

**Consultation on the draft Designation Orders implementing
the Port Security Regulations 2009 (SI 2009/2048) at the Ports
of:**

Portland;
Grangemouth;
Workington;
Milford Haven;
Liverpool;
Tees and Hartlepool;
Aberdeen
(DFT-2012-013)

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Aberdeen

Executive Summary

1. This consultation seeks views and any comments from those who may be affected by the contents of the draft Designation Orders for each of the Listed Ports:

Port of Portland and the Port of Portland Security Authority
Port of Grangemouth and the Port of Grangemouth Security Authority

Port of Workington and the Port of Workington Security Authority

Port of Milford Haven and the Port of Milford Haven Security Authority

Port of Liverpool and the Port of Liverpool Security Authority

Port of Tees, Port of Hartlepool and the Port of Tees and Hartlepool Port Security Authority

Port of Aberdeen and the Port of Aberdeen Security Authority

2. The policy objective is to enhance security at ports in accordance with Directive 2005/65/EC and in so doing complement existing measures to help prevent successful maritime terrorist incidents.

Background

3. The EU Directive on enhancing port security (2005/65/EC) was agreed in 2005 to extend the previous port security regime for EU Member States (Regulation (EC) No 725/2004) from the ship/port interface to include the wider port area and any port-related areas, taking into account any areas adjacent to the port that have an impact on security in the port. This Directive was transposed into UK law in the Port Security Regulations 2009 (SI 2009/2048) which came into force on 1 September 2009.

4. The Port Security Regulations 2009 require the establishment of Port Security Authorities (PSAs) for qualifying ports across the UK. Each PSA will have responsibility for carrying out a port security risk assessment for the port and for developing, implementing and maintaining an agreed port security plan based on that risk assessment.

6. The boundary of the port and the designation of the Port Security Authority are set out in a Designation Order (DO) to allow the relevant provisions of the Port Security Regulations 2009 to be applied. The port security risk assessment that is to be carried out will identify any sub-areas within the port which may require further security and mitigation measures and these will be included in the port security plan.

7. Following the coming into force of the DO the Port Security Authority must meet to appoint a chairperson and a Port Security Officer, along with agreeing the membership. The appointment of the PSA members will then need to be agreed by MLTS at the Department for Transport on behalf of the Secretary of State for Transport. As required by the regulations, the port security risk assessment must then be completed and submitted for approval by the Secretary of State within nine months of the Designation Order coming into force. Within twelve months from the DO coming into force the PSA must submit a Port Security Plan, based on the assessment, to MLTS for approval.

Port Boundary

8. The Designation Orders attached at Annex D to J seek to designate the Port Security Authority for each of the Listed Ports as defined for the purposes of the Port Security Regulations 2009. The proposed port boundary for each Listed Port is as defined in the Designation Order for that port.

9. Once the Designation Order comes into force, the Port Security Regulations 2009 will have effect and the port security risk assessment will cover all commercial maritime operations within the boundary delineated in that order.

Port Security Authority (PSA)

10. The EU Directive on enhancing port security (2005/65/EC) requires the setting up of Port Security Authorities which will then have responsibility for carrying out the port security risk assessment and for developing and maintaining the port security plan. This requirement was carried into the UK Port Security Regulations 2009.

11. The proposed PSA membership is not set out in the draft Designation Order. However, it must consist of at least three members, whose membership must be approved by the Secretary of State. The Port Facility Security Officers (PFSOs) for port facilities within the boundary will either need to be members of the PSA themselves, or must nominate a representative to be a member. A member of the PSA could represent the owner or operator of a port facility, or the directed party of an AMSA facility (i.e. a party subject to a direction by the Secretary of State under Part III of the Aviation and Maritime Security Act 1990), or a port related area, or other person who has an interest in the security of the port.

12. The PSA must meet at least twice a year and will include other key local stakeholders such as the police and the UK Border Agency (although this will in most cases be with 'advisor' status rather than full membership of the PSA). The chairperson will be elected by the PSA although in many cases the chairperson may be the Port Security Officer, as also elected by the PSA and approved by the Secretary of State. The costs of these and the other measures are included in an Impact Assessment published separately on the Department's website.

13. For each of the listed Ports; the draft Designation Order looks to designate the "Port Security Authority" as the Port Security Authority for the purposes of Regulation 5 of the Port Security Regulations 2009.

Port Related Areas

14. It may be desirable or necessary to include sites or facilities as "port related areas" (PRA) in the overall port security plan. Where there is a perceived benefit to the security of the commercial maritime transport operations within a port it is possible to apply some measures to sites that otherwise fall outside the scope of the Regulations or direction under AMSA. An example might be including the premises of a freight forwarder so its containers or trailers can be fast tracked through a particular port's security measures, to mutual advantage.

15. If a site is designated as a port related area then even if it is not involved in a commercial maritime operation the Port Security

Regulations will have effect. This means that for the purposes of the Regulations the PRA must designate a security manager to become a member of the Port Security Authority, to provide input to the risk assessment for the port and to develop and maintain a port related area security plan. The full requirements for the PRA and Security Managers are set out in Schedule 1 of the Port Security Regulations 2009.

17. In each of the Listed Ports; following an initial risk assessment by the proposed Port of Dover Port Security Authority, referred to in the previous section, the draft Designation Order does not at present include any port related areas (PRAs). However, as the Port Security Regulations allow for the establishment of port related areas, should they be deemed necessary, we would welcome views on whether you feel that there should be any port related area(s) included in the Designation Order for a Listed Port.

Working procedure of the Port Security Authority

18. Schedule 2 of the Designation Order sets out the proposed working procedures and the constitution of the Port Security Authority. We would welcome your comments on the proposals and if there is anything that you feel should be amended or. It is for the PSA to agree at its first meeting on the detailed terms of reference and working practices of the PSA. A suggested template will be made available to members of the PSA from MLTS in advance of the first meeting.

Impact on Small Firms

19. We would like to hear from any small business, that is one employing 50 or less, that will be directly affected by these draft Designation Orders.

Consultation Questions

Q1. For each of the Listed Ports; are you content with the proposed boundaries as set out in the Designation Order?

If not please set out your reasons for disagreement and any suggested amendments.

Q2. For each of the Listed Ports; are you content for the "Port Security Authority" to be designated at that port for the purposes of the Port Security Regulations 2009?
If not please set out your reasons for disagreement.

Q3. For each of the Listed Ports: are you content with the proposal that there are no port related areas for that port?
If not please set out your reasons for disagreement and suggest any port related areas you feel should be included with reasons.

Q4. For each of the Listed Ports; are you content with the proposed working procedures for the Port Security Authority in Schedule 2 of the DO?
If not please set out your reasons for disagreement and suggest possible amendments to the Schedule.

Q5. For each of the Listed Ports: are there other port facilities nearby that should be included within the PSA for that port?
If so will you explain which facility / facilities and why?

Q6. For each of the Listed Ports: will the establishment of a Port Security Authority at that port affect a small or medium size business ?
If so will you explain how?

Q7. For each of the Listed Ports: are you content with the start-up and per annum cost estimates provided in the Impact Assessment for the Port Security Authority, Port Security Officer, Port Security Assessment and Port Security Plan?

If not please set out your reasons and suggest alternative costs.

Q8. For each of the Listed Ports; do you have any general comments about the draft Designation Order not covered in the above questions?

How to Respond

The consultation period began on 26.03.2012 and will run for six weeks until 04.05 2012. Please ensure that your response reaches us by that date. This public consultation process is being carried out for six weeks, rather than the more usual twelve weeks, due to the extensive discussions that have already taken place between parties likely to be affected by the Order and because a full public consultation for the Regulations themselves took place in 2008.

If you have any comments on the draft Designation Orders, these should be sent either by email to gary.kemp@dft.gsi.gov.uk or by using the postal address below.

General enquiries about the proposed order should also be made to the same e-mail address. Electronic copies of the consultation documents are available on the DfT website www.dft.gov.uk. If you require the consultation in another format, such as large text, an audio tape, or any other alternative format, please contact the address below.

Please send consultation responses to:

Gary Kemp
Maritime Projects & Europe
Maritime & Land transport security
Department for Transport
Zone 2/31
Great Minster House
Horseferry Rd
London
SW1P 4DR

By email to: gary.kemp@dft.gsi.gov.uk
Tel 0207 944 6242

Paper copies of the consultation papers can be obtained by contacting the above address or emailing your postal address to gary.kemp@dft.gsi.gov.uk

When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation please make it clear who

the organisation represents, and where applicable, how the views of members were assembled.

What will happen next

A summary of responses, including the next steps, will be published on <http://www.dft.gov.uk/consultations/dft-2012-013/> within three months of the consultation closing; paper copies will be available on request.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Impact Assessment

The Impact Assessment can be found at <http://www.dft.gov.uk/consultations/dft-2012-013/> When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

The Consultation criteria

The consultation is being conducted in line with the Government's Code of Practice on Consultation. The criteria are listed at Annex C below; a full version of the Code of Practice on Consultation is available on the Better Regulation Executive web-site at:

<http://www.bis.gov.uk/files/file47158.pdf>

If you consider that this consultation does not comply with the criteria or have comments about the **consultation process** please contact:

Chris Simon
Consultation Co-Ordinator
Department for Transport
Better Regulation Team
General Counsel's Office
Zone 1/14
33 Horseferry Rd
Great Minster House
London SW1P 4DR

Email address consultation@dft.gsi.gov.uk

Code of Practice on Consultation

The Government has adopted a Code of Practice on consultations. The Code sets out the approach Government will take to running a formal, written public consultation exercise. While most UK Departments and Agencies have adopted the Code, it does not have legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law).

The Code contains seven criteria. They should be reproduced in all consultation documents. Deviation from the code will at times be unavoidable, but the Government aims to explain the reasons for deviations and what measures will be used to make the exercise as effective as possible in the circumstances.

The Seven Consultation Criteria

1. When to consult: Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercises: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7. Capacity to consult: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

A full version of the code of practice is available on the Better Regulation Executive web-site at:

<http://www.bis.gov.uk/files/file47158.pdf>

If you consider that this consultation does not comply with the criteria or have comments about the consultation process please contact:

Chris Simon
Consultation Co-ordinator
Department for Transport
Better Regulation Team
General Counsel's office
Zone 1/14
Great Minster House
33 Horseferry Rd
London SW1P 4DR
email: consultation@dft.gsi.gov.uk

List of consultees

United Kingdom Border Agency (UKBA)
Maritime and Coastguard Agency (MCA)
Disabled Persons Transport Advisory Committee (DPTAC)

Portland:

Portland Harbour Board
Weymouth and Portland Borough Council
Dorset Police
Portland Port Ltd
Portland Bunkers International Ltd

Grangemouth:

Grangemouth Harbour Board
Grangemouth Community Council
Falkirk Council
Central Scotland Police
BP
Forth Ports Grangemouth
Ineos Grangemouth
NuStar Grangemouth Ltd

Workington:

Workington Harbour Board Council
Allerdale Borough Council
Cumbria Police
Port of Workington
Port of Workington Berth 4

Milford Haven:

Milford Haven Harbour Board
Milford Haven Town Council
Dyfed Powys Police
Milford Haven Port Authority
Valero Energy Ltd
Dragon LNG Ltd
South Hook LNG Terminal
Murco Petroleum Ltd
SemLogistics (MH) Ltd

Liverpool:

Liverpool Harbour Board
Liverpool Council
Merseyside Police
Seatruck Ferries Ltd
Royal Seaforth Container Terminal
P&O Irish Sea Ro-Ro Terminal
Mersey Wharf
Mersey Docks and Harbour Company
Henty Oil Bunkering Services
City of Liverpool Cruise Terminal
Camel Laird Ship Repairers & Ship Builders
Isle of Man Steam Packet
12 quays
UM Storage Ltd
Cargill

Tees & Hartlepool:

Teesport Harbour Board
Middlesbrough Council
Hartlepool Borough Council
Cleveland Police
Able Seaton Port
Bamflets Wharf
Clarence Lower Wharf
Cleveland Potash Terminal
Cochranes Wharf
ConocoPhillips Petroleum
Dawsons Wharf & North Sea Supply Base
INEOS Nitriles (UK) PLC
PD Teesport
PD Ports Hartlepool
Port Clarence Offshore Base
SSI Redcar Ore Terminal & Tarmac Jetty
SABIC UK Petrochemicals (North Tees)
SABIC UK Petrochemicals (South Tees)
Seal Sands Storage Ltd
Simon Storage Riverside Terminal
SSI N06 Berth
Teeside Gas Port
Vopak Terminal Teeside
Tarmac Wharf
Readman Steel Ltd

Aberdeen:

Aberdeen Harbour Board

Aberdeen Council

Grampian Police

Aberdeen Base – Maitland Quay

Dales Marine Services Ltd

Seabase (Peterson SBS)

Pocra Quay (Peterson SBS)

Caledonian Oil

ASCO Torry Marine Base

Industry

Industry consultees will be agreed with the ports before publishing the Draft Consultation paper.

