
STATUTORY INSTRUMENTS

201[X] No. [X]

HARBOURS, DOCKS, PIERS AND FERRIES

The Dover Harbour Revision Order 202[X]

<i>Made</i> - - - -	202[X]
<i>Laid before Parliament</i>	202[X]
<i>Coming into force</i> - -	202[X]

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

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

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

PART 1

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the Dover Harbour Revision Order 202[X].

(2) This Order comes into force on [] 202[X].

(3) The Dover Harbour Acts and Orders 1954 to 2016 and this Order may together be cited as the Dover Harbour Acts and Orders 1954 to 201[X].

Interpretation

2.—(1) In this Order, except where the context otherwise requires—

“the Board” means the Dover Harbour Board;

“the deposited plan and section” means the plan and section which is prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “The Dover Harbour Revision Order 202[X] Plan and Section” of which one copy has been deposited at the offices of the Marine Management Organisation and the other at the offices of the Board;

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

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

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

“tidal work” means the work authorised by this Order;

“the Maritime and Coast Guard Agency” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

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

“the UK Hydrographic Office” means the Hydrographic Office of the Ministry of Defence, Taunton, Somerset TA1 2DN; and

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

(b) S.I. 2010/674.

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

(d) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1), of the Harbours Act 1964 (c.40).

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

(f) 1954 c.iv.

“work” means the work authorised by article 3(1) of this Order (power to construct works), or as the case may require, any part thereof and includes any work constructed pursuant to article 5 (subsidiary works).

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

(3) Any reference in this Order to a work identified by the number of such work are construed as a reference to the work of that number authorised by this Order.

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

PART 2

Works

Power to construct works

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

Work No. 1 – A wave wall of steel piled construction 70 metres in length, commencing at a point at 51°07'09.3"N, 1°19'14.2"E proceeding in easterly direction and terminating at a point at 51°07'08.7"N, 1°19'17.6"E the location and a section of which are shown on the deposited plan and section respectively.

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

Power to deviate

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

- (a) deviate laterally from the lines or situations of that work as shown on the deposited plan to any extent not exceeding the limits of deviation; and
- (b) may deviate vertically from the levels of the work as shown on the deposited section—
 - (i) to any extent not exceeding 3 metres upwards; and
 - (ii) to such extent downwards as may be found necessary or convenient.

Subsidiary works

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

(2) In the course of erecting, constructing, laying down, placing, removing and replacing the work, the Board may carry out temporary construction activity, including the temporary placing of plant and equipment in the waters adjoining the limits of deviation.

Obstruction of works

6. Any person who—

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

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

Survey of tidal works

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

Provision against danger to navigation

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

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

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

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

Abatement of works abandoned or decayed

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

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

Lights on tidal works during construction

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

(2) If the Board fails to comply in any respect with a direction given under this article it will be guilty of an offence and liable on summary conviction to a fine and on conviction on indictment to a fine.

Permanent lights on tidal works

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

(2) If the Board fail to comply in any respect with a direction given under this article, it will be guilty of an offence and liable on summary conviction to a fine and on conviction on indictment to a fine.

Period for completion of works

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

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

Works to be deemed part of harbour

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

PART 3

Miscellaneous and General

Defence of due diligence

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

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

article 8 (provision against danger to navigation);

article 10 (lights on tidal works during construction); and

article 11 (permanent lights on tidal works).

(3) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the Board will not, without leave of the court, be entitled to rely on that defence unless, within a period of 7 clear days before the hearing, they have served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in their possession.

Saving for Trinity House

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

Crown rights

16.—(1) Nothing in this Order shall –

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

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

Signed by authority of the Marine Management Organisation

Date *Name*
Chief Executive Officer

EXPLANATORY NOTE

(This note is not part of the Order)

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

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

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

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

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

Provision is made for the permanent lighting of tidal works after they have been constructed (article 11) and also during their construction or any alteration to them (article 10).

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

Provision is made for the works authorised by the Order to be deemed for all purposes to be part of the harbour (defined in article 2(1)) (article 13).

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

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

The deposited plan and section referred to in article 2(1) may be inspected during working hours at the offices of Dover Harbour Board at Harbour House, Dover, Kent CT17 9BU.

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

An Explanatory Memorandum is available alongside the instrument on the UK legislation website, www.legislation.gov.uk.

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