretary of State

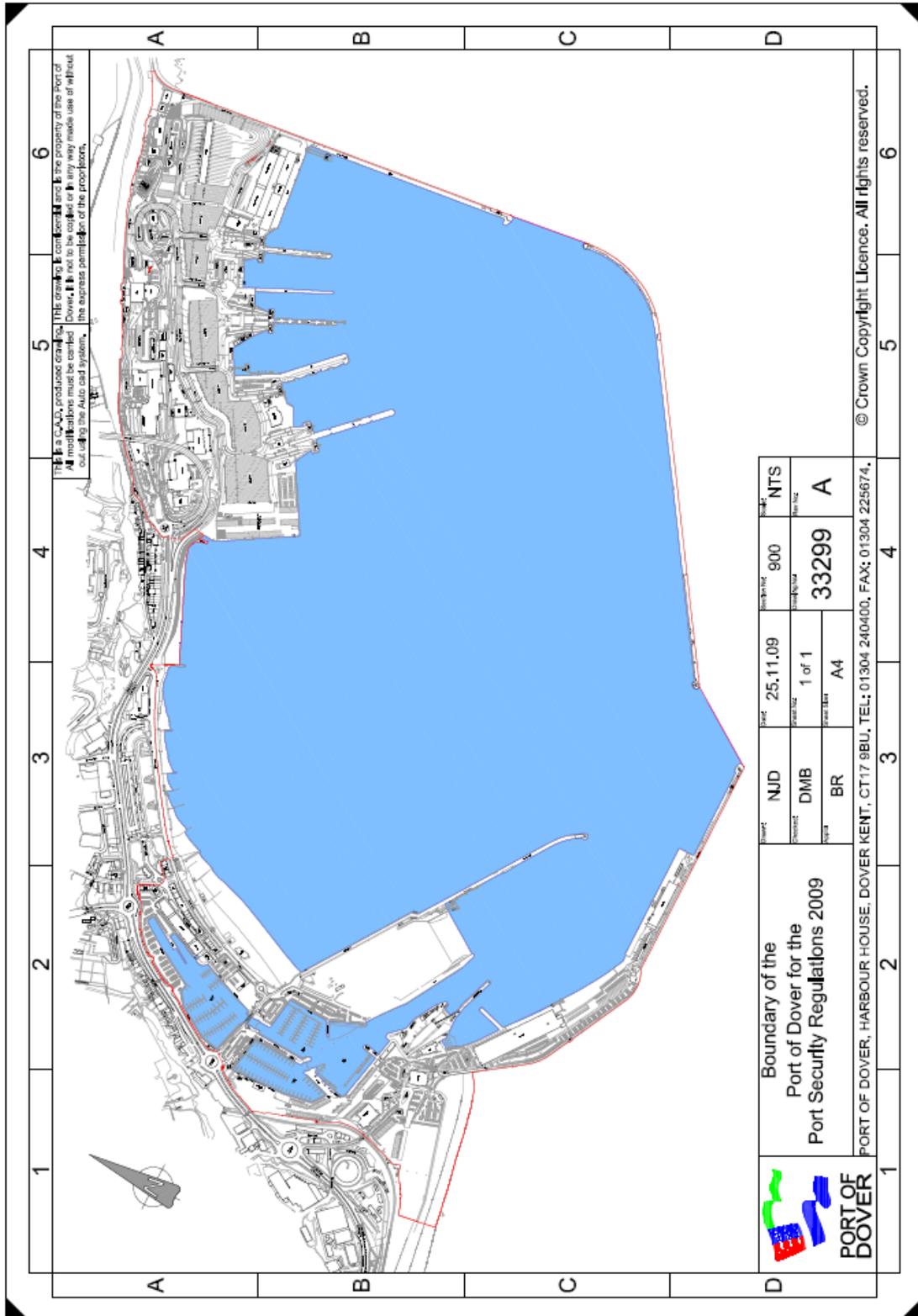
Date

*Name*  
[Parliamentary Under Secretary] [Minister] of State  
Department for Transport

# SCHEDULE 1

Article 2

## Boundary of the Port of Dover



## SCHEDULE 2

Article 3(2)

### The Port of Dover Security Authority

#### Members

1.—(1) The Port of Dover Security Authority (in this Schedule called “the Authority”) is to consist of three or more members, each of them appointed by the Secretary of State.

(2) Subject to the following provisions of this paragraph, each member of the Authority—

- (a) holds and vacates office in accordance with the terms of the member’s appointment; and
- (b) on ceasing to be a member is eligible for re-appointment.

(3) A member of the Authority may resign the office of member by giving notice to that effect to the Secretary of State and will cease to hold office—

- (a) on the date specified for the purpose in the notice; or
- (b) if that date falls before the expiration of the period of 21 days beginning with the date on which the notice is served, on the date immediately following the expiration of that period.

(4) The Secretary of State may give notice to a member to the effect that the member will cease to hold office on a date specified for the purpose in the notice.

