

2002 No. 3127

HARBOURS, DOCKS, PIERS AND FERRIES

**The Mersey Docks and Harbour Company
(Langton River Berth) Harbour Revision Order 2002**

Made - - - - - *17th December 2002*

Coming into force - - - *31st December 2002*

Whereas The Mersey Docks and Harbour Company has applied for a harbour revision order under section 14 of the Harbours Act 1964(a);

And whereas objections to the application made pursuant to paragraph 10(2) of Schedule 3 to that Act have been withdrawn;

And whereas the Secretary of State is satisfied as mentioned in subsection (2)(b) of the said section 14;

Now, therefore, the Secretary of State (being the appropriate Minister under subsection (7) of the said section 14(b)), in exercise of the powers conferred by that section and now vested in him(c), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Mersey Docks and Harbour Company (Langton River Berth) Harbour Revision Order 2002 and shall come into force on 31st December 2002.

(2) The Mersey Docks and Harbour Acts and Orders 1857 to 1992 and this Order may be cited together as the Mersey Docks and Harbour Acts and Orders 1857 to 2002.

Interpretation

2.—(1) In this Order—

“the Company” means The Mersey Docks and Harbour Company;

“deposited plan and sections” means the plan and sections prepared in triplicate, signed by the Head of Ports Division in the Department for Transport and marked “The Mersey Docks and Harbour Company (Langton River Berth) Harbour Revision Order 2002”, of which two copies have been deposited at the Department and one copy has been deposited at the offices of the Company;

“the Dock Act 1848” means the Liverpool Docks Act 1848(d);

“existing enactments” means The Mersey Docks and Harbour Acts and Orders 1857 to 1992;

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

(a) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4 and 14, and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1.

(b) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(c) S.I. 1981/238.

(d) 1848 c. x.

“the port” means the port of Liverpool as defined in the 1971 Act (including all land within the ring ownership boundary as defined in section 11 of the Mersey Docks and Harbour Board Act 1971)(a);

“relevant work” means so much of any work authorised by this Order as is on, under or over the waters of the port;

“subsidiary” has the same meaning as in section 736 of the Companies Act 1985(b);

“the 1906 Act” means the Mersey Docks and Harbour Board Act 1906(c);

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1971 Act” means the Mersey Docks and Harbour Act 1971(e);

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

“works” means the works authorised by this Order or, as the case may require, any part thereof.

(2) This Order shall be read as if the words “or thereabouts” were inserted after each distance mentioned in article 3.

(3) Except in article 7(1) map reference points specified in this Order are Ordnance Survey National Grid reference points.

(4) References in the existing enactments to the undertaking of the Company shall be construed as including references to any works carried on by the Company or any of its subsidiaries under or by virtue of this Order.

Power to construct works

3.—(1) Subject to the provisions of this Order, the Company may in the port and in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and sections construct and maintain the works hereafter described, together with all necessary and proper works and conveniences connected with or incidental thereto, that is to say—

Work No. 1.—A rock berm along the toe of the river wall over a length of 310 metres commencing at a point at 332760, 394741 proceeding thence in a southerly direction, terminating at a point at 332894, 394462.

Work No. 2.—An approach bridge of structural steelwork and/or reinforced concrete deck on tubular piles to the second deck of the linkspan, commencing at a point on the quay edge, at a point at 332876, 394513, proceeding thence in a south westerly direction for 40 metres and terminating at a point at 332867, 394487.

Work No. 3.—An approach bridge of structural steelwork and/or reinforced concrete deck on tubular piles to the first deck of the linkspan, commencing at a point on the quay edge, at a point at 332896, 394490, proceeding thence in a westerly direction for 35 metres and terminating at a point at 332869, 394471.

Work No. 4.—A twin deck linkspan providing berth and associated facilities for vessels including a series of dolphins of structural steelwork and/or reinforced concrete deck on tubular piles, with interlinking walkways commencing at the termination of Work No. 2 (332867, 394487) proceeding thence in a south westerly direction for 325 metres and terminating at a point at 332903, 394163.

(2) The Company may within the limits of deviation alter, replace, relay or reconstruct the works and may maintain the same as altered, replaced, relaid or reconstructed.