 STATUTORY INSTRUMENTS

2012 No. 0000

MERCHANT SHIPPING

MARITIME SECURITY

The Port Security (Port of Portland) Designation Order 2012

<i>Made</i> - - - -	2012
<i>Laid before Parliament</i>	2012
<i>Coming into force</i> - -	2012

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⁽¹⁾:

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⁽²⁾.

Citation and commencement

1. This Order may be cited as the Port Security (Port of Portland) Designation Order 2012 and comes into force on xxxx 2012.

Port boundary

2.—(1) For the purposes of regulation 3(2)(a) of the Port Security Regulations 2009⁽³⁾ the port of Portland is comprised of the area of land and water delineated in green on the plan set out in Schedule 1.

The Port of Portland Security Authority

3.—(1) For the purposes of the Port Security Regulations 2009, the Port of Portland Security Authority is designated as the port security authority for the port of Portland.

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

⁽¹⁾ 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).

⁽²⁾ S.I. 1993/595, 1994/757 and 2004/706.

⁽³⁾ S.I. 2009/2048.

Review

4.—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2005/65/EC of the European Parliament and of the Council of 26th October 2005 (which is implemented by means of the Port Security Regulations 2009⁽⁴⁾) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those Regulations and this Order,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before 1st January 2014.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

Date

Parliamentary Under Secretary of State
Department for Transport

⁽⁴⁾ S.I. 2009/2048

SCHEDULE 1

Article 2(1)

Boundary of the Port of Portland Security Authority



PORTLAND HARBOUR AUTHORITY LIMITED
PORT OFFICE, PORTLAND FORT
CASTLETON, PORTLAND, DORSET DT9 11P
TELEPHONE: +44 (0)1305 251055
FAX NO: +44 (0)1305 251055
E-mail: info@portlandport.co.uk
www.portlandport.co.uk
 Drawing Reference: **CEP/0009 0004 Rev1**
05 November 2010

NOT TO SCALE



Coordinates are to WGS 84 coordinate system

SCHEDULE 2

Article 3(2)

The Port of Portland Security Authority

Members

1.—(1) The Port of Portland Port 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 his or her position as 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) The Authority must hold at least two meetings in any 12-month period.

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

(3) The Authority must appoint one of its members as chair of the Authority.

(4) The person appointed 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 reasonably practicable.

(5) 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.

(6) 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.

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

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

(9) 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 has any pecuniary interest, direct or indirect, in any matter that is brought up for consideration at a meeting of the Authority (which expression in this paragraph includes any committee or subcommittee 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;

(b) the member must not take any part in any deliberation or decision of the Authority with respect to that matter; and

(c) the member may be excluded from the meeting whilst the matter is under consideration.

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

(a) is a member, director or employee of, or partner in, 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 any such matter for the purposes of any meeting where the matter comes up for discussion.

(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 proxy 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 contract, proposed contract or other 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 of, 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 prohibition imposed by virtue of this paragraph in any case where the

(8) The power of the Secretary of State under subparagraph (7) includes power to remove, either indefinitely or for any period, a prohibition which would otherwise attach to any member, or members of any description, by reason of such interests and in respect of such matters, as may be specified or described by the Secretary of State.

(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 (7).

(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 (10) 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, p28-39) 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 Portland for the purposes of regulation 3(2)(a) of the Port Security Regulations 2009. *Article 3(1)* designates the Port of Portland Security Authority, for the purposes of regulation 5 of those Regulations, as the port security authority for the Port of Portland. *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. *Article 4* requires the Secretary of State to review the operation and effect of this Order and publish a report before 1st January 2014 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Tony Smith at Zone 2/31, 33 Horseferry Road, London SW1P 4DR (Tel: 020 7944 5875; email: tonyl.smith@dft.gsi.gov.uk) and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. Copies of each document have been placed in the library of each House of Parliament.

 STATUTORY INSTRUMENTS

2012 No. 0000

MERCHANT SHIPPING

MARITIME SECURITY

The Port Security (Port of Grangemouth) Designation Order 2012

<i>Made</i>	- - - -	2012
<i>Laid before Parliament</i>		2012
<i>Coming into force</i>	- -	2012

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⁽⁵⁾:

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⁽⁶⁾.

Citation and commencement

1 This Order may be cited as the Port Security (Port of Grangemouth) Designation Order 2012 and comes into force on [INSERT DATE] 2012.

Port boundary

2 For the purposes of regulation 3(2)(a) of the Port Security Regulations 2009⁽⁷⁾ the boundary of the Port of Grangemouth is delineated by the red line on the plan in Schedule 1

The Grangemouth Port Security Authority

3—(1) For the purposes of the Port Security Regulations 2009, the Grangemouth Port Security Authority is designated as the port security authority for the port of Grangemouth.

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

⁽⁵⁾ 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).

⁽⁶⁾ S.I. 1993/595, 1994/757 and 2004/706.

⁽⁷⁾ S.I. 2009/2048.

Review

4—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2005/65/EC of the European Parliament and of the Council of 26th October 2005 (which is implemented by means of the Port Security Regulations 2009⁽⁸⁾) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those Regulations and this Order,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before 1st January 2014.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

[INSERT DATE] 2012

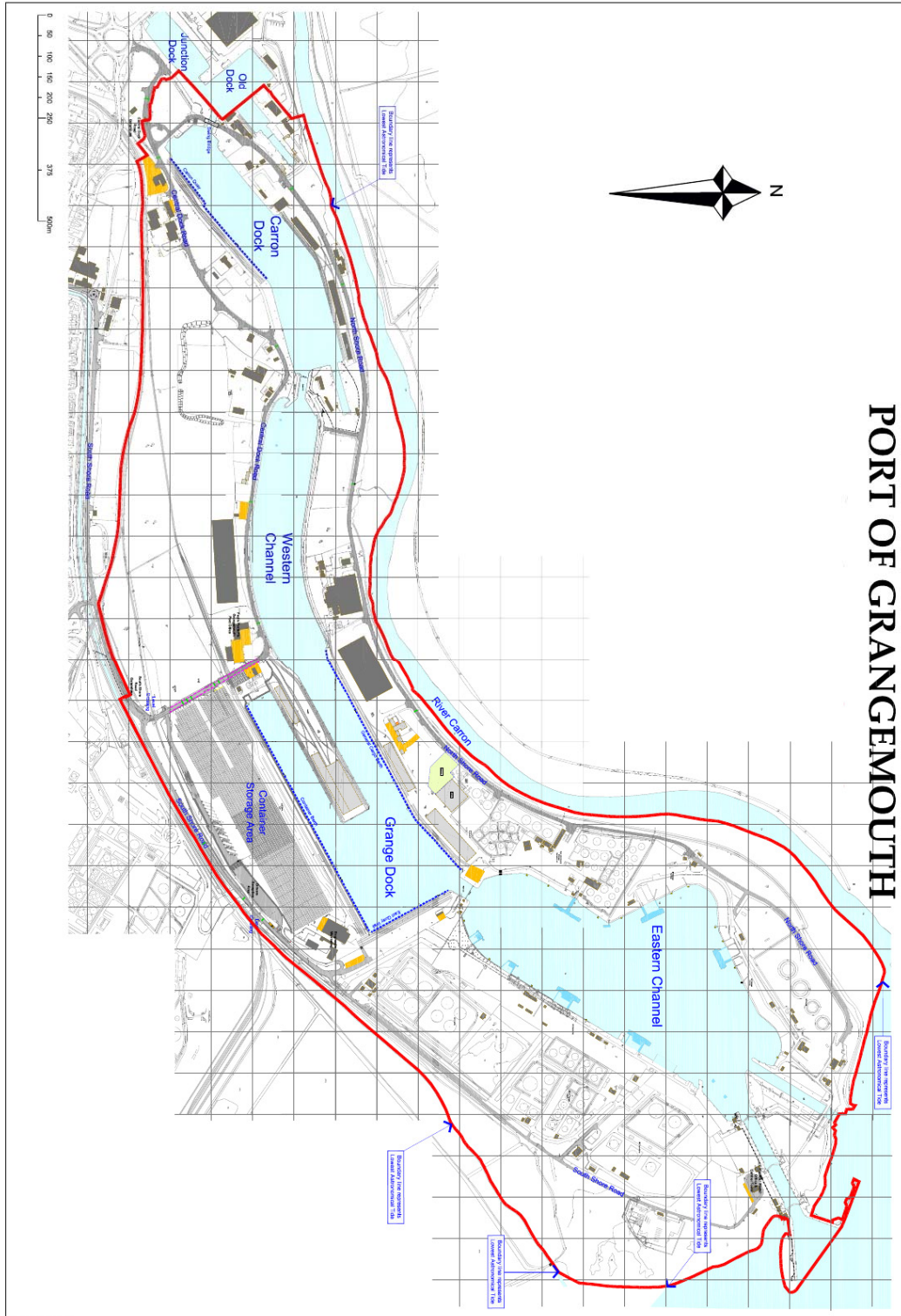
Name
Parliamentary Under Secretary of State,
Department for Transport

⁽⁸⁾ S.I. 2009/2048

SCHEDULE 1

Article 2

Boundary of the Port of Grangemouth



The Grangemouth Port Security Authority

Members

1— (1) The Grangemouth Port 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 sequestered 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 his or her position as 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) The Authority must hold at least two meetings in any 12-month period.

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

(3) The Authority must appoint one of its members as chair of the Authority.

(4) The person appointed 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 reasonably practicable.

(5) 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.

(6) 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.

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

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

(9) 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 has any pecuniary interest, direct or indirect, in any matter that is brought up for consideration at a meeting of the Authority (which expression in this paragraph includes any committee or subcommittee 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;

(b) the member must not take any part in any deliberation or decision of the Authority with respect to that matter; and

(c) the member may be excluded from the meeting whilst the matter is under consideration.

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

(a) is a member, director or employee of, or partner in, 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 any such matter for the purposes of any meeting where the matter comes up for discussion.

(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 proxy 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 contract, proposed contract or other 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 of, 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 prohibition imposed by virtue of this paragraph in any case where

the prohibition is 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 (7) includes power to remove, either indefinitely or for any period, a prohibition which would otherwise attach to any member, or members of any description, by reason of such interests and in respect of such matters, as may be specified or described by the Secretary of State.

(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 (7).

