
STATUTORY INSTRUMENTS

2008 No. 1261

The London Gateway Port Harbour Empowerment Order 2008

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as The London Gateway Port Harbour Empowerment Order 2008 and comes into force on 16th May 2008.

Commencement Information

II Art. 1 in force at 16.5.2008, see [art. 1](#)

Interpretation

2.—(1) In this Order—

“the 1845 Act” means the Railways Clauses Consolidation Act 1845(1);

“the 1847 Act” means the Harbours, Docks and Piers Clauses Act 1847(2);

“the 1961 Act” means the Land Compensation Act 1961(3);

“the 1965 Act” means the Compulsory Purchase Act 1965(4);

“the 1968 Act” means the Port of London Act 1968(5);

“the 1980 Act” means the Highways Act 1980(6);

“the 1990 Act” means the Town and Country Planning Act 1990(7);

“the 1991 Act” means the New Roads and Street Works Act 1991(8);

“the 1995 Order” means the Town and Country Planning (General Permitted Development) Order 1995(9);

“AOD” means above Ordnance Datum (Newlyn);

“the area of jurisdiction” means the area shown washed green on Sheet No. 209 of the deposited plans;

“the authorised works” means the works and operations authorised by Part 3;

(1) 1845 c. 20.

(2) 1847 c. 27 (10 & 11 Vict.).

(3) 1961 c. 33.

(4) 1965 c. 56.

(5) 1968 c. 32.

(6) 1980 c. 66.

(7) 1990 c. 8.

(8) 1991 c. 22.

(9) S.I. 1995/418, to which there have been amendments not relevant to this Order.

“bridleway”, “footpath”, “highway” and “highway authority” have the same meaning as in the 1980 Act;

“chart datum” in relation to any location, at any time, means the datum level ascertained at that time by reference to the relevant charts;

“the Company” means London Gateway Port Limited, a company limited by shares and incorporated under the Companies Act 1985⁽¹⁰⁾, whose registered number is 4341592;

“conditions of restricted visibility” means any occasion when visibility is less than 0.5 nautical miles;

“construction” includes execution and placing and, in its application to works which include or comprise any operation, means the carrying out of that operation but does not include hydrodynamic dredging or maintenance dredging, and “construct” shall be construed accordingly;

“container vessel” means a vessel which is used for carrying cargo and fitted with fixed or portable cell guides for the carriage of containers;

“the deposited plans” and “the deposited sections” mean, respectively, the plans and sections certified by the Secretary of State as the plans and sections for the purposes of this Order pursuant to article 69 (certification of plans, etc.);

“the Dockmaster” means the dockmaster appointed by the Harbour Authority under this Order;

“dredging” includes hydrodynamic dredging and “dredge” shall be construed accordingly;

“environmental document” means—

- (a) the environmental statement prepared for the purposes of the application for this Order together with any supplementary environmental statement or other document so prepared by way of clarification or amplification of the environmental statement; and
- (b) any other document containing environmental information provided by the Harbour Authority to the Secretary of State or the PLA for the purposes of any tidal works approval under article 16 (tidal works not to be constructed without approval of the Secretary of State) or paragraph 2 of Schedule 8;

“the footpath plans” means Sheets Nos. 268 to 272 of the deposited plans;

“functions” includes powers and duties;

“the Habitats Directive” means Council Directive [92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as amended);

“the Habitats Regulations” means the Conservation (Natural Habitats, &c) Regulations 1994⁽¹¹⁾ (as amended), which implement the Habitats Directive;

“the Harbour Authority” means the Company in its capacity as a harbour authority established by article 8 (jurisdiction of the Harbour Authority);

“the Harbour Master” means a person appointed by the PLA to be a harbour master and includes his deputies and assistants;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“hydrodynamic dredging” means any operation that has the effect of materially increasing the depth of water at a given location by disturbing material in the bed of the river or of the sea so

⁽¹⁰⁾ 1985 c. 6.

⁽¹¹⁾ S.I. 1994/2716.

that such material is displaced from the bed of the river or of the sea at that location without being removed from the river or the sea, but does not include operations which keep sediment in flux;

“the limits of construction activity” means the limits of construction activity shown marked “LOC” on the deposited plans;

“the limits of construction activity for dredging” means the limits of construction activity for the operations authorised by article 13 (power to dredge) and shown marked “LOC(D)” on the deposited plans;

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

“the limits of deviation for dredging” means the limits of deviation for the operations authorised by article 13 (power to dredge) and shown marked “LOD(D)” on the deposited plans;

“the local highway authority” means Thurrock Borough Council acting as a highway authority under the 1980 Act, or any successor body;

“London Gateway Port” means the harbour authorised by this Order within the area of jurisdiction;

“the main channel” means the deep water channel authorised in Dredging Work No.2 in paragraph 2 of Schedule 3;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct, replace, re-lay, renew and update and “maintenance” shall be construed accordingly;

“maintenance dredging” means any dredging operation carried out under article 13 (power to dredge) in order to maintain the areas referred to in Schedule 3 to their respective depths, widths, positions or diameters as set out in that Schedule;

“mean high water level” means the level which is half way between mean high water springs and mean high water neaps;

“the mitigation land” means the land numbered 182 to 184, 191 to 194, 196 to 201 and 203 on Sheets Nos. 273 to 291 of the deposited plans and described in Schedule 12;

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 736 of the Companies Act 1985) the holding company of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“personal watercraft” means any watercraft (not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine or other mechanical means of propulsion and steered either—

- (a) by means of a handlebar-operated linkage system (with or without a rudder at the stern); or
- (b) by the person or persons riding the craft using his or their body weight for the purpose; or
- (c) by a combination of the methods referred to in (a) and (b);

“the PLA” means the Port of London Authority operating under the 1968 Act;

“the PLA limits” means the area defined by the limits set out in paragraph 2 of Schedule 1 to the 1968 Act;

“the planning restrictions plan” means Sheet No. 210 of the deposited plans;

“plans” include sections, elevations, drawings, specifications, programmes and method statements and includes hydraulic information;

“the port premises” means such works, berthing pockets, land and premises as are situated within the area of jurisdiction at any time belonging to, vested in or occupied by the Harbour Authority and used, intended to be used or set aside for the purposes of, or in connection with, the commercial management and operation of the authorised works or of the undertaking;

“railway property” means any railway belonging to Network Rail and any works, apparatus and equipment belonging to Network Rail connected therewith and includes any land held or used by Network Rail for the purposes of such railway or works, apparatus or equipment;

“Rainbow Lane” means the street of that name in Stanford-le-Hope, Thurrock;

“reference point” means an Ordnance Survey National Grid reference point;

“the related development” means the proposed London Gateway Commercial and Logistics Centre given outline planning permission by the Secretary of State on 30 May 2007 following an application made in 2002 and given registration reference TH/02/00084/OUT;

“the relevant charts” means, at any time, the Admiralty Chart for the Thames Estuary numbered 1183 and the Admiralty Chart for the River Thames Canvey Island to Tilbury numbered 1186, as published by the United Kingdom Hydrographic Office from time to time, or any amendment, replacement or recognised substitute of those charts as published by the United Kingdom Hydrographic Office or any successor body;

“the river” means the River Thames;

“Ro-Ro use” means the provision of services and facilities within the port premises for roll-on roll-off ships to load and unload their cargo;

“ship dues” means charges in respect of any vessel for entering, using or leaving London Gateway Port, including charges in respect of marking or lighting London Gateway Port;

“the street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“tidal work” means so much of any permanent or temporary authorised work as is, or may be on, in, under or over the surface of land below mean high water level forming part of the river, but excluding—

- (a) the projection over waters by booms, cranes and similar plant or machinery operating within the area of jurisdiction;
- (b) any work or operation, other than maintenance dredging, necessary to maintain or to return any tidal work to the condition or state to which such tidal work has previously been carried out pursuant to this Order;
- (c) any maintenance dredging; and
- (d) any operation under section 252 of the Merchant Shipping Act 1995⁽¹²⁾ or under section 56 of the 1847 Act as incorporated by article 3 (incorporation of the Harbours, Docks and Piers Clauses Act 1847);

and a work ceases to be a tidal work when the land on which it is situated ceases to be below mean high water level;

“the tribunal” means the Lands Tribunal;

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

“the undertaking” means the harbour undertaking of the Harbour Authority established within the area of jurisdiction by this Order;

(12) 1995 c. 21.

