

PORT OF LONDON AUTHORITY

HARBOUR REVISION ORDER

NOTE

Article 106 - Section 72. Vesting of embanked land

1. Mr DeVere has raised an issue concerning the payment of consideration for a property interest by the holder of works which constitutes an embankment and would therefore vest in the holder of the licence.
2. As matters stood in the pre-HRO 1968 Act the owner of land which abutted the River Thames (i.e a riparian owner) would pay a fee for a riverworks licence to embank the land. The process of embanking would shore up the riverbank to enable, for example, boats to tie up or moor alongside the embankment. The effect of section 72 of the 1968 Act was that the newly created embanked land would vest in the licence holder.
3. Under the HRA, the PLA sought to prevent the embanked land vesting in the holder of a licence holder. PLA's view is set out in the Statement in Support (Core Documents Bundle 2) in relation to Article 106 (Repeals):

108. Section 72 (Vesting of embanked land) is repealed. In future any land owned by the Port Authority that is embanked will either be sold or leased to the licensee, when the embankment is completed. The Order contains, at paragraph 6 of Schedule 2, transitional provisions which provide for the vesting of existing embankments which have been completed and for vesting still to occur where embankments have been authorised by the Port Authority but not completed. It is a consequential

change resulting from the separation of the grant of interests in land from the works permitting regime.

4. I agree with Mr DeVere that the repeal of section 72 would bring about a situation where the property owner would pay for the work for the land (comprising, for example, the piling and structure of the embankment), but the PLA would nevertheless receive that embanked land.
5. I also took the view that if the new embankment did not vest in the licence holder, a strip of land would be created which would be owned by the PLA, which could potentially interfere with the riparian rights of the owner of the riverbank land. To prevent the creation of a potential ransom strip I considered that section 72 should not be repealed. This was a point raised by TBYBC and responded to by PLA at 10.6 of its Statement of case.
6. The PLA Statement of Case states:

10.6 Vesting of embanked land

10.6.1 One objection (OBJ 35) commented on the repeal of section 72 (vesting of embanked land) of the 1968 Act by the HRO. The repeal is a consequential change resulting from the separation of the grant of interests in land from the works permission regime. In future any land owned by the PLA that is embanked will either be sold or leased to the licensee, when the embankment is completed. The HRO contains, at paragraph 6 of Schedule 2, transitional provisions which provide for the vesting of existing embankments which have been completed and for vesting still to occur where embankments have been authorised by the PLA but not completed.

10.6.2 The objector raised a concern that this would allow the PLA to lease or sell embanked land to a licensee who may be unrelated to the riparian owner.

However, the PLA does not consider that it would be possible to grant an interest

in reclaimed land which would interfere with an adjacent owner's riparian rights. The permissions regime enables public rights of navigation to be extinguished through the grant of a permission but it does not permit interference with private land rights, such as the rights of a riparian owner.

7. At paragraph 486 of the report, I did not accept the PLA's position as set out in its Statement of Case and took the view that section 72 should be retained. However, for section 72 to be retained embanking licences would need to become works permissions under the new section 11 permissions regime because the new permissions regime, which I have recommended to be approved, replaces the old licensing regime.
8. Therefore, I recommended that the licence fee for an embanking licence should be replaced with the equivalent works permission fee under the new regime. This would be subject to the same degree of protection from excessive charging as any other permission fees under the new regime. Significantly, under section 11(3A) to which I have referred, there is a provision for the level of consideration to be referred to an arbitrator (see sections 11(3A) and 11(3C)).
9. Mr DeVere makes the point that there is an introduction of a payment of consideration for the embanked land, where previously there was no requirement/ obligation. However, under the current/ previous position there was a licence fee payable for the embanking licence. Now (under the new permissions regime) there will be *payment of consideration for a property interest by the holder of the said works permission in accordance with section 11(3A)*.
10. Therefore, the new wording renders the continuing section 72 compatible with the new permissions regime, as set out at paragraph 490 of the report.

11. I can see from his comments to the MMO that Mr DeVere could be concerned that the PLA might seek to charge an excessive fee for the property interest, given that the embanked land will vest with the permission holder. Indeed, some witnesses before the Inquiry asserted that the PLA has charged excessive amounts in relation to balconies¹. However, in relation to section 72, the position should not change because PLA charges fees for embanking licences under the existing arrangements. The right to arbitration might offer a solution in cases where prospective permission holders might want to challenge potentially excessive fees.
12. Under the proposed modification to the HRO, the consideration would be payable for the property interest. However, the embanked land created by the works would still automatically vest in the permission holder. The permission holder would not be required to pay for a permission to embank and then (following such payment) also have to purchase or lease from the PLA any new embanked land created by the process (for example, so as to be sure of retaining riparian access).
13. The modification and retention of section 72 ensures that the embanked land would continue to vest in the riparian owner, whose position would be protected.
14. Please do not hesitate to contact me if I can assist further on this point in the report.

Christopher Jacobs

2 April 2026

¹ For the avoidance of doubt, I confirm that I have made no findings regarding the amounts that are charged for balcony riverworks licences as these matters are outside the scope of the HRO.