Period for completion of works

4. If the works are not completed within 10 years from the coming into force of this Order, the powers by this Order granted to the Company for constructing the works shall cease except as to so much thereof as is then substantially commenced.

(a) 1971 c. x.
(b) 1985 c. 6.
(c) 1906 c. xl.
(d) 1961 c. 33.
(e) 1971 c. lvii.

Subsidiary works

5. Subject to the provisions of this Order, the Company may from time to time, within the limits of deviation, construct and maintain all such necessary works and conveniences, and take such measures, as may be requisite or expedient for the purposes of or in connection with the construction, maintenance and use of the works.

Power to deviate

6. In constructing the works the Company may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent upwards or downwards.

Temporary closure

7.—(1) Notwithstanding anything in section 23 of the Dock Act 1848 or section 13 of the 1906 Act or any other enactment, all rights of way (if any) between points X and Y over the existing river wall shall be closed during the construction of the works.

(2) Any person who suffers loss by the temporary closure of such right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(3) Part I of the 1961 Act shall apply to any dispute over compensation for loss as a result of the temporary closure referred to in paragraph (1) as it applies to a question of disputed compensation where land is authorised to be acquired compulsorily with such modifications as may be necessary.

Fine for obstructing works

8. Any person who intentionally obstructs any person acting under the authority of the Company in setting out the lines of the works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Effect of existing Acts upon works

9. The works, and the bed, banks and shores of the river Mersey on which the works are constructed shall for all purposes, so far as is not inconsistent with the provisions of this Order, be deemed to be docks and lands of the Company within the meaning of the existing enactments or any of them.

Relevant works not to be executed without approval of Secretary of State

10.—(1) A relevant work shall not be constructed, altered, replaced, relaid or reconstructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a relevant work is constructed, altered, replaced, relaid or reconstructed in contravention of this article or of any condition or restriction imposed under this article—

(a) the Secretary of State may by notice in writing require the Company at its own expense to remove the relevant work or any part thereof and restore the site thereof to its former condition; and, if on the expiration of 30 days from the date when the notice is served upon the Company it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may remove the relevant work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Company.

Provision against danger to navigation

11.—(1) In case of injury to, or destruction or decay of, a relevant work or any part thereof, the Company shall as soon as reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

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

Abatement of works abandoned or decayed

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

(2) Where a work consisting—

(a) partly of a relevant work, and

(b) partly of works on or over land which is not on, under or over the waters of the port, is abandoned or suffered to fall into decay and the works mentioned in sub-paragraph (b) above are in such condition as to interfere or to cause reasonable apprehension that they may interfere with the right of navigation or other public rights, the Secretary of State may include those works, or any portion thereof, in any notice under this article.

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

Survey of relevant works

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

Permanent lights on relevant works

14.—(1) After the completion of a relevant work the Company shall at the outer extremity thereof 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 shall from time to time direct.

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

(3) It shall be a defence for the Company to prove that all due diligence was used to secure compliance with any such direction.

Lights on relevant works during construction, etc.

15.—(1) The Company shall at or near a relevant work during the whole time of the construction, alteration, replacement, relaying or reconstruction thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

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

(3) It shall be a defence for the Company to prove that all due diligence was used to secure compliance with any such direction.

For protection of the Environment Agency

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

Crown rights

17.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the Company to take, use, enter upon or in any manner interfere with, any land, hereditaments or rights of whatsoever description (including any part of the shore or bed of the sea or any other river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners, and
- (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

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

Signed by authority of the Secretary of State

17th December 2002

Stephen Reeves
The Head of Ports Division,
Department for Transport

(a) 1991 c. 57.
(b) 1991 c. 59.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises The Mersey Docks and Harbour Company to construct a rock berm and twin deck linkspan together with berthing dolphins adjoining Langton Dock and a bridge to the new linkspan.

The plan and sections referred to in article 2(1) may be inspected during normal working hours at the offices of the Mersey Docks and Harbour Company at Maritime Centre, Port of Liverpool L21 1LA.

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(Langton River Berth) Harbour Revision Order 2002

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