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and is at the time in, on or over water; and

“Wharf Road” means the street of that name in Stanford-le-Hope, Thurrock.

(2) Any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order or any part of such work.

(3) Any reference to a point identified by a letter or coordinates reference shall be construed as a reference to a point identified by that letter or coordinates reference on the deposited plans.

(4) This Order shall be read as if the words “or thereabouts” were inserted after each situation, direction, distance, point, length, area or dimension or other measurement stated in it.

(5) Where in this Order a period is stated to be from a specified day, the first day of the period is the day after the day so specified.

(6) Any vessel shall be a ship for the purposes of the application of the 1964 Act to the undertaking.

Commencement Information

I2 Art. 2 in force at 16.5.2008, see [art. 1](#)

Incorporation of the Harbours, Docks and Piers Clauses Act 1847

3.—(1) The 1847 Act (except sections 6 to 23, 25, 31, the proviso to section 32, sections 42, 45, 48 to 50, 60 to 63, 66 to 68, 73, 77 and 79 to 83) is hereby incorporated in this Order subject to the modifications stated in paragraphs (2) and (3) and in articles 37 (recovery and enforcement of charges) and 40 (disputes concerning rates).

(2) Section 69 shall have effect as if for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale”.

(3) In construing the 1847 Act as so incorporated—

- (a) the expression “the special Act” means this Order;
- (b) the expressions “the Promoters of the undertaking” and “the undertakers” mean the Harbour Authority;
- (c) the expression “the harbour, dock or pier” means the authorised works within the area of jurisdiction;
- (d) the expressions “limits” and “prescribed limits” mean the area of jurisdiction;
- (e) the expression “near the pier” does not extend beyond the area of jurisdiction;
- (f) the expression “the harbour master” means, in relation to the authorised works, the Dockmaster;
- (g) the definition of “vessel” in article 2(1) shall be substituted for the definition in section 3 of the 1847 Act;
- (h) section 53 of the 1847 Act shall not be construed as requiring the Dockmaster to serve written notice upon the master of a vessel and directions given under that section may be communicated to the vessel master orally or otherwise; and
- (i) any requirement to comply with a notice or direction given by the Dockmaster shall be construed as including a requirement that, in complying with such notice or direction, a

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person who is subject to the notice or direction shall also comply with any relevant notice or direction given by the PLA or the Harbour Master in the exercise by either or both of them of any function conferred by or under any enactment (including this Order).

Commencement Information

I3 Art. 3 in force at 16.5.2008, see [art. 1](#)

Byelaws

4.—(1) The Harbour Authority may make such byelaws as it thinks fit for the efficient management and regulation of London Gateway Port, including byelaws for all or any of the following purposes—

- (a) the management, control and regulation of the area of jurisdiction and of goods, wares, merchandise and vehicles within it;
- (b) the control and regulation of vessels within the area of jurisdiction or such lesser area as the Harbour Authority thinks fit;
- (c) the conduct of persons within the area of jurisdiction;
- (d) safety precautions to be observed by persons within the area of jurisdiction, whether or not on board vessels; and
- (e) the protection and conservation of flora and fauna and other natural features, including byelaws—
 - (i) prohibiting the placing of vessels on land dedicated or designated under article 47 (conservation);
 - (ii) prohibiting fishing or bait digging on such land; or
 - (iii) regulating the control of animals on such land or on land of the Harbour Authority.

(2) Section 85 of the 1847 Act as incorporated in this Order by article 3 (incorporation of the Harbours, Docks and Piers Clauses Act 1847) shall have effect as if for the words from “in the prescribed manner” to the end of the section there were substituted the words “by the Secretary of State”.

(3) The Harbour Authority shall not make any byelaw so as to conflict with any byelaw made by the PLA, or with any general direction to vessels given by the PLA or the Harbour Master acting under any enactment. In the case of conflict between—

- (a) a byelaw made by the Harbour Authority; and
- (b) a byelaw made, or direction given, by the PLA or the Harbour Master,

the byelaw or direction of the PLA or of the Harbour Master shall prevail.

(4) In the case of any conflict between byelaws made by the Harbour Authority and byelaws made by Network Rail in respect of railway property, the byelaws of Network Rail shall, in respect of that railway property, prevail.

Commencement Information

I4 Art. 4 in force at 16.5.2008, see [art. 1](#)

Application of the Local Government Act 1972

5. The provisions of sections 236(3) to (8) and (11) and 238 of the Local Government Act 1972(13) shall apply to any byelaws made by the Harbour Authority, subject to the following modifications—

- (a) references to a local authority shall have effect as if they were references to the Harbour Authority;
- (b) references to proper officer shall have effect as if they were a reference to a Director or the Company Secretary of the Harbour Authority;
- (c) the following subsection shall be substituted for section 236(3A)—

“(3A) No byelaws shall be made in accordance with subsection (3) unless the Harbour Authority has, not less than three months before making those byelaws, consulted the PLA and the Environment Agency.”;
- (d) subsection 236(7) shall have effect as if—
 - (i) at the beginning of that subsection, there were inserted the words “subject to subsection (7A)”;
 - (ii) after the words “The confirming authority may confirm” there were inserted the words “with or without modifications”;
- (e) the following subsection is treated as having been inserted after section 236(7)—

“(7A) Where the Secretary of State proposes to make a modification to a byelaw which appears to him to be substantial, he shall inform the Harbour Authority and require it to notify the PLA and take any other steps which he considers to be necessary for informing persons likely to be concerned with the modification and he shall not confirm the byelaw until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification.”.

Commencement Information

I5 Art. 5 in force at 16.5.2008, see [art. 1](#)

Application of the New Roads and Street Works Act 1991

6.—(1) Any of the authorised works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by sections 64 (dual carriageways and roundabouts) or 184 (vehicle crossings) of the 1980 Act.

(2) The following provisions of the 1991 Act shall not apply in relation to any works executed under the powers of this Order—

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);

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section 58A (restriction on works following substantial street works);
 section 73A (power to require undertaker to re-surface street);
 section 73B (power to specify timing, etc., of re-surfacing);
 section 73C (materials, workmanship and standard of re-surfacing);
 section 78A (contributions to costs of re-surfacing by undertaker); and
 Schedule 3A (restriction on works following substantial street works).

(3) The provisions of the 1991 Act mentioned in paragraph (4) which, together with other provisions of that Act, apply in relation to the execution of street works, and any regulations made or code of practice issued or approved under those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street of a temporary nature by the Harbour Authority under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act referred to in paragraph (3) are—

section 54 (advance notice of certain works), subject to paragraph (5);
 section 55 (notice of starting date of works), subject to paragraph (5);
 section 57 (notice of emergency works);
 section 59 (general duty of street authority to co-ordinate works);
 section 60 (general duty of undertakers to co-operate);
 section 68 (facilities to be afforded to street authority);
 section 69 (works likely to affect other apparatus in the street);
 section 75 (inspection fees);
 section 76 (liability for cost of temporary traffic regulations); and
 section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(5) Sections 54 and 55 of the 1991 Act as applied by paragraph (3) shall have effect as if references in section 57 of the 1991 Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(6) References in Part 3 of the 1991 Act to the undertaker shall be construed as references to the Harbour Authority.

Commencement Information

I6 Art. 6 in force at 16.5.2008, see [art. 1](#)

Incorporation of the Railways Clauses Consolidation Act 1845

7.—(1) The following provisions of the 1845 Act shall be incorporated in this Order—

section 24 (obstructing construction of railway);
 section 46 (crossings of roads-level crossings), subject to paragraph (3);
 section 47 (provision in cases where roads are crossed on a level);
 section 58 (company to repair roads used by them), subject to paragraph (4);
 section 61 (company to make sufficient approaches and fences to highways crossing on the level);

section 68 (accommodation works by company);
section 71 (additional accommodation works by owners), subject to paragraph (5);
sections 72 and 73 (supplementary provisions relating to accommodation works), subject to paragraph (6);
section 75 (omission to fasten gates);
section 77 (presumption that minerals excepted from acquisition of land);
sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923⁽¹⁴⁾;
section 105 (carriage of dangerous goods on railway); and
section 145 (recovery of penalties).