(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 (10) 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, p28-39) 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 Grangemouth for the purposes of regulation 3(2)(a) of the Port Security Regulations 2009. *Article 3(1)* designates the Grangemouth Port Security Authority, for the purposes of regulation 5 of those Regulations, as the port security authority for the Port of Grangemouth. *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. *Article 4* requires the Secretary of State to review the operation and effect of this Order and publish a report before 1st January 2014 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Tony Smith at Zone 31/2, 33 Horseferry Road, London SW1P 4DR (Tel: 020 7944 5875; email: tonyl.smith@dft.gsi.gov.uk) and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

 STATUTORY INSTRUMENTS

2012 No. 0000

MERCHANT SHIPPING

MARITIME SECURITY

The Port Security (Port of Workington) Designation Order 2012

<i>Made</i>	- - - -	2012
<i>Laid before Parliament</i>		2012
<i>Coming into force</i>	- -	2012

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⁽⁹⁾:

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⁽¹⁰⁾.

Citation and commencement

1 This Order may be cited as the Port Security (Port of Workington) Designation Order 2012 and comes into force on [INSERT DATE] 2012.

Port boundary

2—(1) For the purposes of regulation 3(2) of the Port Security Regulations 2009⁽¹¹⁾ the boundary of the Port of Workington is delineated by the red line on the plan in Schedule 1.

(2) Where the boundary runs along a beach or foreshore, the port only includes the land on that beach or foreshore which is below the level of mean high water springs.

The Workington Port Security Authority

3—(1) For the purposes of the Port Security Regulations 2009, the Workington Port Security Authority is designated as the port security authority for the port of Workington.

(2) Schedule 3 has effect with respect to the Workington Port Security Authority.

⁽⁹⁾ 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).

⁽¹⁰⁾ S.I. 1993/595, 1994/757 and 2004/706.

⁽¹¹⁾ S.I. 2009/2048.

Review

4—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2005/65/EC of the European Parliament and of the Council of 26th October 2005 (which is implemented by means of the Port Security Regulations 2009⁽¹²⁾) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those Regulations and this Order,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before 1st January 2014.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

[INSERT DATE] 2012

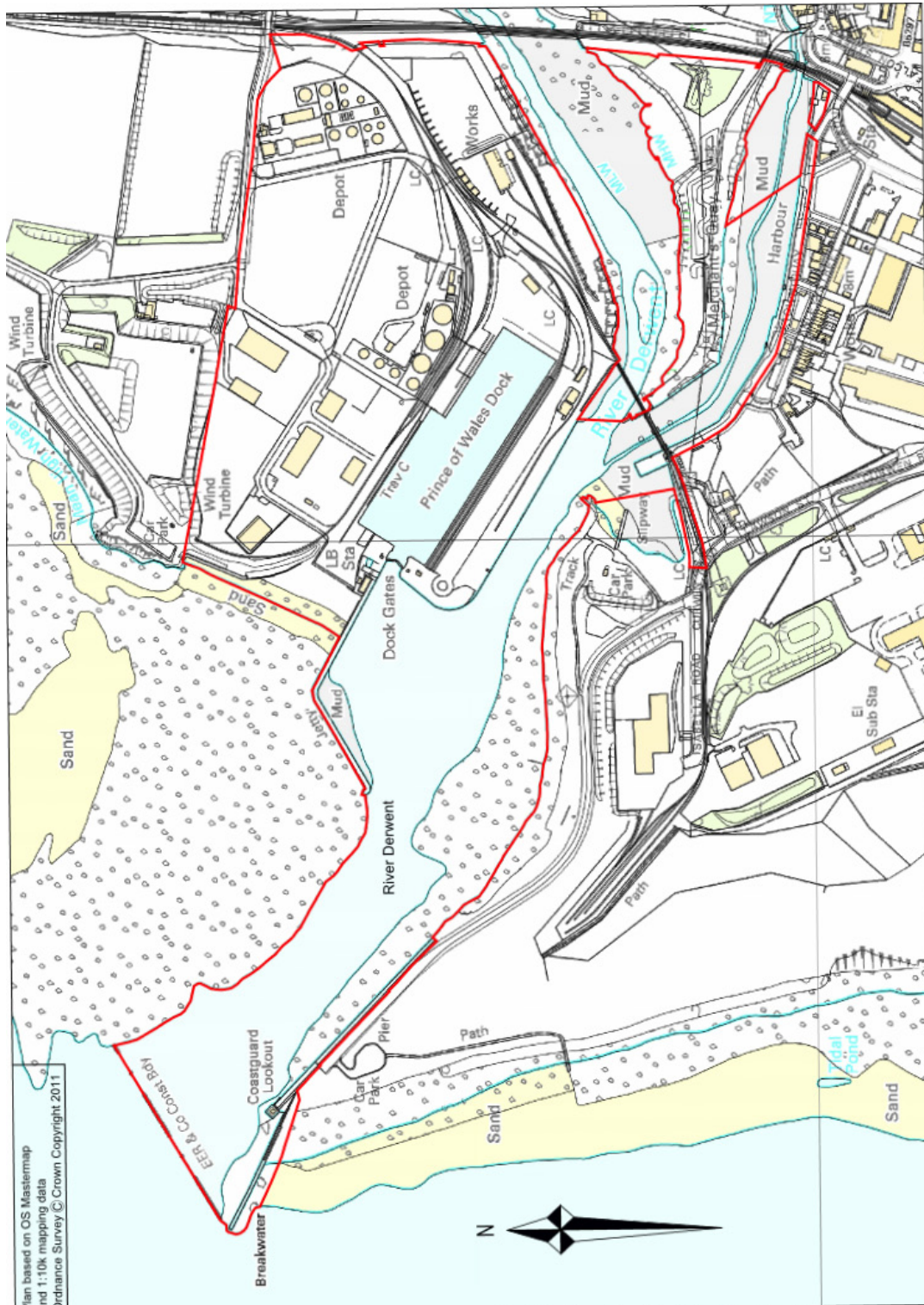
Name
Parliamentary Under Secretary of State,
Department for Transport

⁽¹²⁾ S.I. 2009/2048

SCHEDULE 1

Article 2(1)

Boundary of the Port of Workington



SCHEDULE 2

Article 3(2)

The Workington Port Security Authority

Members

1—(1) The Workington Port 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 his or her position as 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) The Authority must hold at least two meetings in any 12-month period.

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

(3) The Authority must appoint one of its members as chair of the Authority.

(4) The person appointed 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 reasonably practicable.

(5)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.

(6)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.

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

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

(9)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 has any pecuniary interest, direct or indirect, in any matter that is brought up for consideration at a meeting of the Authority (which expression in this paragraph includes any committee or subcommittee 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;

(b) the member must not take any part in any deliberation or decision of the Authority with respect to that matter; and

(c) the member may be excluded from the meeting whilst the matter is under consideration.

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

(a) is a member, director or employee of, or partner in, 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 any such matter for the purposes of any meeting where the matter comes up for discussion.

(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 proxy 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 contract, proposed contract or other 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 of, 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 prohibition imposed by virtue of this paragraph in any case where the prohibition is 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 (7) includes power to remove, either indefinitely or for any period, a prohibition which would otherwise attach to any member, or members of any description, by reason of such interests and in respect of such matters, as may be specified or described by the Secretary of State.

(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 (7).

(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 (10) 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, p28-39) 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 Workington for the purposes of regulation 3(2)(a) of the Port Security Regulations 2009. *Article 3(1)* designates the Workington Port Security Authority, for the purposes of regulation 5 of those Regulations, as the port security authority for the Port of Workington. *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. *Article 4* requires the Secretary of State to review the operation and effect of this Order and publish a report before 1st January 2014 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Tony Smith at Zone 31/2, 33 Horseferry Road, London SW1P 4DR (Tel: 020 7944 5875; email: tonyl.smith@dft.gsi.gov.uk) and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

 STATUTORY INSTRUMENTS

2012 No. 0000

MERCHANT SHIPPING

MARITIME SECURITY

The Port Security (Port of Milford Haven) Designation Order 2012

<i>Made</i>	- - - -	2012
<i>Laid before Parliament</i>		2012
<i>Coming into force</i>	- -	2012

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⁽¹³⁾:

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⁽¹⁴⁾.

Citation and commencement

1 This Order may be cited as the Port Security (Port of Milford Haven) Designation Order 2012 and comes into force on [INSERT DATE] 2012.

Port boundary

2—(1) For the purposes of regulation 3(2) of the Port Security Regulations 2009⁽¹⁵⁾ the boundary of the Port of Milford Haven is delineated by the blue line on the plan in Schedule 1.

(2) Where the boundary runs along a beach or foreshore, the port only includes the land on that beach or foreshore which is below the level of mean high water springs.

The Milford Haven Port Security Authority

3—(1) For the purposes of the Port Security Regulations 2009, the Milford Haven Port Security Authority is designated as the port security authority for the port of Milford Haven.

(2) Schedule 3 has effect with respect to the Milford Haven Port Security Authority.

⁽¹³⁾ 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).

⁽¹⁴⁾ S.I. 1993/595, 1994/757 and 2004/706.

⁽¹⁵⁾ S.I. 2009/2048.

Review

4 — (1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2005/65/EC of the European Parliament and of the Council of 26th October 2005 (which is implemented by means of the Port Security Regulations 2009⁽¹⁶⁾) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those Regulations and this Order,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before 1st January 2014.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

[INSERT DATE] 2012

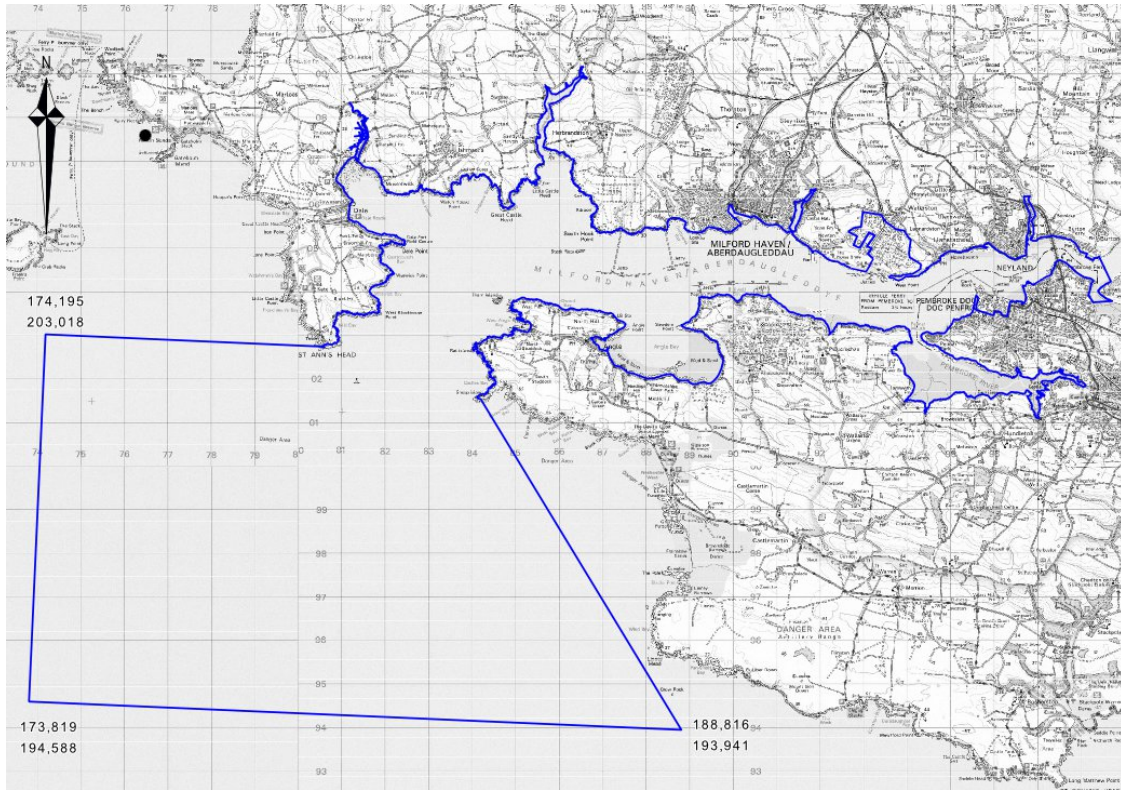
Name
Parliamentary Under Secretary of State,
Department for Transport

⁽¹⁶⁾ S.I. 2009/2048

SCHEDULE 1

Article 2(1)

Boundary of the Port of Milford Haven



This plan is based on OS mapping, Ordnance Survey Crown Copyright © 2012

SCHEDULE 2

Article 3(2)

The Milford Haven Port Security Authority

Members

1—(1) The Milford Haven Port 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 that individual’s position as 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) The Authority must hold at least two meetings in any 12-month period.
- (2) Subject to the provisions of this Order, it is for the Authority to regulate its own procedure (including quorum).
 - (3) The Authority must appoint one of its members as chair of the Authority.
 - (4) The person appointed 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 reasonably practicable.
- (5) 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.
- (6) 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.
- (7) A representative of the Secretary of State may attend any meeting as an observer.
- (8) Minutes must be kept of the proceedings of the Authority.
- (9) 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 has any pecuniary interest, direct or indirect, in any matter that is brought up for consideration at a meeting of the Authority (which expression in this paragraph includes any committee or subcommittee 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;
- (b) the member must not take any part in any deliberation or decision of the Authority with respect to that matter; and
- (c) the member may be excluded from the meeting whilst the matter is under consideration.

