

2014 No.

HARBOURS, DOCKS, PIERS AND FERRIES

The Poole Harbour Revision (Works) Order 2014

<i>Made</i>	- - - -	2014
<i>Laid before Parliament</i>		2014
<i>Coming into force</i>	- -	2014

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The Poole Harbour Commissioners have applied in accordance with section 14(2)(a) of the Harbours Act 1964 (“the Act”) for a harbour revision order under section 14 of the Act. The Secretary of State, as the appropriate Minister for the purposes of that section, has by an order made under section 42A of the Act delegated the functions of the appropriate Minister under section 14 of the Act to the Marine Management Organisation. The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b) of the Act and in exercise of the powers conferred by section 14(1), makes the following Order

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Poole Harbour Revision (Works) Order 2014 and shall come into force on [] 2014

(2) The Poole Harbour Act 1914, the Poole Harbour Act 1925, the Poole Harbour Revision Order 1999, the Poole Harbour Revision Order 2001, the Poole Harbour Revision Order 2012 and this Order may be cited together as the Poole Harbour Acts and Orders 1914 to 2014

Interpretation

2.—(1) In this Order—

“authorised works” means the works authorised by this Order, or any part of such works;

“Chart Datum” in relation to any depth of dredging is 1.4 metres below Ordnance Datum;

“the Commissioners” means the Poole Harbour Commissioners

“the deposited plans” and “the deposited sections” mean respectively the plans and sections (numbered sheets HRO1 to HRO5) prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Plans and sections The Poole Harbour Revision (Works) Order 2014” of which one copy has been deposited at the offices of the Marine Management Organisation and the other at the principal office of the Commissioners at 20 New Quay Road, Hamworthy, Poole, Dorset BH15 4AF

“the harbour” means Poole Harbour;

“harbour undertaking” means the undertaking of the Commissioners authorised by the Poole Harbour Acts and Orders 1914 to 2014

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

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

“limits of deviation” means the limits of deviation shown on the deposited plans;

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

“WGS84” means the World Geodetic System, revised in 1984 and further revised in 2004.

(2) All situations, points, directions, distances, lengths, dimensions, areas and other measurements stated in this Order (other than the limits of deviation) shall be construed as if the words “or thereabouts” were inserted after each such situation, point, direction, distance, length, dimension, area or other measurement.

(3) In this Order, references to named, numbered or lettered breakwaters, heads of breakwaters, beacons, buildings, channels, coves, creeks, lights, piers and slipways, or other points, places, structures and apparatus are references to those so named, numbered or lettered on the Admiralty Charts.

(4) In this Order—

(a) any reference to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order; and

(b) map reference points specified shall be construed as references to WGS 84 coordinates.

(5) References in the Poole Harbour Revision Acts and Orders 1914 to 2014 to the harbour undertaking of the Commissioners and to the harbour premises shall in each case be construed for all purposes as including references to any works carried on and any lands reclaimed by the Commissioners or any of its subsidiaries under or by virtue of this Order.

PART 2

WORKS

Power to construct, etc., works

3. —(1) Subject to the provisions of this Order, the Commissioners may (within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections) construct and maintain the whole or part of the following work on and in the bed and foreshore of the harbour, together with all necessary works and conveniences connected with or incidental to them—

Work No. 1

The construction of vertical steel sheet piled quay walls and concrete capping, with heavy duty port surfacing to a height of 4.5metres above Chart Datum on or within the area defined by the lines drawn as follows:

- a) A line commencing at 50 42.441N, 001 59.349W and extending in a south easterly direction for 58 metres to 50 42.434N, 001 59.302W then proceeding in an easterly direction for 190 metres to 50 42.434N, 001 59.142W thereby creating 180 linear metres of south facing berthing face (excluding radii).
- b) A second line commencing at the easternmost point of the said south facing berthing face and extending in a north-north westerly direction for 44 metres to 50 42.457N, 001 59.147W then proceeding in a westerly direction for 184 metres to 50 42.457N, 001 59.302W.

Work No. 2

Reclamation of so much of the foreshore and bed of the sea by means of Work No 1 as lies within the limits of deviation as is required for, or in connection with, the authorised works.

Work No3

The construction of vertical steel sheet piled quay walls and concrete capping, with heavy duty port surfacing to a height of 4.5metres above Chart Datum on or within the area defined by the lines drawn as follows:

- a) A line commencing at point 50 42.457N, 001 59.147W and extending in a north-north westerly direction for 85 metres to point 50 42.503N, 001 59.157W creating a total linear metreage of east berthing face (in conjunction with Work No 1) of 120 metres (excluding radii)
- b) A second line commencing at the northernmost point of the said eastern berthing face and extending in a west-south westerly direction for 27 metres to 50 42.500N, 001 59.180W, then extending in a south westerly direction for 74 metres to 50 42.468N, 001 59.214W at which point the wall extends in a westerly direction for 114 metres to 50 42.467N, 001 59.309W, whereupon the wall extends in a south easterly direction for 21m to 50 42.457N, 001 59.302W to tie in with Work No 1.