(2) In those provisions, as incorporated in this Order—

“the company” means the Harbour Authority;

“the goods” includes anything conveyed on the railways authorised to be constructed by this Order;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and, except where the context otherwise requires, any other authorised works; and

“the Special Act” means this Order.

(3) In section 46 of the 1845 Act, as incorporated in this Order, for the proviso there shall be substituted the words “provided always that, subject to such conditions as the highway authority may reasonably impose, the railway may be carried across a highway on the level”.

(4) In section 58 of the 1845 Act, as incorporated in this Order, for the words from “the determination of two justices” to the end there shall be substituted the word “arbitrations”.

(5) In section 71 of the 1845 Act, as incorporated in this Order, the words “or directed by such justices to be made by the company” shall be omitted, and for the words “authorised by two justices” there shall be substituted the words “determined by arbitration”.

(6) Any difference arising under section 72 of the 1845 Act, as incorporated in this Order, shall be referred to arbitration under article 66 (arbitration).

Commencement Information

I7 Art. 7 in force at 16.5.2008, see [art. 1](#)

PART 2

JURISDICTION AND ESTABLISHMENT OF THE HARBOUR AUTHORITY

Jurisdiction of the Harbour Authority

8.—(1) Without prejudice to the functions of the PLA exercisable within its limits, the Company shall be the harbour authority for London Gateway Port.

⁽¹⁴⁾ 1923 c. 20.

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(2) Without prejudice to any provision of the 1847 Act as incorporated in this Order by article 3 (incorporation of the Harbours, Docks and Piers Clauses Act 1847), the area within which the Harbour Authority and the Dockmaster may exercise their functions under this Order shall be the area of jurisdiction.

(3) The jurisdiction of the Harbour Authority over vessels within the area of jurisdiction shall not extend to—

- (a) any vessel unless it is at anchor or otherwise moored or is causing an obstruction within the area of jurisdiction; or
- (b) signalling or any other activity connected with the movement of the vessel.

(4) Where any person referred to in paragraph (5)(a) considers that there is an actual or anticipated conflict between—

- (a) the exercise of any function of any person mentioned in paragraph (5)(a); and
- (b) the exercise of any function of any person mentioned in paragraph (5)(b),

then that person may give notice to the relevant person in paragraph (5)(b).

(5) The persons referred to in paragraph (4) are—

- (a) the PLA and the Harbour Master; and
- (b) the Harbour Authority and the Dockmaster.

(6) The notice referred to in paragraph (4) shall set out any requirements concerning the exercise of the relevant function by the relevant person mentioned in paragraph (5)(b).

(7) The requirements referred to in paragraph (6) may—

- (a) make general provision in relation to the exercise of functions over time; or
- (b) make specific provision about the exercise of a particular function or functions on a particular occasion.

(8) If—

- (a) a notice sets out requirements falling within paragraph (7)(a) it must be made in writing; and
- (b) a notice sets out requirements falling within paragraph (7)(b) it may be made in writing or in any other manner considered appropriate by the person giving the notice.

(9) On receipt of a notice given under paragraph (4), the recipient of the notice shall cease to exercise the function specified by the notice or shall only exercise it in the manner permitted by the notice or shall otherwise take the action specified in the notice in relation to the exercise of that function.

(10) Save where expressly provided elsewhere in this Order, no person mentioned in paragraph (5)(b) is obliged to seek any permission or otherwise notify any person mentioned in paragraph (5)(a) prior to exercising any function.

(11) Subject to the requirements of any notice given under paragraph (4), the functions of the Harbour Authority and the Dockmaster shall be exercised in accordance with Schedule 8.

Commencement Information

I8 Art. 8 in force at 16.5.2008, see [art. 1](#)

Agreements entered into by the Company, etc.

9. Any agreement or undertaking entered into by the Company before the coming into force of this Order in connection with the proposed exercise of its functions as Harbour Authority shall be binding upon the Harbour Authority notwithstanding that it was entered into by the Company before it was established as a Harbour Authority by article 8 (jurisdiction of the Harbour Authority).

Commencement Information

19 Art. 9 in force at 16.5.2008, see [art. 1](#)

PART 3

WORKS PROVISIONS

Power to construct, etc., works

10.—(1) The Harbour Authority may, in the lines or situations, and within the limits of deviation and according to the levels shown on the deposited plans and the deposited sections, construct, operate and maintain the works set out in Schedule 1, or any of them.

(2) For the purposes of, or in connection with, the works authorised by paragraph (1) the Harbour Authority may do any of the following within the limits of deviation for those works—

- (a) provide, construct and maintain approaches, roads, pavements, bridges (including bridges over watercourses), road and rail crossings, railway tracks, sidings, ramps, buildings, depots, walls, foundations, fences, gates, tanks, pumps, conduits, pipes, drains, wires, mains, cables, substations, signals, conveyors, cranes, lifts, hoists, lighting masts, radio masts, CCTV cameras and masts, security barriers, weighbridges, stairs, ladders, conveyors, stages, platforms, catwalks, equipment, pontoons and gangways, quays, berths, container handling equipment (including overhead bridge cranes), rail mounted gantries, rubber-tyred gantries, dredged material and aggregate handling washing and grading equipment, roll-on roll-off ship facilities, bulk liquids facilities, general cargo handling and haulage equipment and stagings, together with all such port, harbour, dock, wharf or terminal facilities (including security installations, tanks and pumps and other apparatus (including all utilities plant, conduit, pipes, wires, cables, substations, pumping stations, foul drainage and sewerage treatment plants, and telecommunications apparatus as is required)), plant, machinery, moorings, hydrodynamic dredging equipment, booms and barriers, outfalls, street lighting and signage as may be necessary or convenient;
- (b) within the area between the lines marked green on Sheets Nos. 216 and 217 of the deposited plans, construct and maintain permanent works within Works Nos. 11 and 12 for the accommodation or convenience of vessels;
- (c) construct, maintain and use apparatus, including mains, sewers, drains, pipes and cables;
- (d) alter the course of, or otherwise interfere with, rivers, streams or watercourses;
- (e) landscape and construct other works to mitigate any adverse effects of the construction, maintenance and operation of the other authorised works; and
- (f) carry out and maintain works for the benefit or protection of persons or premises affected by any of the other authorised works.

(3) For the purposes of, or in connection with the construction, maintenance or use of the authorised works, the Harbour Authority may within the limits of construction activity carry out such

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construction activity, including the temporary placing of materials, plant or equipment or temporary jetties or the construction of temporary accesses, as may be necessary or expedient.

(4) For the purpose of conveying dredged material from the main channel, and from the manoeuvring, berthing and anchorage sites to the site of Works Nos. 11 to 17 (shown on Sheets Nos. 216 and 217 of the deposited plans) the Harbour Authority may during the construction of Works Nos. 11 to 17 provide and use temporary pipes over, on or under the surface of the river.

(5) The powers of this article are subject to the restrictions set out in Schedule 2.

Commencement Information

I10 Art. 10 in force at 16.5.2008, see [art. 1](#)

Power to construct, etc., pontoons and jetties

11. The Harbour Authority may within the area of jurisdiction construct and maintain—

- (a) one or more floating pontoons for Ro-Ro use restrained or anchored by piles, extending into the river for a distance not exceeding 60 metres southward of the general line of the quay wall and connected to the shore by a link span;
- (b) up to two jetties comprised within Works Nos. 12 and 24 within the area between the lines marked orange on Sheet No. 217 of the deposited plans and extending into the river no further southward than the general line of the quay wall; and
- (c) a floating pontoon and access gangway located at the western end of the harbour within the area between the lines marked orange on Sheet No. 216 of the deposited plans and adjacent to the proposed quay wall in Works Nos. 11 and 12 (shown on Sheets Nos. 216 and 217 of the deposited plans).