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

- (a) is a member, director or employee of, or partner in, 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 any such matter for the purposes of any meeting where the matter comes up for discussion.

(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 proxy 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 contract, proposed contract or other 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 of, 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 prohibition imposed by virtue of this paragraph in any case where the prohibition is 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 (7) includes power to remove, either indefinitely or for any period, a prohibition which would otherwise attach to any member, or members of any description, by reason of such interests and in respect of such matters, as may be specified or described by the Secretary of State.

(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 (7).

(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 (10) 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, p28-39) 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 Milford Haven for the purposes of regulation 3(2)(a) of the Port Security Regulations 2009. *Article 3(1)* designates the Milford Haven Port Security Authority, for the purposes of regulation 5 of those Regulations, as the port security authority for the Port of Milford Haven. *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. *Article 4* requires the Secretary of State to review the operation and effect of this Order and publish a report before 1st January 2014 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Gary Kemp at Zone 2/31, 33 Horseferry Road, London SW1P 4DR (Tel: 020 7944 5875; email: gary.kemp@dft.gsi.gov.uk) and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

 STATUTORY INSTRUMENTS

2012 No. 0000

MERCHANT SHIPPING

MARITIME SECURITY

The Port Security (Port of Liverpool) Designation Order 2012

<i>Made</i>	- - - -	2012
<i>Laid before Parliament</i>		2012
<i>Coming into force</i>	- -	2012

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⁽¹⁷⁾:

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⁽¹⁸⁾.

Citation and commencement

1 This Order may be cited as the Port Security (Port of Liverpool) Designation Order 2012 and comes into force on [INSERT DATE] 2012.

Port boundary

2 — (1) For the purposes of regulation 3(2) of the Port Security Regulations 2009⁽¹⁹⁾ the boundary of the Port of Liverpool—

(a) on the landward side of the broken red line on the key plan in Schedule 1, is shown—

(i) by the continuous red line on that plan; and

(ii) as respects the areas known as Liverpool Docks and Birkenhead Docks, is more particularly shown by the red lines on the plans in that Schedule marked “Liverpool

⁽¹⁷⁾ 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).

⁽¹⁸⁾ S.I. 1993/595, 1994/757 and 2004/706.

⁽¹⁹⁾ S.I. 2009/2048.

sheet 1” and Liverpool Sheet 2” and “Birkenhead Sheet 1” and Birkenhead Port Sheet 2” respectively;

(b) on the seaward side of the broken red line on the key plan, consists of an imaginary line drawn around the area comprising all the sea channels leading to the River Mersey and drawn straight from the Redstones at Hoylake 53° 23.12.17N 003° 11.55.42W to a position 53° 29.00 N 003° 32.00W; thence in a true Northerly direction to a position 53° 33.00N 003° 32.00W and thence drawn straight in a direction of 065° True to a point of intersection with, and thence along, an imaginary line bearing 157.5° true to a position on the beach at Formby point 53° 34.00.55N 003° 05.57.75W and the River Mersey.

(2) Where the red line runs along a beach or foreshore, the boundary runs along the edge of the land on that beach or foreshore which is below the level of mean high water springs.

(3) The plans in Schedule 1 are not to scale.

The Liverpool Port Security Authority

3 — (1) For the purposes of the Port Security Regulations 2009, the Liverpool Port Security Authority is designated as the port security authority for the port of Liverpool.

(2) Schedule 3 has effect with respect to the Liverpool Port Security Authority.

Review

4—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2005/65/EC of the European Parliament and of the Council of 26th October 2005 (which is implemented by means of the Port Security Regulations 2009⁽²⁰⁾) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those Regulations and this Order,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before 1st January 2014.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

[INSERT DATE] 2012

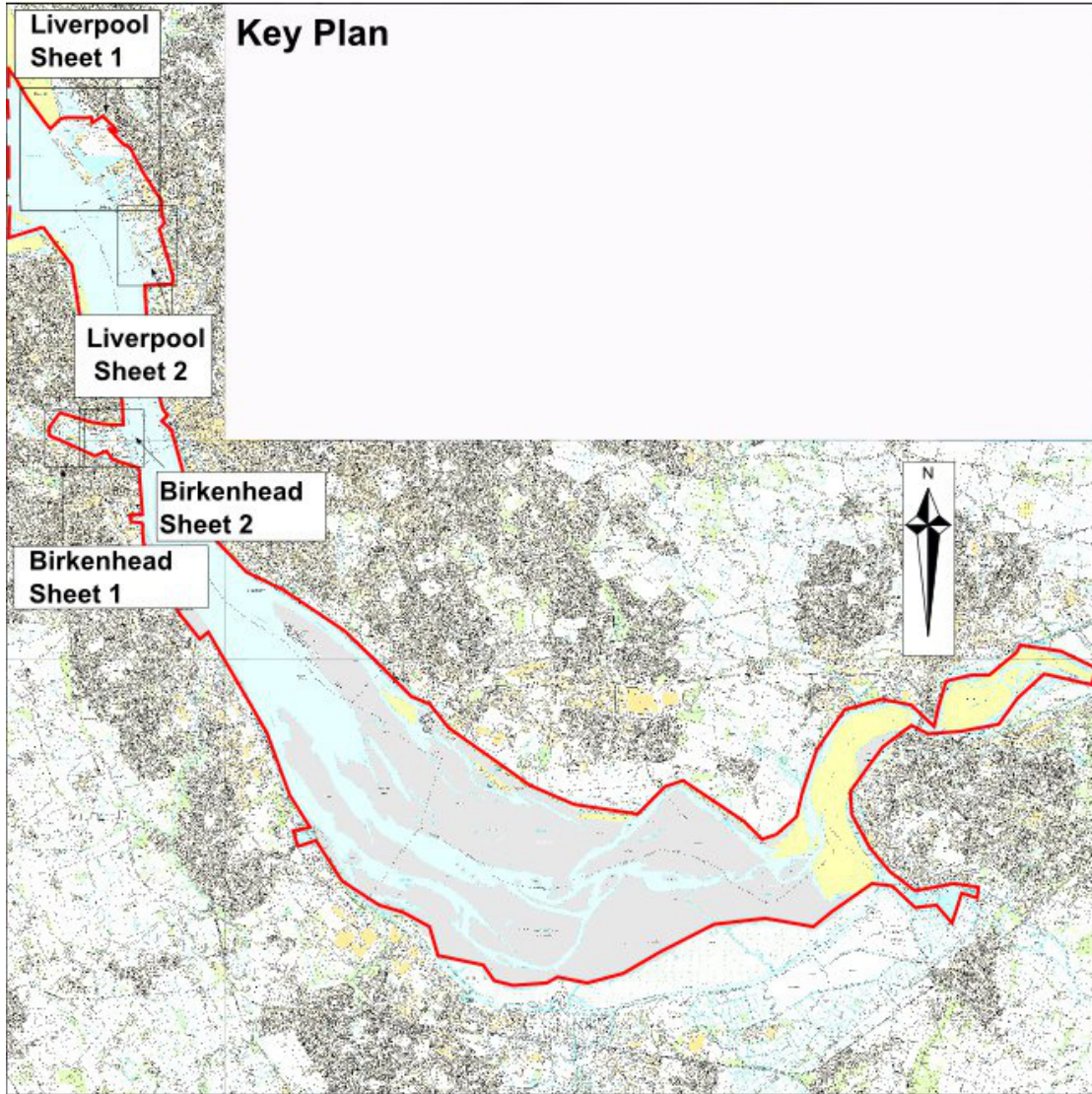
Name
Parliamentary Under Secretary of State,
Department for Transport