Work No 4

Reclamation of so much of the foreshore and bed of the sea by means of Work No 3 as lies within the limits of deviation as is required for, or in connection with, the authorised works.

Work No 5

Construction of vertical steel sheet piled quay walls and concrete capping, with heavy duty port surfacing to a height of 4.0metres above Chart Datum on or within the area defined by the lines drawn as follows:

1. A line commencing at 50 42.687N, 001 59.290W and extending in an east-south easterly direction for 83 metres to 50 42.670N, 001 59.225W, then extending in a south easterly direction for 90 metres

to 50 42.628N, 001 59.186W to form the berthing faces of Ballast Quay and Bulwark Quay respectively.

2. From 50 42.628N, 001 59.186W the line extends in a south-south easterly direction for 195 metres to 50 42.524N, 001 59.162W to create 190 metres of berthing face to New Quay (excluding radii).
3. From 50 42.524N, 001 59.162W the line extends in a west-south westerly direction for 48 metres to 50 42.520N, 001 59.203W before turning in a north-north westerly direction for 36 metres to 50 42.540N, 001 59.204W to tie back into the Port.

Work No 6

Reclamation of so much of the foreshore and bed of the sea by means of Work No 5 as lies within the limits of deviation as is required for, or in connection with, the authorised works.

Work No 7

Construction of vertical steel sheet piled quay walls and concrete capping, with heavy duty port surfacing to a height of 4.0metres above Chart Datum on or within the area defined by the lines drawn between 50 42.524N, 001 59.162W and 50 42.503N, 001 59.157W in a south-south easterly direction for 40 metres, in order to connect Work No 3 and Work No 5, together with the infilling of the Port of Poole Marina.

Work No 8

Reclamation of so much of the foreshore and bed of the sea by means of Work No 7 as lies within the Port of Poole Marina and the limits of deviation as is required for, or in connection with, the authorised works.

Work No 9

Construction of vertical steel sheet piled quay walls and concrete capping, with heavy duty port surfacing to a height of 4.5metres above Chart Datum and tied back to existing port infrastructure on or within the area defined by a line commencing at 50 42.434N, 001 59.302W and extending in a westerly direction for 350 metres to 50 42.434N, 001 59.601W.

Work No 10

Reclamation of so much of the foreshore and bed of the sea by means of Work No 9 as lies within the Ro-Ro berths 2, 3 and the limits of deviation as is required for, or in connection with, the authorised works.

(2) The Commissioners may construct and maintain the authorised works comprising the same in such stages and along such lines within the areas described within the limits of deviation and employing such materials as the Commissioners may from time to time deem appropriate

(3) The Commissioners may from time to time within the limits of deviation alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the authorised works and may maintain the same as altered, enlarged, replaced, relayed, extended or reconstructed.

(4) The authorised works and the bed, banks and shores of the harbour on which the authorised works are constructed and any lands reclaimed shall for all purposes form part of the harbour undertaking of the Commissioners and of the harbour premises and all enactments conferring rights, powers, privileges or immunities or imposing duties, obligations or liabilities upon the Commissioners or its officers, and all byelaws for the time being in force in relation to the harbour undertaking or the harbour premises, shall so far as relevant, apply to the authorised works and such bed, banks, shores and lands and may be enforced by the Commissioners accordingly.

Rights of Public Navigation

4. If the construction and use of the authorised works conflict with any public rights of navigation that may exist such rights are extinguished or varied to the extent necessary to ensure that there is no such conflict.

Power to deviate

5. Subject to the provisions of this Order, in constructing the authorised works the Commissioners may deviate laterally from the lines or situations shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding one and a half metres upwards or to any extent downwards as may be found necessary or convenient.

Subsidiary works

6.—(1) Subject to the provisions of the Order, the Commissioners 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, appliances and apparatus and take such measures as it from time to time considers fit for the purposes of or in connection with or incidental to the construction, maintenance and use of the authorised works, including without prejudice to the generality of the foregoing, navigation marks and lights.

(2) In the course of erecting, constructing, laying down, placing, removing and replacing the authorised works the Commissioners may carry out construction activity, including the temporary placing of plant and equipment, within the water adjoining the limits of deviation.

Period for completion of works

7.—(1) Subject to paragraph (2), if the authorised works are not completed within 50 years from the coming into force of this Order or such extended time as the Secretary of State may, on the application of the Commissioners allow, then, on the expiration of that period, or such extended time (as the case may be), the powers granted by this Order to the Commissioners for constructing and maintaining such authorised works shall cease except as to so much of them as is then substantially commenced.

(2) Nothing in paragraph (1) shall apply to any works carried out under article 5.

Works to be within the borough of Poole

8.—(1) On the accretion date, the area of the whole or so much of the works authorised by article 3 and article 5 as shall have been completed or substantially completed shall, to the extent that they are outside the area of the Borough of Poole, be annexed to and incorporated within the Borough of Poole;

(2) In this article, “accretion date” means whichever of the following dates first occurs, namely, the date when the works so authorised have been completed or the date when the powers conferred by article 3 shall cease to have effect.