Commencement Information

I11 Art. 11 in force at 16.5.2008, see [art. 1](#)

Further mitigation and compensation works

12.—(1) The Harbour Authority may carry out and maintain on the land hatched black on Sheet No. 208 (Limits of Amelioration Works) of the deposited plans amelioration works and such landscaping, water management and other works to mitigate the effects of the authorised works including altering the level of the land by no more than 50 metres upwards and 6 metres downwards for conservation and or ecological purposes, embankments and tree planting.

(2) Paragraph (1) is subject to article 16 (tidal works not to be constructed without approval of the Secretary of State) and Schedule 8 but nothing in those provisions shall prevent the undertaking and completion by the Harbour Authority of works necessary to compensate for the effects of the authorised works in accordance with the requirements of the Secretary of State acting as competent authority under the Habitats Directive and the Habitats Regulations.

Commencement Information

I12 Art. 12 in force at 16.5.2008, see [art. 1](#)

Power to dredge

13.—(1) The Harbour Authority may dredge, deepen, scour, cleanse, alter and improve the river bed and foreshore to the extent described in Schedule 3, or as may be required for the purpose of maintaining the works described in Schedule 3.

(2) The power to dredge described in Schedule 3 includes the power to carry out such additional dredging as may be required to provide side slopes or otherwise secure the dredged areas against siltation, scouring or collapse.

(3) Subject to paragraph 22 of Schedule 8, all materials dredged up or removed by the Harbour Authority in exercise of the powers of this article (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995⁽¹⁵⁾) shall be the property of the Harbour Authority and may be used, sold, deposited or otherwise disposed of as the Harbour Authority thinks fit.

(4) No such materials may be deposited on the bed of the river except—

- (a) within the area of jurisdiction, for the purposes of constructing the authorised works; or
- (b) in such places and in accordance with such conditions and restrictions as may be prescribed by the Secretary of State pursuant to Part 2 of the Food and Environment Protection Act 1985⁽¹⁶⁾.

Commencement Information

I13 Art. 13 in force at 16.5.2008, see [art. 1](#)

Power to deviate

14.—(1) In constructing and maintaining the works authorised by article 10(1) and in exercising the powers conferred by article 13 (power to dredge), the Harbour Authority may, to the extent of the limits of deviation or, for works authorised by article 13 (power to dredge), to the extent of the limits of deviation for dredging, deviate laterally from the lines or situations of those works shown on the deposited plans.

(2) In constructing and maintaining the works authorised by article 10(1), the Harbour Authority may deviate vertically from the levels of those works shown on the deposited sections to any extent downwards and up to 5 metres upwards.

(3) In exercising the powers conferred by article 13 (power to dredge), the Harbour Authority may deviate vertically to any extent not exceeding one metre downwards.

(4) In constructing so much of the combined footpath and bridleway shown on Sheets Nos. 268 and 269 of the deposited plans as lies between points X and W, the Harbour Authority may deviate laterally from the line shown on the footpath plans by 5 metres in any direction.

(5) In constructing so much of the footpath shown on Sheet No. 272 of the deposited plans as lies parallel to, but 5 metres north of, the definitive alignment of public footpath (part) No.81 in Thurrock, the Harbour Authority may deviate laterally from the line shown on the footpath plans by 2 metres in any direction.

(6) In constructing so much of the bridleway shown on Sheet No. 270 of the deposited plans running from a point 188 metres west of the crossing of footpath 190 (part) of the Thameshaven Branch line in a generally south-westerly, south, south-westerly direction for 1,000 metres to a point 180 metres south of the end of Wharf Road, the Harbour Authority may deviate laterally from the line shown on the deposited plans by 2 metres in any direction.

⁽¹⁵⁾ 1995 c. 21.

⁽¹⁶⁾ 1985 c. 48.

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Commencement Information

I14 Art. 14 in force at 16.5.2008, see [art. 1](#)

Fine for obstructing works

15.—(1) Any person who without reasonable excuse—

- (a) obstructs any person acting under the authority of the Harbour Authority in constructing, maintaining or using the authorised works; or
- (b) interferes with, moves or removes any equipment used in the construction, maintenance or use of the authorised works,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Nothing in paragraph (1) applies to the Harbour Master or to any person acting under the authority of the Harbour Master or the PLA.

Commencement Information

I15 Art. 15 in force at 16.5.2008, see [art. 1](#)

Tidal works not to be constructed without approval of the Secretary of State

16.—(1) A tidal work shall not be constructed 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 tidal work is constructed in contravention of paragraph (1), the Secretary of State may—

- (a) give notice to the Harbour Authority to remove the tidal work or any part of it and to restore the site of that tidal work to its former condition; or
- (b) where necessary remove the tidal work or part of it and restore the site of that tidal work to its former condition.

(3) Notice given under paragraph (2)(a) shall be in writing and shall be served on the Harbour Authority.

(4) If, within 30 days of service of the notice, the Harbour Authority has failed to comply with the notice, the Secretary of State may—

- (a) execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary to do so, she may remove the tidal work or part of it and restore the site to its former condition.

(5) Any expenditure incurred by the Secretary of State pursuant to paragraphs (2) to (4) shall be recoverable from the Harbour Authority.

(6) In considering any application for the Secretary of State's approval under paragraph (1), the Secretary of State shall consult with the PLA and the Environment Agency, both of whom shall provide their opinion on the plans and sections proposed for approval by the Secretary of State within 14 days of being requested to do so by the Secretary of State, and the Secretary of State shall take any such opinion that is received into account.

Commencement Information

I16 Art. 16 in force at 16.5.2008, see [art. 1](#)

Provision against danger to navigation

17.—(1) In case of injury to or destruction or decay of a tidal work within the area of jurisdiction the Harbour Authority shall as soon as reasonably practicable—

- (a) notify the PLA; and
- (b) lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the PLA may from time to time direct.

(2) If, without reasonable excuse, the Harbour Authority fails to notify the PLA or to act in accordance with any direction given under this article, the Harbour Authority shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Commencement Information

I17 Art. 17 in force at 16.5.2008, see [art. 1](#)

Lights on tidal works, etc.

18.—(1) In the locations specified in paragraph (2), the Harbour Authority shall—

- (a) at the times specified in paragraph (3), exhibit such lights, if any, and take such other steps for the prevention of danger to navigation as the PLA may from time to time direct; and
- (b) provide or afford reasonable facilities (including an electricity supply) for the PLA to provide from time to time (at the Harbour Authority's cost), such navigational lights, signals, radar or other apparatus for the benefit, control and direction of navigation as the PLA may deem necessary.

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

- (a) once a tidal work (other than one authorised under article 13 (power to dredge)) is completed, at or near the outer extremity of that tidal work; and
- (b) whilst any tidal work is being constructed, at or near appropriate points in relation to that tidal work.

(3) The times referred to in paragraph (1)(a) are—

- (a) every night from sunset to sunrise; and
- (b) at all times when there are conditions of restricted visibility in the vicinity of the tidal work.

(4) The Harbour Authority shall not in the exercise of the powers granted by this Order interfere with the marks, lights and other aids to navigation in the river without the agreement of the PLA and shall ensure access remains available to such aids during and following construction of any tidal work.

(5) Without prejudice to section 133 of the 1968 Act, the Harbour Authority shall comply with the directions of the Harbour Master from time to time with regard to the lights on any tidal work or within the port premises, or the screening of such lights, to ensure that the lights are not a hazard to navigation on the river.

(6) The Harbour Authority shall be liable—

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- (a) on summary conviction to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment to a fine,
- for a failure to comply with a direction given under this article.

Commencement Information

I18 Art. 18 in force at 16.5.2008, see [art. 1](#)

Stopping up, diversion, provision and upgrading of footpaths and bridleways

19.—(1) The Harbour Authority may construct new bridleways and new footpaths along the lines shown on the footpath plans.

(2) The Harbour Authority may stop up the parts of the footpaths and bridleway specified in column 1 of Schedule 4 to the extent specified in column 2 of Schedule 4.