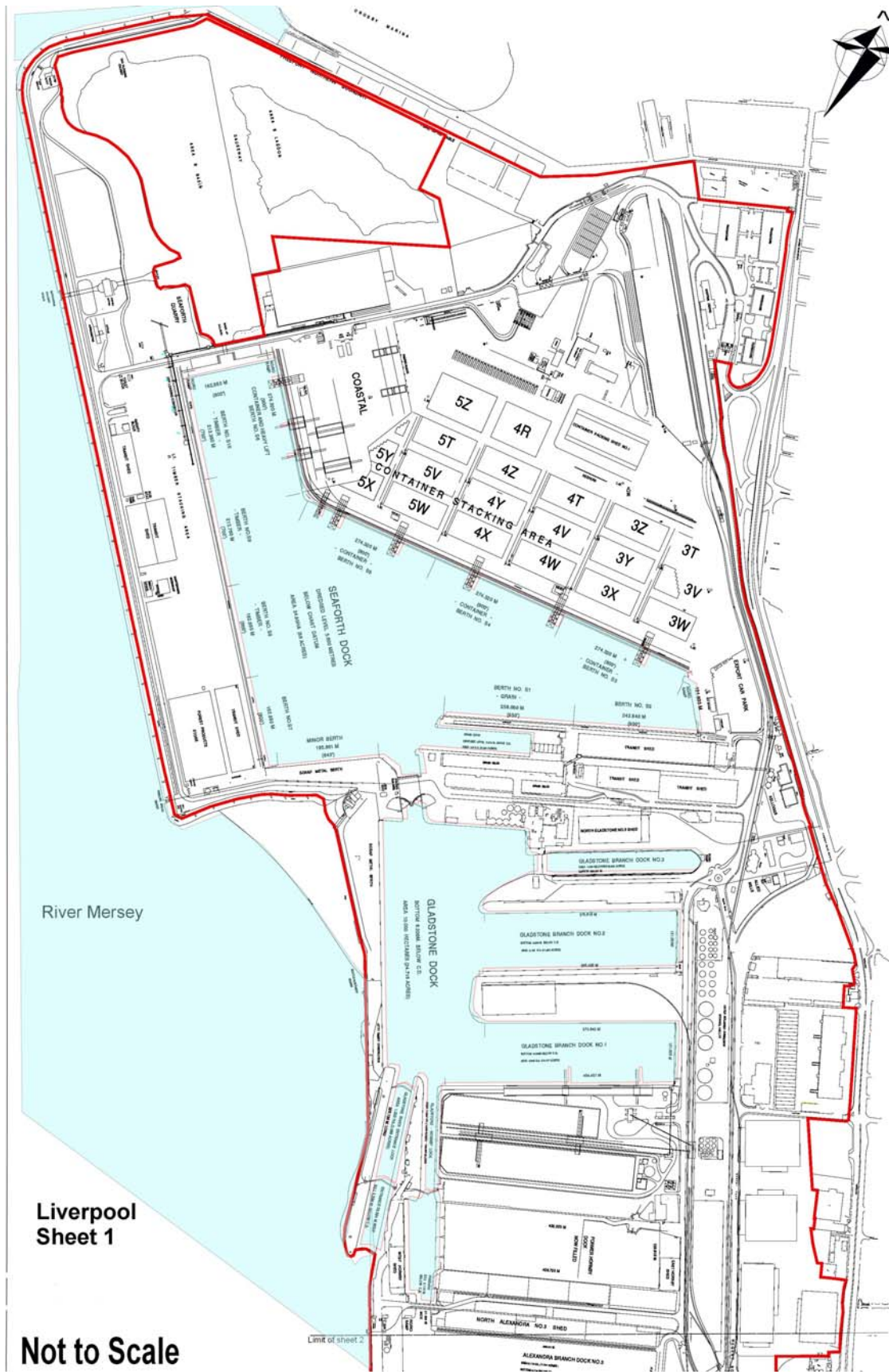
⁽²⁰⁾ S.I. 2009/2048

SCHEDULE 2

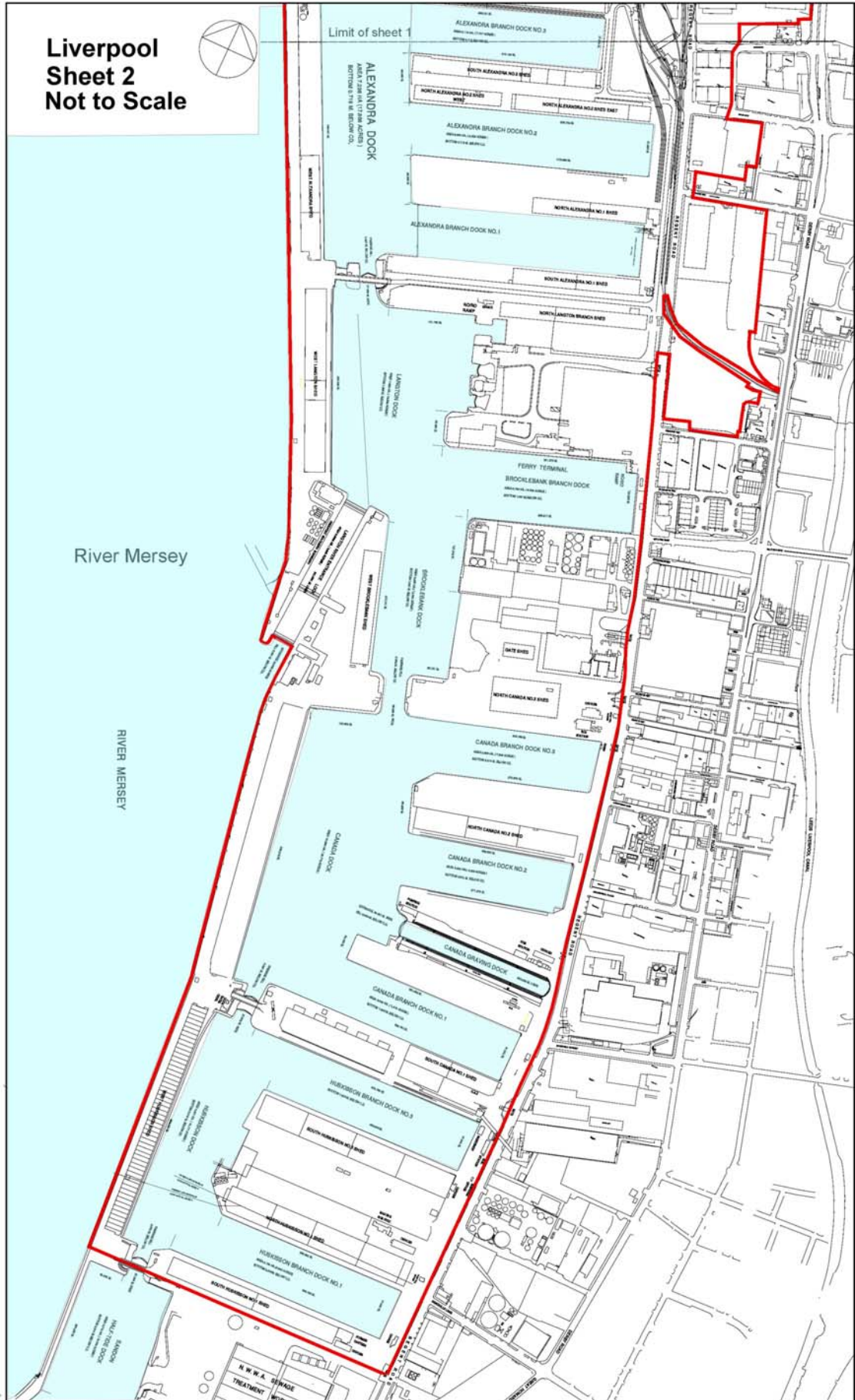
Article 2(1)

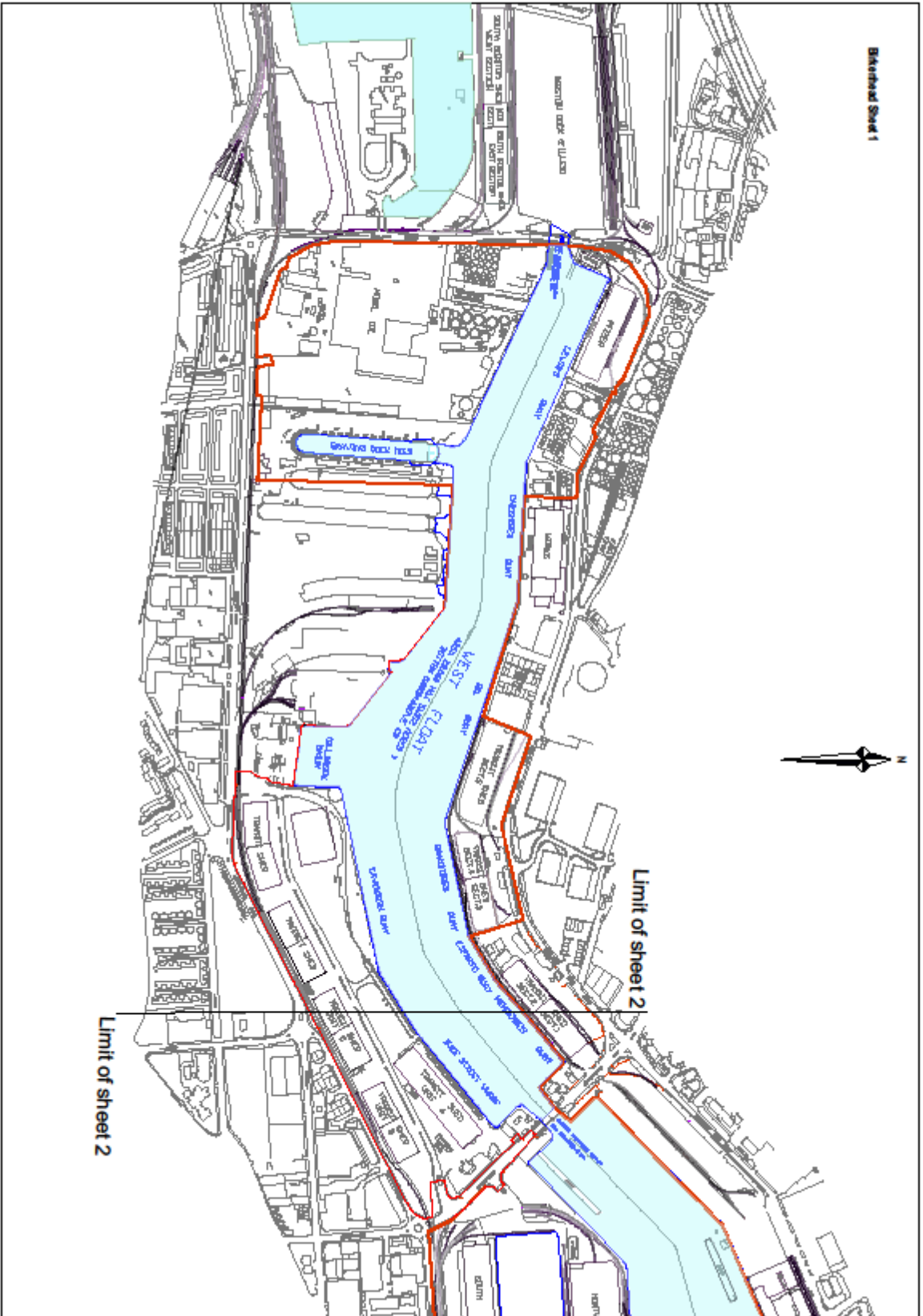
Boundary of the Port of Liverpool



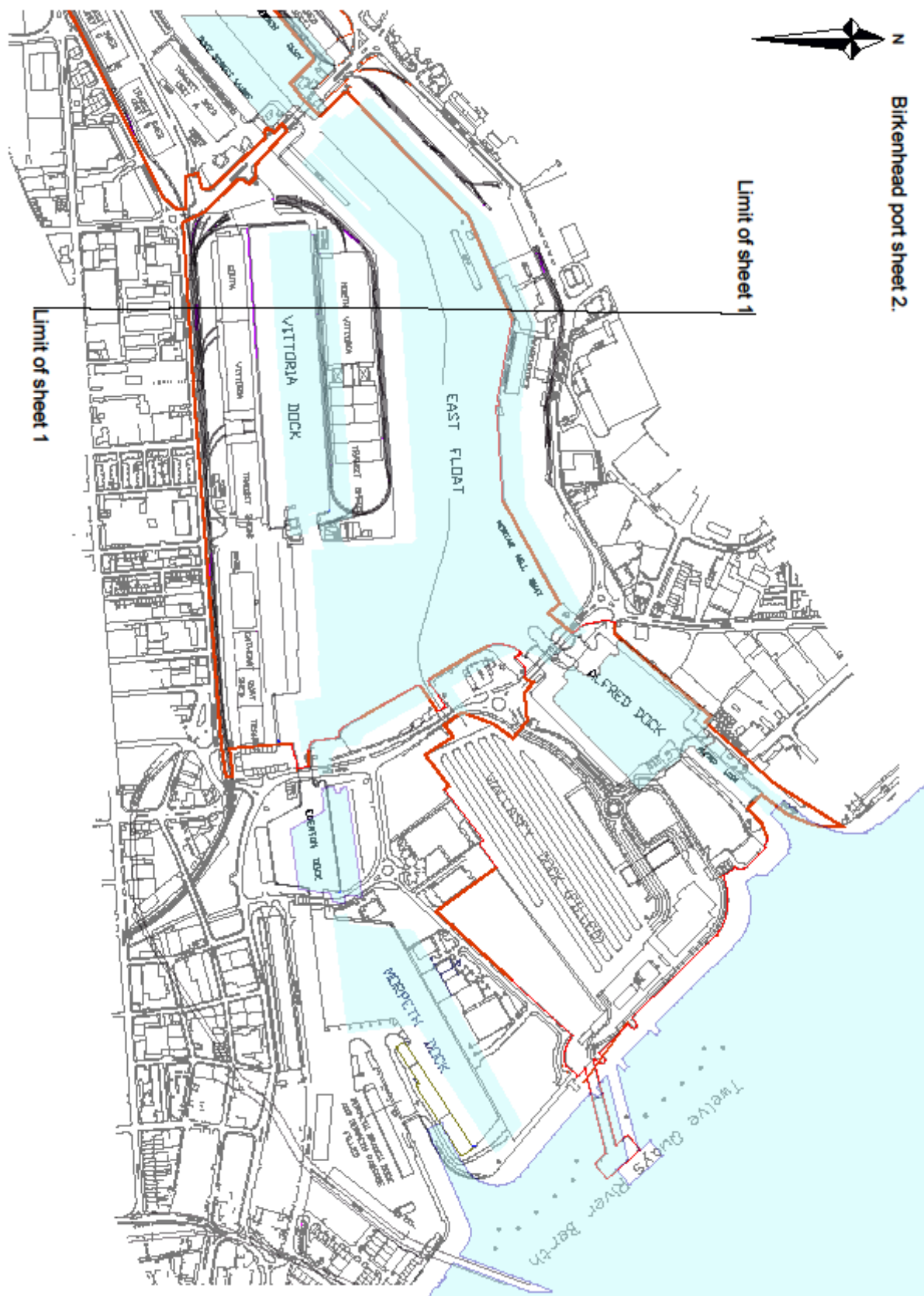


**Liverpool
Sheet 2
Not to Scale**





Birkenhead port sheet 2.