(3) Nothing in this article shall require the performance of any functions under the Ordnance Survey Act 1841^(a) until the Commissioners has certified in writing to the Director General of Ordnance Survey that the authorised works have been completed.

Power to dredge

9.—(1) Subject to the provisions of this Order, the Commissioners may, for the purposes of constructing and maintaining the authorised works and to afford uninterrupted means of access to the authorised works and enabling their use at all states of the tide, from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the harbour within an area not exceeding 40 metres in width adjacent to all berthing faces created as part of the authorised works to a depth of not more than 9 metres below Chart Datum (unless the Secretary of State shall approve otherwise in writing).

(2) The Commissioners may as they think fit use, appropriate or dispose of any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995^(b)) from time to time dredged, taken or collected by it in the course of any such operations.

(3) No materials referred to in this article shall—

(a) be disposed of in contravention of the provisions of any enactment relating to the disposal of waste; or

(b) be deposited below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Obstruction of works

10. Any person who intentionally obstructs any person acting under the authority of the Commissioners in setting out the lines of the authorised works, or who interferes with, moves or removes any pole, stake, station point or bench mark established for the purpose of

^(a) 1841 c. 30.

^(b) 1995 c. 21.

such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Provision against danger to navigation

11.—(1) In case of injury to, or destruction or decay of, the authorised works or any part of them the Commissioners shall as soon as reasonably practicable notify Trinity House, the Maritime and Coastguard Agency and the United Kingdom Hydrographic Office and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

(2) If the Commissioners fails to notify Trinity House, the Maritime and Coastguard Agency and the United Kingdom Hydrographic Office as required by this article or to comply in any respect with a direction given under this regulation, the Commissioners shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

12.—(1) Where authorised works (or any part of them) are abandoned or suffered to fall into decay, the Secretary of State may by notice in writing require the Commissioners at its own expense either to repair and restore the relevant part of the authorised works, or to remove the authorised works and restore its site to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where an authorised work consisting —

(a) partly of authorised works, and

(b) partly of works on or over land above the level of high water,

is abandoned or suffered to fall into decay and the works mentioned in sub-paragraph (b) are in such condition as to interfere or to cause reasonable apprehension that they may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include those works, or any portion thereof, in any notice under paragraph (1).

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

Survey of authorised works

13. The Secretary of State may at any time, if he deems it expedient to do so, order a survey and examination of the authorised works or of the site upon which it is proposed to construct the work and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Commissioners.

Permanent lights on authorised works

14.—(1) After the completion of the authorised works the Commissioners shall at the outer extremity of such work exhibit every night from sunset to sunrise and during daylight hours in restricted visibility such lights, shapes and signals and take such other steps for the prevention of danger to navigation as Trinity House shall from time to time direct.

(2) If the Commissioners fail to comply in any respect with a direction given under this article, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Lights on tidal works during construction, etc.

15.—(1) The Commissioners shall at or near any authorised works during the whole time of the construction of any tidal works required in connection with the construction of the authorised works exhibit every night from sunset to sunrise and during daylight hours in restricted visibility such lights shapes and signals and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Commissioners fail to comply in any respect with a direction given under article (1), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction or indictment to a fine.

Defence of due diligence

16.—(1) In proceedings for an offence under article 10, 13 or 14 it shall be a defence for the Commissioners to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) 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 Commissioners shall not, without leave of the court, be entitled to rely on that defence unless, within a period of seven clear days before the hearing, it has 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 its possession.

PART 3

MISCELLANEOUS AND GENERAL

Crown rights

17.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the foregoing, nothing in this Order authorises the Commissioners 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 other river, channel, creek, bay or estuary)—

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners, or

(b) belonging to 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) above may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary as appropriate.

Saving for Trinity House

18. Nothing in the provisions of this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.

For the protection of the Environment Agency

19. Nothing in this Order or in any enactment applied by this Order shall prejudice or affect the operation of section 109 of the Water Resources Act 1991^(c) or any byelaw made under that Act or the Land Drainage Act 1991^(d) in relation to anything done under or in pursuance of this Order.

Disapplication of regulation 73 of the Conservation of Habitats and Species Regulations 2010

20. Regulation 73 of the Conservation of Habitats and Species Regulations 2010^(e) shall not apply to any planning permission which relates to the development authorised by this Order and which is granted by article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995^(f) for the class of development described as permitted development in Part 11 of Schedule 2 to that Order.

[Date 2014]

^(c) 1991 c. 57; section 109 was amended by the Environment Act 1995 (c. 25), section 120 (1), Schedule 22, paragraph 128

^(d) 1991 c. 59.

^(e) S.I. 2010/490.

^(f) S.I. 1995/418.

EXPLANATORY NOTE

(This note is not part of the Order)