(3) No part of any footpath or bridleway specified in column 1 of Schedule 4 may be wholly or partly stopped up under this article unless the new footpath, bridleway or combined footpath and bridleway specified in column 3 of Schedule 4 has been completed to the reasonable satisfaction of the Harbour Authority and opened for public use.

(4) Where a part of a footpath or a part of a bridleway has been stopped up under this article, all rights of way over or along that part of the footpath or bridleway shall be extinguished and the Harbour Authority may appropriate and use the site and soil thereof.

(5) On first opening for public use the substituted rights of way specified in column 3 of Schedule 4 shall become highways maintainable at the public expense.

Commencement Information

I19 Art. 19 in force at 16.5.2008, see [art. 1](#)

Power to alter layout of streets, etc.

20.—(1) The Harbour Authority may alter the layout of, and carry out other ancillary works in, Rainbow Lane anywhere along its length.

(2) Without prejudice to the powers conferred by paragraph (1) but subject to paragraph (3), the Harbour Authority may for the purpose of constructing or maintaining the authorised works, alter the layout of any street within the limits of deviation and, in particular, may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level of any such kerb, footpath, footway, cycle track or verge; or
- (c) make and maintain crossovers, sidings or passing places.

(3) The powers in paragraph (2) shall not be exercised without the consent of the street authority, but such consent shall not be unreasonably withheld or delayed.

Commencement Information

I20 Art. 20 in force at 16.5.2008, see [art. 1](#)

Power to execute street works

21.—(1) The Harbour Authority may, for the purposes of the authorised works, enter upon so much of any street within the limits of deviation and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (c).

(2) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Commencement Information

I21 Art. 21 in force at 16.5.2008, see [art. 1](#)

Temporary stopping up of streets

22.—(1) The Harbour Authority may, during and for the purposes of the execution of the authorised works, temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) The Harbour Authority shall provide reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the Harbour Authority may exercise the powers of this article in relation to Rainbow Lane and Wharf Road.

(4) The Harbour Authority shall not exercise the powers of this article—

- (a) in relation to a street specified in paragraph (3), without first consulting the street authority; and
- (b) in relation to any other street, without the consent of the street authority, which may attach reasonable conditions to any consent but such consent shall not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the extinguishment of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Commencement Information

I22 Art. 22 in force at 16.5.2008, see [art. 1](#)

Agreements with street authorities

23.—(1) A street authority and the Harbour Authority may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under an authorised work) under the powers conferred by this Order;

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- (b) the strengthening or improvement of any street under the powers conferred by this Order;
 - (c) the maintenance of the structure of any bridge carrying a work over a street;
 - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; and
 - (e) the execution in the street of any of the works referred to in article 21 (power to execute street works).
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question; and
 - (b) contain such terms as to payment and otherwise as the parties consider appropriate.

Commencement Information

I23 Art. 23 in force at 16.5.2008, see [art. 1](#)

Construction of bridges

24. Any bridge to be constructed under this Order for carrying an authorised work over a highway shall be constructed in accordance with plans and specifications approved by the highway authority for that highway, but such approval shall not be unreasonably withheld or delayed.

Commencement Information

I24 Art. 24 in force at 16.5.2008, see [art. 1](#)

Level crossings

25.—(1) The Harbour Authority may construct the authorised works so as to carry them on the level across the public rights of way (both existing and in the future) described in Schedule 4 and across Rainbow Lane and Wharf Road.

(2) The Harbour Authority may provide, maintain and operate at or near any new level crossing such barriers, gates or other protective equipment as the Secretary of State may in writing approve.

(3) The Harbour Authority may in the exercise of the powers of this article alter the level of any highway within the limits of deviation.

(4) The appropriate highway authority may enter into agreements with the Harbour Authority in respect of the construction and maintenance of any new level crossings; and such an agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(5) Any traffic sign placed pursuant to this article on or near a highway or other road to which the public has access shall be treated for the purposes of section 64(4) of the Road Traffic Regulation Act 1984⁽¹⁷⁾ as having been placed as provided by that Act.

(6) In this article “protective equipment” includes lights, traffic signs (within the meaning of section 64(1) of the Road Traffic Regulation Act 1984), manual, mechanical, automatic, electrical or telephone equipment, or other devices.

(17) 1984 c. 27.

Commencement Information

I25 Art. 25 in force at 16.5.2008, see [art. 1](#)

Application of permitted development rights

26. Schedule 5 shall have effect.

Commencement Information

I26 Art. 26 in force at 16.5.2008, see [art. 1](#)

Defence to proceedings in respect of statutory nuisance

27.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(**18**) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act, if the defendant shows—

- (a) that the nuisance relates to premises used by the Harbour Authority for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works and that the nuisance is attributable to the carrying out of works which are being carried out in accordance with a notice served under section 60, or a consent given under section 61 or 65, of the Control of Pollution Act 1974(**19**); or
 - (b) that the nuisance is a consequence of the construction, maintenance or use of the work and that it cannot reasonably be avoided.
- (2) The following provisions of the Control of Pollution Act 1974—
- (a) section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance)); and
 - (b) section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded),

shall not apply where the consent relates to the use of premises by the Harbour Authority for the purposes of, or in connection with, the exercise of the powers conferred by this Order with respect to the authorised works.

(3) The provisions of this article are without prejudice to the application to the authorised works, where relevant, of section 122 of the Railways Act 1993(**20**) (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

Commencement Information

I27 Art. 27 in force at 16.5.2008, see [art. 1](#)

(18) 1990 c. 43.
(19) 1974 c. 40.
(20) 1993 c. 43.

PART 4

ACQUISITION OF LAND

Power to acquire land

28.—(1) Subject to paragraph (3) the Harbour Authority may acquire compulsorily so much of the land shown washed pink on Sheets Nos. 273 to 291 of the deposited plans and described in Schedule 12 as may be required for the purposes of the authorised works.

(2) The Harbour Authority may use any land so acquired for the purposes of the authorised works or for the purposes of the undertaking or for any other purpose connected with or ancillary to the undertaking, whether such use is by the Harbour Authority alone or jointly with any other person who has an interest in the land.

(3) The Harbour Authority shall not acquire an interest in the land referred to in paragraph (1) greater than that necessary to enable the Harbour Authority to use the land for the purposes mentioned in this article.

(4) In this article—

- (a) “land” includes any interest in land; and
- (b) “required” means required by the Secretary of State or any other public authority in connection with, or as a condition of, the authorisation of the authorised work.

Commencement Information

I28 Art. 28 in force at 16.5.2008, see [art. 1](#)

Application of Part 1 of the Compulsory Purchase Act 1965

29.—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(21) applies, and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as so applied, shall have effect as if—

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted; and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days’ notice), for the reference to 14 days’ notice there were substituted a reference to notice of 3 months.

Commencement Information

I29 Art. 29 in force at 16.5.2008, see [art. 1](#)

(21) 1981 c. 67.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

30.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981⁽²²⁾ shall apply as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1) shall have effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or
- (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(7) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 29 (application of Part 1 of the Compulsory Purchase Act 1965).

Commencement Information

I30 Art. 30 in force at 16.5.2008, see [art. 1](#)

Disregard of certain interests and improvements

31.—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall not take into account—

- (a) any interest in land, or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

⁽²²⁾ 1981 c. 66.

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(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Commencement Information

I31 Art. 31 in force at 16.5.2008, see [art. 1](#)

Extinction of private rights of way

32.—(1) All private rights of way over, and any other third party rights in land subject to compulsory acquisition under this Order, shall be extinguished from the sooner of—

- (a) the acquisition of the land by the Harbour Authority, whether compulsorily or by agreement, or
- (b) the entry on the land by the Harbour Authority under section 11(1) of the 1965 Act.

(2) Any person who suffers loss by the extinguishment of any private right of way or other legal interest in the land under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(3) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.) applies.