SCHEDULE 2

Article 3(2)

The Liverpool Port Security Authority

Members

1—(1) The Liverpool Port 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 sequestered 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 that individual’s position as 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) The Authority must hold at least two meetings in any 12-month period.

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

(3) The Authority must appoint one of its members as chair of the Authority.

(4) The person appointed 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 reasonably practicable.

- (5) 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.
- (6) 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.
- (7) A representative of the Secretary of State may attend any meeting as an observer.
- (8) Minutes must be kept of the proceedings of the Authority.
- (9) 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 has any pecuniary interest, direct or indirect, in any matter that is brought up for consideration at a meeting of the Authority (which expression in this paragraph includes any committee or subcommittee 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;
- (b) the member must not take any part in any deliberation or decision of the Authority with respect to that matter; and
- (c) the member may be excluded from the meeting whilst the matter is under consideration.

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

- (a) is a member, director or employee of, or partner in, 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 any such matter for the purposes of any meeting where the matter comes up for discussion.

(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 proxy 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 contract, proposed contract or other 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 of, 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 prohibition imposed by virtue of this paragraph in any case where the prohibition is 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 (7) includes power to remove, either indefinitely or for any period, a prohibition which would otherwise attach to any member, or members of any description, by reason of such interests and in respect of such matters, as may be specified or described by the Secretary of State.

(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 (7).

(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 (10) 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, p28-39) 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 Liverpool for the purposes of regulation 3(2)(a) of the Port Security Regulations 2009. *Article 3(1)* designates the Liverpool Port Security Authority, for the purposes of regulation 5 of those Regulations, as the port security authority for the Port of Liverpool. *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. *Article 4* requires the Secretary of State to review the operation and effect of this Order and publish a report before 1st January 2014 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Gary Kemp at Zone 2/31, 33 Horseferry Road, London SW1P 4DR (Tel: 020 7944 5875; email: gary.kemp@dft.gsi.gov.uk) and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

 STATUTORY INSTRUMENTS

2012 No. 0000

MERCHANT SHIPPING**MARITIME SECURITY**
**The Port Security (Port of Tees and Hartlepool) Designation Order
2012**

<i>Made</i> - - - -	2012
<i>Laid before Parliament</i>	2012
<i>Coming into force</i> - -	2012

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⁽²¹⁾:

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⁽²²⁾.

Citation and commencement

1 This Order may be cited as the Port Security (Port of Tees and Hartlepool) Designation Order 2012 and comes into force on [INSERT DATE] 2012.

Port boundary

2—(1) For the purposes of regulation 3(2) of the Port Security Regulations 2009⁽²³⁾ the boundary of the Port of Tees and Hartlepool—

(a) is shown on the landward side of the broken line on the key plan in Schedule 1 is shown—

(i) by the continuous red line on that plan; and

(ii) as respects the areas known as Seal Sands Teesport, Port Clarence, Able Seaton, Bamflets Wharf and Simon Storage is more particularly shown by red lines on the plans in that Schedule marked with the names of those places;

⁽²¹⁾ 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).

⁽²²⁾ S.I. 1993/595, 1994/757 and 2004/706.

⁽²³⁾ S.I. 2009/2048.

(b) on the seaward side follows the seaward limits of “the harbour” as defined by section 3 and Schedule 2 to the Tees and Hartlepool Port Authority Act 1966⁽²⁴⁾

(2) Where the red line runs along a beach or foreshore, the boundary runs along the edge of the land on that beach or foreshore which is below the level of mean high water springs.

The Tees and Hartlepool Port Security Authority

3 — (1) For the purposes of the Port Security Regulations 2009, the Tees and Hartlepool Port Security Authority is designated as the port security authority for the port of Tees and Hartlepool.

(2) Schedule 3 has effect with respect to the Tees and Hartlepool Port Security Authority.

Review

4 — (1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2005/65/EC of the European Parliament and of the Council of 26th October 2005 (which is implemented by means of the Port Security Regulations 2009⁽²⁵⁾) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those Regulations and this Order,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before 1st January 2014.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

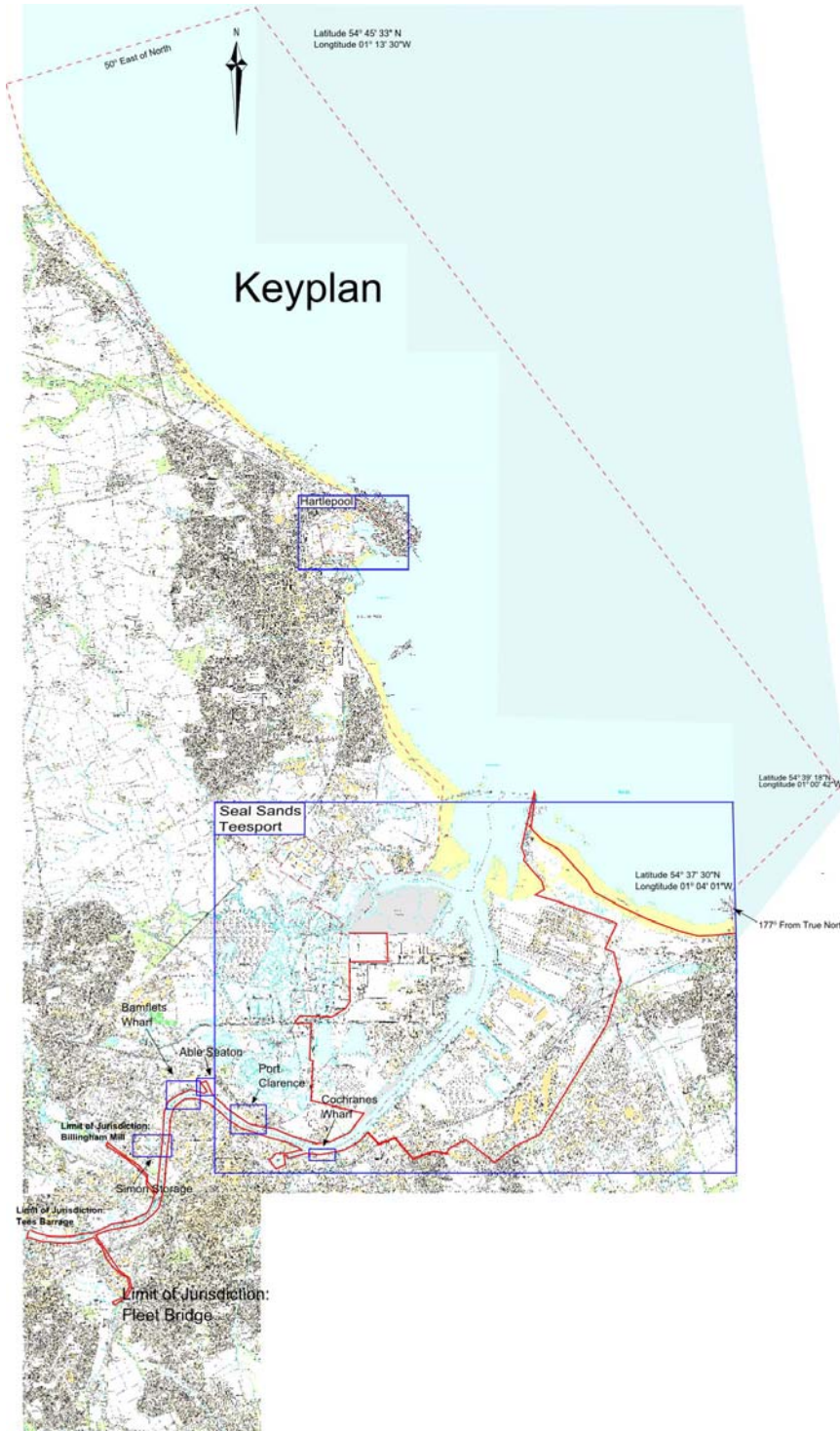
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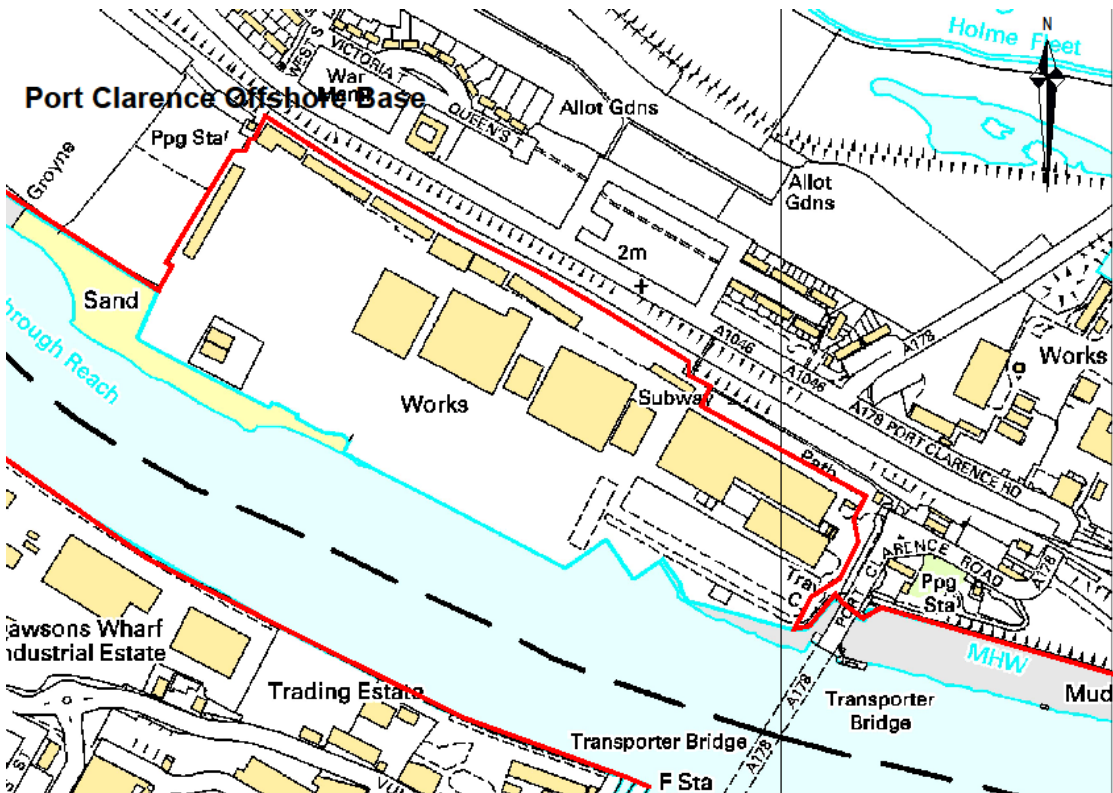
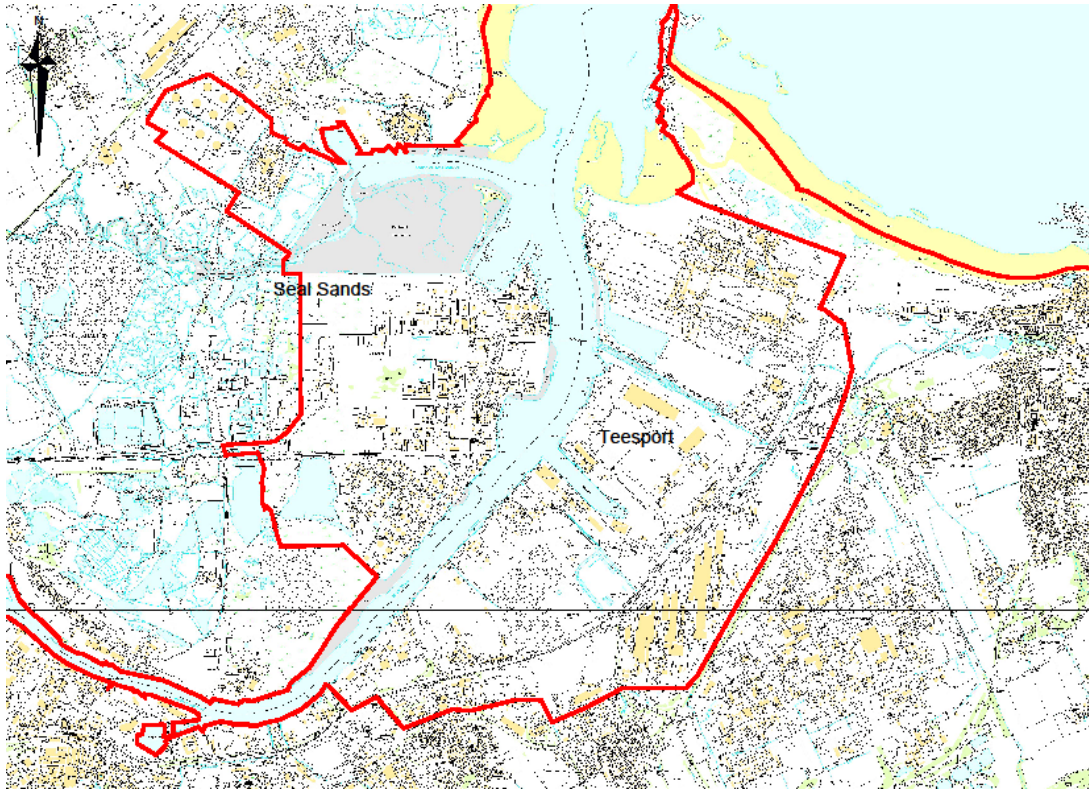
Name
Parliamentary Under Secretary of State,
Department for Transport