(5) A notice under subparagraph (4) may be given only in one or more of the following circumstances—

- (a) the member has failed to attend four or more consecutive meetings of the Authority without the permission of the Secretary of State;
- (b) the member has a financial interest and it appears to the Secretary of State that the interest is likely to influence or to be capable of being seen as influencing the performance of the member’s functions;
- (c) the member has been adjudged bankrupt, the member’s estate has been sequestrated or the member has made a composition with creditors or granted a trust deed for creditors;
- (d) there has been misconduct on the part of the member relevant to the office of a member of the Authority; or
- (e) the member is unable or unfit to perform the functions of the office.

(6) It is the duty of every member of the Authority, so far as is reasonably practicable, to attend all meetings of the Authority.

(7) If it be impracticable for a member to attend a meeting, the member must appoint another member to act as a proxy.

(8) A proxy must speak and vote at the meeting on behalf of the absent member as that member may direct.

#### Proceedings of the Authority

2.—(1) Subject to the provisions of this Order, it is for the Authority to regulate its own procedure (including quorum).

(2) The election of one of the members as chair of the Authority must be the first business transacted at the first meeting of the Authority.

(3) The person elected remains the chair of the Authority until that person—

- (a) is replaced as chair by another member; or
- (b) ceases to be a member of the Authority, in which case it becomes the duty of the Authority to appoint a new chair as soon as may be.

(4) The validity of any proceedings of the Authority is not affected by a vacancy amongst the members or by a defect in the appointment of a member.

(5) Other than in exceptional circumstances which require a meeting of the Authority to be held at short notice, the Authority must give the Secretary of State at least three days clear notice of a meeting of the Authority together with a copy of the agenda for the meeting.

(6) A representative of the Secretary of State may attend any meeting as an observer.

(7) Minutes must be kept of the proceedings of the Authority.

(8) The Authority must provide the Secretary of State with a copy of the minutes of a meeting before the end of the period of thirty days beginning with the day of the meeting.

### **Members' interests**

3.—(1) A member who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Authority must disclose the nature of the interest to the meeting.

(2) Where such a disclosure is made—

(a) the disclosure must be recorded in the minutes of the meeting; and

(b) the member must not take any part in any deliberation or decision of the Authority, or of any of its committees or sub-committees, with respect to that matter.

(3) For the purposes of subparagraph (1), a general notification given at a meeting of the Authority by a member to the effect that the member—

(a) is a member of a specified company or firm, and

(b) is to be regarded as interested in any matter involving that company or firm,

is a sufficient disclosure of the member's interest in relation to any such matter.

(4) A member need not attend in person at a meeting of the Authority in order to make a disclosure required to be made under this paragraph, provided that the member takes reasonable steps to secure that the disclosure is made by a notice which is read and considered at the meeting.

(5) Subject to sub-paragraph (6), a member of the Authority is to be treated for the purposes of this paragraph as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

(a) the member, or a nominee of the member, is a director of a company or other body (not being a public body) with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration, or

(b) the member is in partnership with, or is in the employment of, a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration,

and in the case of two persons living together as a couple (whether married or not) an interest of one, if known to the other, is deemed for the purposes of this paragraph also to be an interest of the other.

(6) A member is not to be treated as having a pecuniary interest in any matter by reason only—

(a) of membership of a company or other body if the member has no beneficial interest in the securities of that company or other body; or

(b) of an interest which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in the consideration or discussion, or voting on, any question with respect to that matter.

(7) The Secretary of State may, subject to such conditions as appear to the Secretary of State to be appropriate, remove any disability imposed by virtue of this paragraph in any case where the disability was impeding or likely to impede the ability of the Authority to perform its functions under this Order or under the Port Security Regulations 2009.

(8) The power of the Secretary of State under subparagraph (6) includes power to remove, either indefinitely or for any period, a disability which would otherwise attach to any member, or

(9) Nothing in this paragraph precludes any member from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Secretary of State for the exercise of the power conferred by subparagraph (6).

(10) Any person who fails to comply with the provisions of subparagraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(11) A person shall not be convicted of an offence under subparagraph (9) if it is proved that that person did not know that the contract, proposed contract or other matter in which that person had a pecuniary interest was the subject of consideration at the meeting concerned.

### **The Crown**

4. The Authority is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and its property is not to be regarded as property of, or held on behalf of, the Crown.

### **EXPLANATORY NOTE**

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

This Order is one of a series of Orders implementing Directive 2005/65/EC of the European Parliament and of the Council of 26th October 2005 (OJ L 310, 25.11.2005, paragraph 28) on enhancing port security at individual ports in the United Kingdom. The Directive was transposed in relation to the United Kingdom as a whole by the Port Security Regulations 2009 (S.I. 2009/2048).

*Article 2* and *Schedule 1* identify the boundaries of the Port of Dover for the purposes of regulation 3(2)(a) of the Port Security Regulations 2009. *Article 3(1)* designates, for the purposes of those Regulations, a body to be known as the Port of Dover Security Authority as the port security authority for the Port of Dover. *Article 3(2)* and *Schedule 2* make provision with respect to the Authority's membership and proceedings, to members' interests and to the Authority's status as a non-Crown body.

An impact assessment and Explanatory Memorandum have been prepared in respect of this Order and are available alongside the Order on the OPSI website ([www.opsi.gov.uk](http://www.opsi.gov.uk)).