Commencement Information

I32 Art. 32 in force at 16.5.2008, see [art. 1](#)

Time limit for exercise of powers of acquisition

33.—(1) Subject to paragraph (2), after the end of the period of 10 years beginning with the day on which this Order comes into force—

- (a) no notice to treat shall be served under Part 1 of the 1965 Act, as applied to the acquisition of land under article 29 (application of Part 1 of the Compulsory Purchase Act 1965); and
- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 30 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) In relation to the mitigation land, after the end of the period of 3 years beginning with the day on which this Order comes into force—

- (a) no notice to treat shall be served under Part 1 of the 1965 Act, as applied to the acquisition of land under article 29 (application of Part 1 of the Compulsory Purchase Act 1965); and
- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 30 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

Commencement Information

I33 Art. 33 in force at 16.5.2008, see [art. 1](#)

PART 5

FUNCTIONS OF THE HARBOUR AUTHORITY

Duty of the Harbour Authority

34. It shall be the duty of the Harbour Authority on completion of the whole or any part of the authorised works to provide and maintain those works as a harbour and to provide such harbour services and facilities within the area of jurisdiction as it considers necessary or desirable.

Commencement Information

I34 Art. 34 in force at 16.5.2008, see [art. 1](#)

Power to make charges

35.—(1) In addition to its power to demand dues under section 26 of the 1964 Act, as restricted by paragraphs (2) and (3), the Harbour Authority may demand, take and recover such charges and on such terms and conditions as it may from time to time determine, for services and facilities provided by it at London Gateway Port for the users of London Gateway Port.

(2) The power of the Harbour Authority to demand ship, passenger and goods dues under section 26(2) of the 1964 Act is restricted to the levying of ship dues on container vessels, and to the extent of and in accordance with paragraph (3).

(3) The ship dues referred to in paragraph (2) are ship dues levied on container vessels calling at London Gateway Port in respect of the Harbour Authority's costs, including costs of capital, incurred in—

- (a) dredging, deepening, scouring, cleansing, altering and improving the river bed and foreshore as authorised by article 13 (power to dredge), together with incidental costs so incurred;
- (b) the disposal of the arisings from the activities mentioned in sub-paragraph (a) by way of reclamation or otherwise for the purposes of the construction of London Gateway Port;
- (c) mitigation, compensation and monitoring required as the result of the activities mentioned in sub-paragraphs (a) and (b); and
- (d) maintenance dredging and maintenance resulting from the activities mentioned in sub-paragraphs (a) and (c), including the costs of the disposal of the arisings from those activities.

(4) Nothing in this article shall affect any power of the Harbour Authority to demand, take or recover charges (not being ship, passenger or goods dues) that it may have under or by virtue of any enactment or rule of law.

Commencement Information

I35 Art. 35 in force at 16.5.2008, see [art. 1](#)

Power to enter vessels

36.—(1) A duly authorised officer of the Harbour Authority may on producing, if so required, his authority, board a vessel within the area of jurisdiction to—

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- (a) ascertain the charges payable on or in respect of the vessel or goods carried in the vessel; and
 - (b) obtain any other information required for the assessment and collection of charges.
- (2) Nothing in this article applies to any vessel that is under the control of any officer of the PLA.

Commencement Information

I36 Art. 36 in force at 16.5.2008, see [art. 1](#)

Recovery and enforcement of charges

37.—(1) Section 44 (recovery of tonnage rates by distraint and sale of ship and tackle) of the 1847 Act as incorporated in this Order by article 3 (incorporation of the Harbours, Docks and Piers Clauses Act 1847) is subject to the modification set out in paragraphs (2) and (3).

(2) Where the Harbour Authority has exercised any power of sale under section 44 (recovery of tonnage rates by distraint and sale of ship and tackle) of the 1847 Act, before rendering any overplus to the master of the vessel, the Harbour Authority shall apply such overplus in payment of any unpaid charge due to the PLA.

(3) In the exercise of the powers of section 44 (recovery of tonnage rates by distraint and sale of ship and tackle) of the 1847 Act as incorporated in this Order by article 3 (incorporation of the Harbours, Docks and Piers Clauses Act 1847)—

- (a) the Harbour Authority shall notify the PLA that it has exercised those powers in relation to any vessel;
- (b) the PLA shall not exercise its powers under section 39 (recovery and enforcement of charges) of the 1968 Act in respect of a vessel so notified; and
- (c) subject to sub-paragraph (b), nothing in this article affects the exercise of the PLA's powers under that section.

Commencement Information

I37 Art. 37 in force at 16.5.2008, see [art. 1](#)

Time when charges are payable and their recovery

38.—(1) Charges which the Harbour Authority may demand, take and recover in respect of vessels shall be payable on the entry to London Gateway Port of any vessel in respect of which the charges are payable.

(2) Once payable, those charges may be demanded, taken and recovered by such persons, at such places and such times and under such terms and conditions as the Harbour Authority may from time to time appoint.

Commencement Information

I38 Art. 38 in force at 16.5.2008, see [art. 1](#)

Security for charges

39.—(1) The Harbour Authority may require any person who is liable, or intends to become liable, to pay charges to the Harbour Authority, to deposit with its collector, or to guarantee, such sum as is, in the opinion of the Harbour Authority, reasonable having regard to the amount of the charges.

(2) Where a person so required fails to deposit or guarantee the sum of money required, the Harbour Authority may, within the area of jurisdiction, detain the vessel in respect of which the charges have been or will be incurred until compliance with the requirement or until the charges are paid.

Commencement Information

I39 Art. 39 in force at 16.5.2008, see [art. 1](#)

Disputes concerning rates

40. Section 46 (disputes concerning rates or charges occasioned by distress) of the 1847 Act as incorporated in this Order by article 3 (incorporation of the Harbours, Docks and Piers Clauses Act 1847) shall be read as though references to “a justice” were references to “a court of competent jurisdiction”.

Commencement Information

I40 Art. 40 in force at 16.5.2008, see [art. 1](#)

Objection and arbitration in relation to charges

41.—(1) Nothing in this Order shall affect the operation of section 31 (right of objection to ship, passenger and goods dues) of the 1964 Act.

(2) Article 66 (arbitration) shall not apply to articles 35 to 40 or to the provisions of the 1847 Act incorporated in this Order by article 3 (incorporation of the Harbours, Docks and Piers Clauses Act 1847) which relate to those articles.

Commencement Information

I41 Art. 41 in force at 16.5.2008, see [art. 1](#)

Power to appropriate berths, etc.

42.—(1) Notwithstanding anything in section 33 (harbour, dock, and pier to be free to the public on payment of rates) of the 1847 Act or any other enactment, the Harbour Authority may set apart or appropriate any berths, land or facilities within the port premises for the exclusive, partial or preferential use and accommodation of any particular trade, person, activity, vessel or goods or any class of trades, persons, activities, vessels or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Harbour Authority thinks fit.

(2) No person or vessel shall make use of any berth, land or facilities set apart or appropriated under this article without the consent of the Dockmaster or other duly authorised officer of the Harbour Authority and the Dockmaster or such officer may order any person or vessel making use of such a berth, land or facility without such consent to leave it.

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(3) The provisions of section 58 (power of Harbour Master as to mooring of vessels in harbour) of the 1847 Act as incorporated in this Order by article 3 (incorporation of the Harbours, Docks and Piers Clauses Act 1847) shall extend and apply to any such vessel.

Commencement Information

I42 Art. 42 in force at 16.5.2008, see [art. 1](#)

Power to remove goods

43.—(1) The Harbour Authority may remove goods which have been left on or in any part of the port premises where six hours have elapsed from the time when the Harbour Authority—

- (a) required the goods to be removed; or
- (b) left a notice on the goods requiring their removal.

(2) Such removal shall be to the Harbour Authority's or any other public warehouse or store and at the expense and risk of the owner.

(3) Goods removed pursuant to paragraph (1) shall be subject to a lien for the cost of removal, and for any charges payable to the Harbour Authority by the owner in respect of the goods.

(4) The Harbour Authority may prevent the removal of goods removed or placed in store under this article until all charges have been paid.

(5) Where the Harbour Authority has given seven days' notice to the owner of the goods, it may sell or otherwise dispose of the goods, and if so required by the owner, the Harbour Authority shall sell or otherwise dispose of the goods in such manner as it thinks fit and reimburse itself out of the proceeds of sale.