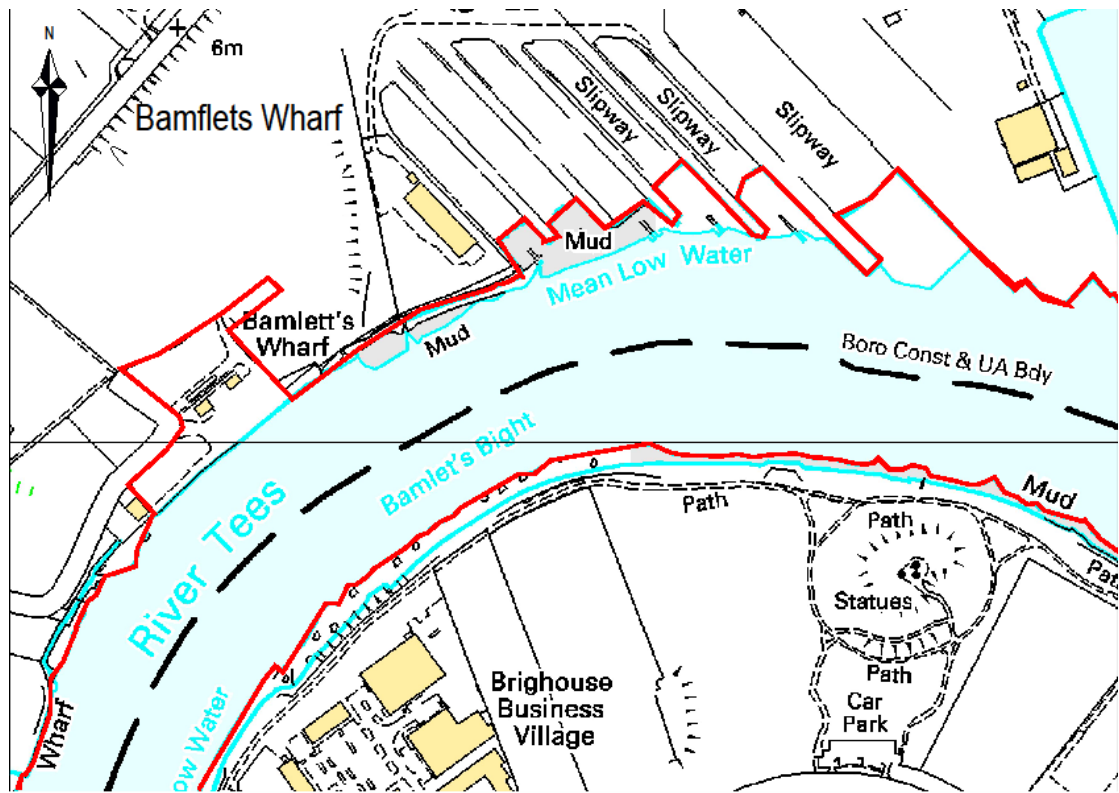
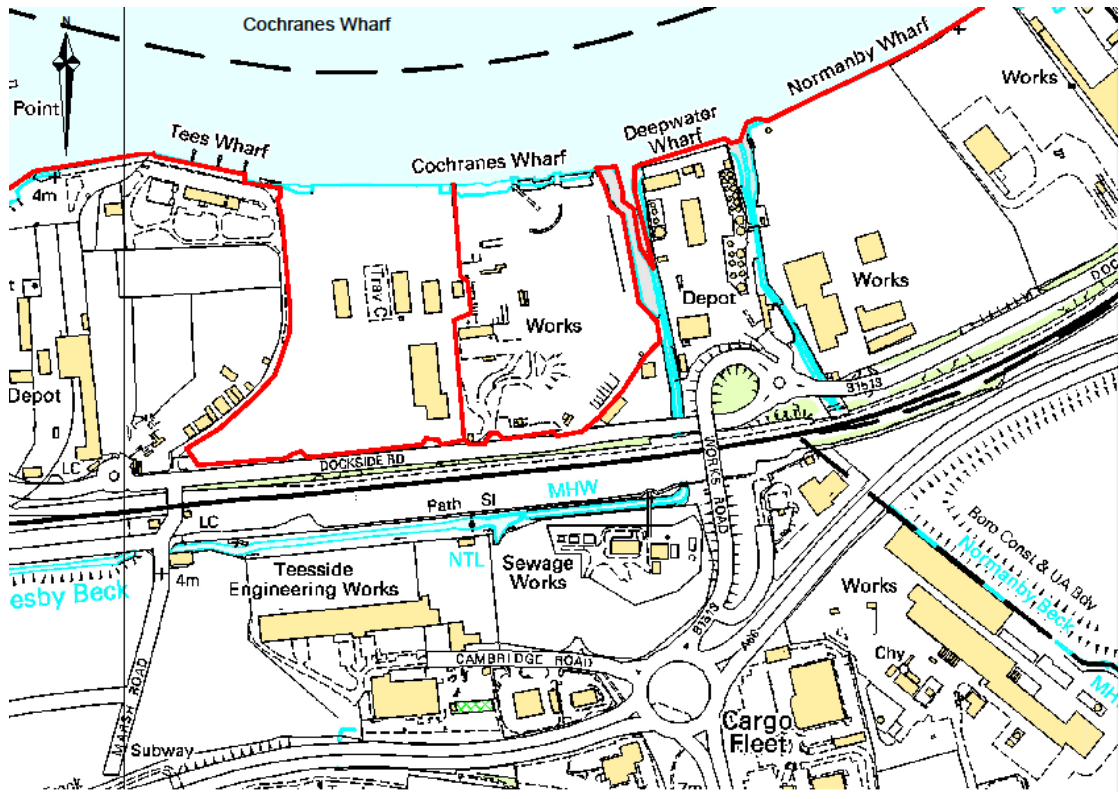
⁽²⁴⁾ 1966 c. xxv.

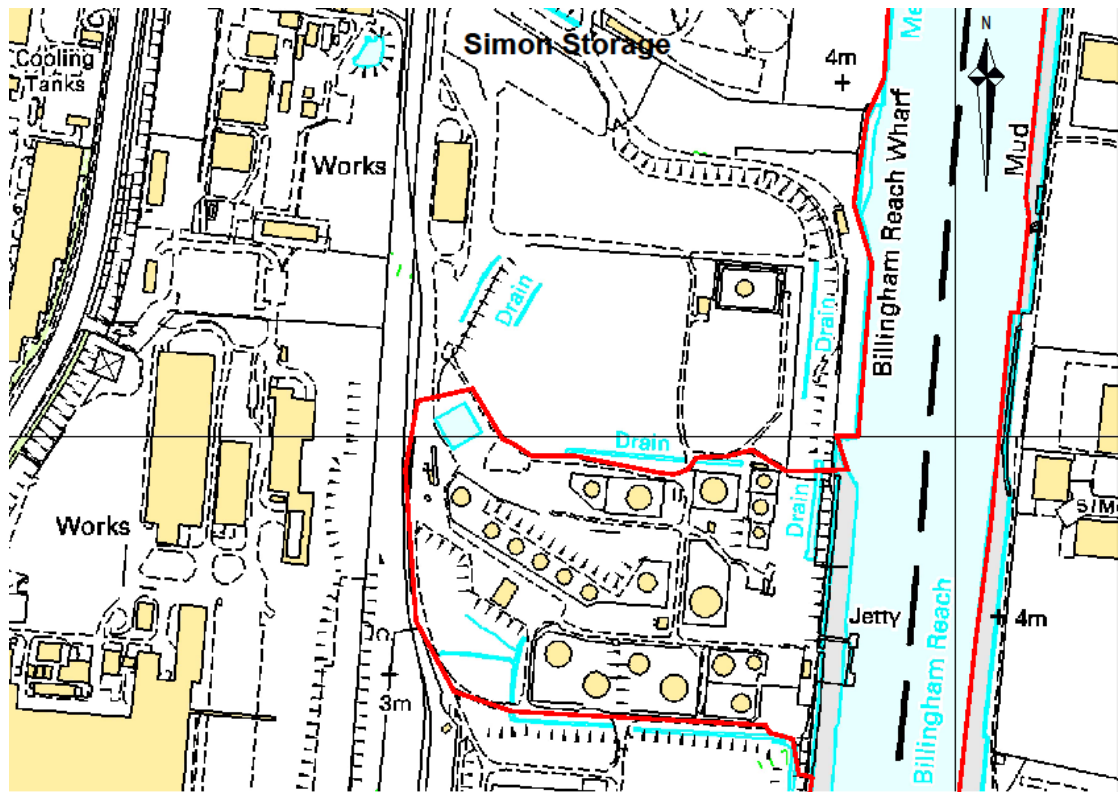
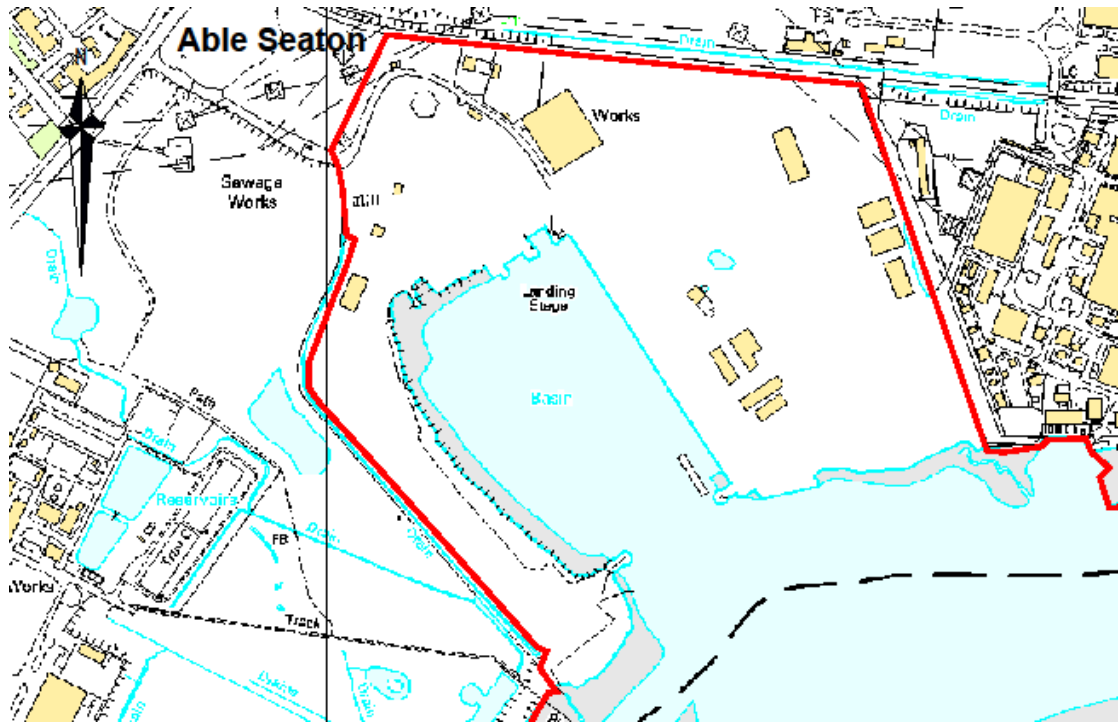
⁽²⁵⁾ S.I. 2009/2048