(6) The Harbour Authority shall hold any surplus of such proceeds of sale under paragraph (5) on trust for the person entitled to it.

(7) In this article "goods" includes vehicles and equipment.

Commencement Information

I43 Art. 43 in force at 16.5.2008, see [art. 1](#)

Power to operate and use railways

44.—(1) The Harbour Authority, or any person permitted by the Harbour Authority, may operate and use the railways comprised in the authorised works together with any ancillary works as a system, or part of a system, for the carriage of goods.

(2) The Harbour Authority may enter into agreements with Network Rail and the Office of Rail Regulation in connection with the construction, operation and use of the railways comprised in the authorised works.

Commencement Information

I44 Art. 44 in force at 16.5.2008, see [art. 1](#)

Saving for regulated rights, etc.

45. Nothing in this Order shall affect any estate, right or interest granted by Network Rail in respect of a railway facility which is subject to an access contract within the meaning of Part 1 of the Railways Act 1993(23).

Commencement Information

I45 Art. 45 in force at 16.5.2008, see [art. 1](#)

Powers of disposal

46.—(1) The Harbour Authority may, on such terms and conditions as it thinks fit, but with the consent of the Secretary of State (except in the case mentioned in paragraph (5)), sell, lease, charge, mortgage, encumber or otherwise dispose of the whole or any part of the undertaking or the right to operate the undertaking.

(2) Any disposal under paragraph (1) may, amongst other things, provide for—

- (a) the exercise of the functions of the Harbour Authority under this Order by any other person; and
- (b) for the transfer to any other person of the whole or any part of the undertaking together with the rights and obligations of the Harbour Authority in relation to the whole or any part of the undertaking transferred.

(3) The exercise of the powers of any enactment (including this Order) by any person in pursuance of any sale, lease, charge or disposal under paragraph (1), or any agreement under this article, shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the Harbour Authority.

(4) For the avoidance of doubt, the making by the Harbour Authority in relation to the port premises of—

- (a) any agreement; or
- (b) the grant of any right or interest in land (other than transfer of a freehold interest);

for the purpose of enabling any person other than the Harbour Authority to make use of, or to carry on the business of providing and operating services or facilities comprised within the port premises (whether or not provided by the Harbour Authority), does not constitute a disposal of the undertaking for the purposes of this article.

(5) The case referred to in paragraph (1) is the transfer by the Harbour Authority for a port-related use of a freehold interest in a single parcel of land within the area of jurisdiction of an area not exceeding 36 hectares (88.96 acres).

Commencement Information

I46 Art. 46 in force at 16.5.2008, see [art. 1](#)

Conservation

47.—(1) The Harbour Authority shall have the power to dedicate or designate for conservation or ecological purposes any land in which the Harbour Authority has an interest or over which it has control.

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(2) The Harbour Authority shall not dedicate or designate under this article any land that abuts the river without the prior approval of the PLA, as provided for in paragraph 17 of Schedule 8.

Commencement Information

I47 Art. 47 in force at 16.5.2008, see [art. 1](#)

Obstruction of officers

48.—(1) Any person who—

- (a) intentionally obstructs an officer of the Harbour Authority who is acting in pursuance of this Order;
- (b) without reasonable excuse fails to comply with a requirement properly made by such an officer; or
- (c) without reasonable excuse fails to give such an officer any information or produce any document which he may require for the purpose of performance of his functions,

shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who, in giving such information as is mentioned in sub-paragraph (c) of paragraph (1), makes a statement which he knows to be false, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) Nothing in paragraph (1) applies to the Harbour Master or to any person acting under the authority of the Harbour Master or the PLA.

Commencement Information

I48 Art. 48 in force at 16.5.2008, see [art. 1](#)

Arrangements with Her Majesty's Revenue and Customs

49. The Harbour Authority and Her Majesty's Revenue and Customs may enter into any such agreement or arrangement as they think fit to provide for, or to facilitate, the assessment, collection or recovery of charges, including an agreement or arrangement as to the provision and maintenance of accommodation at the port premises.

Commencement Information

I49 Art. 49 in force at 16.5.2008, see [art. 1](#)

Agreements with Network Rail

50.—(1) The Harbour Authority and Network Rail may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of—

- (a) any designated works, or any part of those works; and
- (b) any works required for the purposes of or in connection with any designated works or any part of those works,

by Network Rail or by the Harbour Authority, or by the Harbour Authority and Network Rail jointly.

(2) Any agreement made under this article may contain such incidental, consequential or supplementary provisions as may be agreed, including (but not limited to) provisions—

- (a) with respect to the defraying of, or the making of contributions towards, the costs of such construction, maintenance, use and operation as is referred to in paragraph (1), by the Harbour Authority or by Network Rail or by the Harbour Authority and Network Rail jointly; and
- (b) for the exercise by Network Rail or the Harbour Authority or by Network Rail and the Harbour Authority jointly, of all or any of the powers and rights of Network Rail and the Harbour Authority (as the case may be) in respect of any of the works referred to in paragraph (1) and any works required for those purposes or in connection with those purposes.

(3) The exercise by the Harbour Authority or Network Rail or by the Harbour Authority and Network Rail jointly of any powers and rights under any enactment or contract pursuant to any such agreement as is authorised by paragraph (2) shall be subject to all statutory and contractual provisions relating to those powers and rights as would apply if they were exercised by the Harbour Authority or Network Rail (as the case may be) alone and accordingly, such provisions shall, with any necessary modifications, apply to the exercise of such powers and rights by the Harbour Authority or Network Rail, or by the Harbour Authority and Network Rail jointly, as the case may be.

(4) The Harbour Authority and Network Rail may enter into, and carry into effect, agreements for the transfer to and vesting in Network Rail or the Harbour Authority, or the Harbour Authority and Network Rail jointly, of—

- (a) the designated works or any part of those works; or
- (b) any works, lands or other property required for the purposes of or in connection with any designated works or any part of those works,

together with any rights and obligations (whether or not statutory) of Network Rail or the Harbour Authority relating to any designated works or part of those works.

(5) In this article “designated works” means any part of the authorised works to be constructed on railway property.

Commencement Information

I50 Art. 50 in force at 16.5.2008, see [art. 1](#)

Power to establish a police force

51.—(1) On application by the Harbour Authority a justice of the peace may appoint persons to be constables and a person so appointed shall, on appointment, be attested as a constable in accordance with section 29 of the Police Act 1996(**24**).

(2) A justice of the peace may dismiss any constable appointed under paragraph (1) from his office and upon such dismissal all powers, protections and privileges vested in such a constable shall cease.

(3) A constable appointed under paragraph (1) may act as such within the area of jurisdiction and, subject to paragraph (5), whilst he is so acting he shall have all the powers and privileges of a constable.

(4) A constable appointed under paragraph (1) shall have powers of arrest within the area of jurisdiction and, where he pursues a person from the area of jurisdiction, shall have the same powers of arrest in respect of the person outside the area of jurisdiction as he would have within that area.

(24) 1996 c. 16.

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(5) Except in so far as it would otherwise conflict with his duties as a constable, the powers conferred on a constable appointed under this article are exercisable subject to paragraph 18 of Schedule 8 and for the purposes of that paragraph a constable shall be deemed to be an officer of the Harbour Authority.

Commencement Information

I51 Art. 51 in force at 16.5.2008, see [art. 1](#)

Incorporation of Police and Criminal Evidence Act 1984

52. Part 1 (powers to stop and search), Part 2 (powers of entry, search and seizure), Part 3 (arrest), Part 4 (detention), Part 5 (questioning and treatment of persons by police) and Part 11 (miscellaneous and supplementary) of the Police and Criminal Evidence Act 1984(**25**), together with Schedules 1, 2, 5, 6 and 7 to that Act, shall be incorporated in this Order so far as applicable to the operation, management and use of the authorised works and so far as not inconsistent with the provisions of this Order.

Commencement Information

I52 Art. 52 in force at 16.5.2008, see [art. 1](#)

Refusal of a landing place, etc.

53.—(1) An officer of the Harbour Authority may prevent a vessel from using a landing place or berth provided by the Harbour Authority if the master of the vessel refuses to pay all applicable charges for such use.

(2) Subject to paragraph (3) an officer of the Harbour Authority may prevent a vessel from using a landing place or berth provided by the Harbour Authority if the master of the vessel refuses or is unable adequately to certify the origins, safety, identity or constitution of all or any freight, cargo, goods, materials, persons, animals or other things on board the vessel to the satisfaction of—

- (a) the Harbour Authority;
- (b) any duly authorised official of Her Majesty's Government;
- (c) a constable;
- (d) Her Majesty's Coastguard;
- (e) the Harbour Master; or
- (f) any other person whose duty it is to ascertain the nature of items on board the vessel for the purposes of protecting the safety of any person either on board the vessel or elsewhere.

(3) Nothing in this article shall prevent the landing of a vessel that is under the control of an officer of the PLA or, in a case of emergency, under the direction of the PLA or one of its officers.

Commencement Information

I53 Art. 53 in force at 16.5.2008, see [art. 1](#)

Power to discharge surface water into the river

54.—(1) Subject to the provisions of paragraphs 5 and 6 of Schedule 8, the Harbour Authority shall have the power to discharge surface water into the river.

(2) Nothing in this Order authorises the entry into controlled waters of any matters whose entry or discharge into controlled waters is prohibited by section 85 of the Water Resources Act 1991 **(26)**.

Commencement Information

I54 Art. 54 in force at 16.5.2008, see [art. 1](#)

Harbour Authority not to be a local lighthouse authority

55. Notwithstanding the provisions of section 193(2) of the Merchant Shipping Act 1995 **(27)**, nothing in this Order constitutes the Harbour Authority as a local lighthouse authority.

Commencement Information

I55 Art. 55 in force at 16.5.2008, see [art. 1](#)

Harbour Authority not to be a port health authority

56. Notwithstanding the provisions of section 2 of the Public Health (Control of Disease) Act 1984 **(28)**, the Harbour Authority may not be designated as a port health authority.

Commencement Information

I56 Art. 56 in force at 16.5.2008, see [art. 1](#)

PART 6

PROTECTIVE PROVISIONS

Crown rights

57.—(1) Nothing in this Order affects prejudicially any estate, interest, right, power, privilege, authority or exemption of the Crown, and in particular, nothing in this Order authorises the Harbour Authority 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)—

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

(26) 1991 c. 57.

(27) 1995 c. 21.

(28) 1984 c. 22.

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

Commencement Information

I57 Art. 57 in force at 16.5.2008, see [art. 1](#)

For the protection of the local highway authority

58.—(1) This article applies to the construction of Works Nos. 1 to 8 (Sheets Nos. 224 to 239 of the deposited plans) so far as they relate to or affect the functions of the local highway authority.

(2) Before the Harbour Authority constructs any works referred to in paragraph (1) the Harbour Authority must first notify the local highway authority.

(3) During the construction of the works referred to in paragraph (1), the Harbour Authority shall at all times comply with all reasonable requests of the local highway authority as to public safety, standards of construction and traffic management and shall construct those works under the supervision (if given) of the local highway authority.

(4) For the purposes of the works referred to in paragraph (1), or of complying with the requests of the local highway authority pursuant to paragraph (3), the Harbour Authority may act as agent of the local highway authority.

(5) The Harbour Authority and the local highway authority may enter into agreements with respect to the construction of junctions and other highway improvement, construction or alteration works and such agreements may (without prejudice to the generality of this paragraph)—

- (a) make provision for the local highway authority or the Harbour Authority to carry out any functions under this Order which relate to Works Nos. 1 to 8 (Sheets Nos. 224 to 239 of the deposited plans) and for these purposes section 278 of the 1980 Act shall be construed as permitting the Harbour Authority or those authorised on its behalf to carry out the works in the public highway;
- (b) provide for the vesting of the whole or any part of Works Nos. 1 to 8 (Sheets Nos. 224 to 239 of the deposited plans) in the local highway authority; and
- (c) contain such terms as to payment or otherwise as the parties consider appropriate.

(6) Nothing in this Order shall prevent the local highway authority at its own cost from constructing under its existing powers under the 1980 Act any part of Works Nos. 1 to 8 (Sheets Nos. 224 to 239 of the deposited plans).

(1) The Harbour Authority shall reimburse to the local highway authority the costs incurred for any supervision by the local highway authority of the Harbour Authority pursuant to paragraph (3) insofar as:

- (a) that supervision is of those of the works referred to in paragraph (1) that it has been agreed at the time of supervision will be adopted by the local highway authority; and
- (b) the local highway authority's costs do not exceed 5% of the cost of those works referred to in sub-paragraph (a).

(2) This article is without prejudice to the operation of section 278 of the 1980 Act.

Commencement Information

I58 Art. 58 in force at 16.5.2008, see [art. 1](#)

For the protection of Thurrock Borough Council and others

59. Schedule 6 shall have effect.

Commencement Information

I59 Art. 59 in force at 16.5.2008, see [art. 1](#)

For the protection of Network Rail

60. Schedule 7 shall have effect.

Commencement Information

I60 Art. 60 in force at 16.5.2008, see [art. 1](#)

For the protection of the Port of London Authority

61. Schedule 8 shall have effect.

Commencement Information

I61 Art. 61 in force at 16.5.2008, see [art. 1](#)

For the protection of the Trinity House Lighthouse Service

62. Schedule 9 shall have effect.

Commencement Information

I62 Art. 62 in force at 16.5.2008, see [art. 1](#)

For the protection of the Environment Agency

63. Schedule 10 shall have effect.

Commencement Information

I63 Art. 63 in force at 16.5.2008, see [art. 1](#)

For the protection of National Grid Gas plc and other statutory undertakers

64. Schedule 11 shall have effect.

Commencement Information

I64 Art. 64 in force at 16.5.2008, see [art. 1](#)

PART 7

MISCELLANEOUS AND GENERAL

No double recovery

65. Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Commencement Information

I65 Art. 65 in force at 16.5.2008, see [art. 1](#)

Arbitration

66. Unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed by the London Court of International Arbitration on the application of either party after giving notice in writing to the other.

Commencement Information

I66 Art. 66 in force at 16.5.2008, see [art. 1](#)

Defence of due diligence

67.—(1) In proceedings for an offence under any provision of this Order it is a defence for the Harbour Authority to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) If in any case the defence provided by paragraph (1) involves allegations that the commission of the offence was due to the act or default of another person, the Harbour Authority shall not, without leave of the court, be entitled to rely on that defence unless, within a period of seven clear days before the hearing, it has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in its possession.

Commencement Information

I67 Art. 67 in force at 16.5.2008, see [art. 1](#)

Local inquiries

68. The Secretary of State may cause to be held such inquiries as she may consider necessary in connection with the exercise of any powers or duties conferred or imposed upon her and the giving of any consent or approval under this Order, and subsections (2) to (5) of section 250 of the Local Government Act 1972⁽²⁹⁾ shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Harbour Authority were a local authority.

(29) 1972 c. 70.

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Commencement Information

I68 Art. 68 in force at 16.5.2008, see [art. 1](#)

Certification of plans, etc.

69. The Company shall, as soon as practicable after the making of this Order, submit copies of the deposited plans and the deposited sections to the Secretary of State for certification that they are true copies of, respectively, the deposited plans and the deposited sections referred to in this Order, and a document so certified shall be admissible in any proceedings, as evidence of the contents of the document of which it is a copy.

.....

Commencement Information

I69 Art. 69 in force at 16.5.2008, see [art. 1](#)

Signed by authority of the Secretary of State for Transport

2nd May 2008

Richard Bennett
Head of Ports Division
Department for Transport

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Changes and effects yet to be applied to :

- Sch. 6 para. 2(2) modified by [S.I. 2020/757 reg. 5](#)
- art. 2(1) words substituted by [S.I. 2009/1307 Sch. 2 para. 125](#)
- art. 13(4)(b) substituted by [S.I. 2011/556 Sch. para. 8\(2\)](#)
- art. 44(2) words substituted by [S.I. 2015/1682 Sch. para. 10\(s\)](#)