Boundary of the Port of Tees and Hartlepool









SCHEDULE 2

The Tees and Hartlepool Port Security Authority

Members

- 1 — (1) The Tees and Hartlepool Port 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 that individual’s position as 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) The Authority must hold at least two meetings in any 12-month period.
- (2) Subject to the provisions of this Order, it is for the Authority to regulate its own procedure (including quorum).
- (3) The Authority must appoint one of its members as chair of the Authority.
- (4) The person appointed 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 reasonably practicable.
- (5) 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.
- (6) 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.
- (7) A representative of the Secretary of State may attend any meeting as an observer.
- (8) Minutes must be kept of the proceedings of the Authority.
- (9) 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 has any pecuniary interest, direct or indirect, in any matter that is brought up for consideration at a meeting of the Authority (which expression in this paragraph includes any committee or subcommittee 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;
 - (b) the member must not take any part in any deliberation or decision of the Authority with respect to that matter; and
 - (c) the member may be excluded from the meeting whilst the matter is under consideration.
- (3) For the purposes of this paragraph, a general notification given at a meeting of the Authority by a member to the effect that the member—
- (a) is a member, director or employee of, or partner in, 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 any such matter for the purposes of any meeting where the matter comes up for discussion.
- (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 proxy 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 contract, proposed contract or other 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 of, 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 prohibition imposed by virtue of this paragraph in any case where the prohibition is 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 (7) includes power to remove, either indefinitely or for any period, a prohibition which would otherwise attach to any member, or members of any description, by reason of such interests and in respect of such matters, as may be specified or described by the Secretary of State.

(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 (7).

(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 (10) 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, p28-39) 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 Tees and Hartlepool for the purposes of regulation 3(2)(a) of the Port Security Regulations 2009. *Article 3(1)* designates the Tees and Hartlepool Port Security Authority, for the purposes of regulation 5 of those Regulations, as the port security authority for the Port of Tees and Hartlepool. *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. *Article 4* requires the Secretary of State to review the operation and effect of this Order and publish a report before 1st January 2014 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Gary Kemp at Zone 2/31, 33 Horseferry Road, London SW1P 4DR (Tel: 020 7944 5875; email: gary.kemp@dft.gsi.gov.uk) and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

 STATUTORY INSTRUMENTS

2012 No. 0000

MERCHANT SHIPPING

MARITIME SECURITY

The Port Security (Port of Aberdeen) Designation Order 2012

<i>Made</i>	- - - -	2012
<i>Laid before Parliament</i>		2012
<i>Coming into force</i>	- -	2012

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⁽²⁶⁾:

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⁽²⁷⁾.

Citation and commencement

1 This Order may be cited as the Port Security (Port of Aberdeen) Designation Order 2012 and comes into force on [INSERT DATE] 2012.

Port boundary

2—(1) For the purposes of regulation 3(2) of the Port Security Regulations 2009⁽²⁸⁾ the boundary of the Port of Aberdeen is delineated by the red line on the plan in Schedule 1.

(2) Where the boundary runs along a beach or foreshore, the port only includes the land on that beach or foreshore which is below the level of mean high water springs.

The Aberdeen Port Security Authority

3—(1) For the purposes of the Port Security Regulations 2009, the Aberdeen Port Security Authority is designated as the port security authority for the port of Aberdeen.

⁽²⁶⁾ 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).

⁽²⁷⁾ S.I. 1993/595, 1994/757 and 2004/706.

⁽²⁸⁾ S.I. 2009/2048.

(2) Schedule 3 has effect with respect to the Aberdeen Port Security Authority.

Review

4—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2005/65/EC of the European Parliament and of the Council of 26th October 2005 (which is implemented by means of the Port Security Regulations 2009⁽²⁹⁾) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those Regulations and this Order,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before 1st January 2014.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

[INSERT DATE] 2012

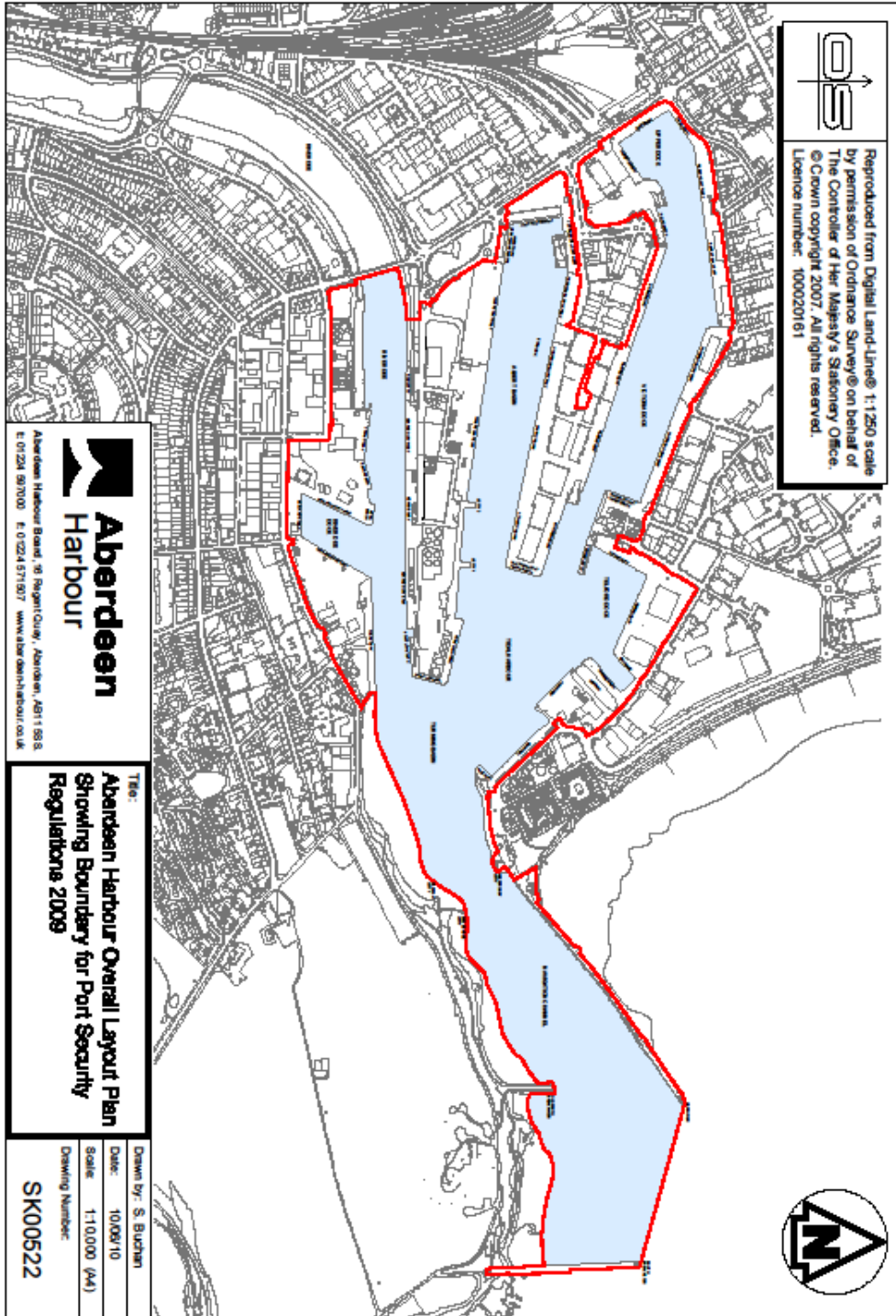
Name
Parliamentary Under Secretary of State,
Department for Transport

⁽²⁹⁾ S.I. 2009/2048

SCHEDULE 1

Article 2(1)

Boundary of the Port of Aberdeen



SCHEDULE 2

Article 3(2)

The Aberdeen Port Security Authority

Members

1—(1) The Aberdeen Port 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 his or her position as 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) The Authority must hold at least two meetings in any 12-month period.

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

(3) The Authority must appoint one of its members as chair of the Authority.

(4) The person appointed 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 reasonably practicable.

- (5) 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.
- (6) 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.
- (7) A representative of the Secretary of State may attend any meeting as an observer.
- (8) Minutes must be kept of the proceedings of the Authority.
- (9) 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 has any pecuniary interest, direct or indirect, in any matter that is brought up for consideration at a meeting of the Authority (which expression in this paragraph includes any committee or subcommittee 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;
- (b) the member must not take any part in any deliberation or decision of the Authority with respect to that matter; and
- (c) the member may be excluded from the meeting whilst the matter is under consideration.

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

- (a) is a member, director or employee of, or partner in, 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 any such matter for the purposes of any meeting where the matter comes up for discussion.

(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 proxy 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 contract, proposed contract or other 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 of, 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 prohibition imposed by virtue of this paragraph in any case where the prohibition is 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 (7) includes power to remove, either indefinitely or for any period, a prohibition which would otherwise attach to any member, or members of any description, by reason of such interests and in respect of such matters, as may be specified or described by the Secretary of State.

(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 (7).

(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 (10) 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

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