STATUTORY INSTRUMENTS

2021 No. 45

HARBOURS, DOCKS, PIERS AND FERRIES

The Mersey Docks and Harbour Company (Liverpool Cruise Terminal Extension) Harbour Revision Order 2021

Made - - - -	*14th January 2021*
Laid before Parliament	*21st January 2021*
Coming into force - -	*12th February 2021*

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The Mersey Docks and Harbour Company Limited has applied for a harbour revision order in accordance with section 14(2)(a) of the Harbours Act 1964(**a**) ("the Act").

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

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

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Mersey Docks and Harbour Company (Liverpool Cruise Terminal Extension) Harbour Revision Order 2021.

(2) This Order comes into force on 12th February 2021.

(3) The Mersey Docks and Harbour Acts and Orders 1857 to 2009 and this Order may be cited as the Mersey Docks and Harbour Acts and Orders 1857 to 2021.

Interpretation

2.—(1) In this Order—

"the 1971 Act" means the Mersey Docks and Harbour Act 1971(**f**);

"the Company" means The Mersey Docks and Harbour Company Limited;

"deposited plans and sections" means the plans and sections (numbered sheets 1 to 6) prepared in triplicate, signed on behalf of the Marine Management Organisation and marked "The Mersey Docks and Harbour Company (Liverpool Cruise Terminal Extension) Harbour Revision Order 2021" of which one copy has been deposited at the offices of the Marine Management Organisation, one copy has been deposited at the head office of the Company at Maritime Centre, Port of Liverpool, L21 1LA, and one copy has been deposited at the offices of Liverpool City Council at Cunard Buildings, Water Street, Liverpool, L3 1DS, and they are also available electronically on the Company's website(**g**);

"existing enactments" means The Mersey Docks and Harbour Acts and Orders 1857 to 2009;

"limits of deviation" means the limits of deviation shown on the deposited plans and sections;

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

(**b**) S.I. 2010/674.

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

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

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

(**f**) 1971 c. lvii.

(**g**) https://www.peelports.com/marine-information?port=liverpool.

"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;

"Trinity House" means the Corporation of Trinity House of Deptford Strond;

"the UK Hydrographic Office" mans the Hydrographic Office of the Ministry of Defence, Taunton, Somerset TA1 2DN; and

"the works" means the works authorised by this Order, or any part of such works.

(2) All areas, directions, distances, lengths, widths, heights and grid references as stated in any description of works, power or lands other than article 6 (power to deviate) are to be construed as if the words "or thereabouts" were inserted after each such area, direction, distance, length, width, height and grid reference and any reference in a description of works to a point is a reference to that point on the deposited plans and sections.

(3) Map reference points specified in this Order are World Geodetic System 1984 points provided in Latitude and Longitude.

(4) References in the existing enactments to the undertaking of the Company are to 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.

PART 2

WORKS

Power to construct and maintain works

3.—(1) Subject to the provisions of this Order, the Company may within the limits of deviation and according to the levels shown on the deposited plan and sections construct and maintain the whole or part of the following works, together with all necessary works and conveniences connected with or incidental to them—

Work No. 1A — The demolition of the existing timber jetty and deck (known as Princes Jetty) as shown hatched red on Sheet No. 3 of the deposited plans and sections.

Work No. 1B — The demolition of the existing concrete decked jetty (known as Princes Jetty) as shown hatched red on Sheet No. 3 of the deposited plans and sections.

Work No. 2 — The construction of a reinforced concrete suspended deck on piles driven into the river bed together with the creation of a new cruise liner terminal building, with a gross floor area of 10,000m^2, as shown coloured yellow on Sheet No. 3 of the deposited plans and sections, for use as a baggage hall, passenger lounges and other associated facilities.

Work No. 3A — The construction of a vehicular and pedestrian linkspan bridge approximately 85 meters in length commencing at a point at 53.409703, -3.0018239 proceeding in a southerly direction, terminating at a point at 53.408985, -3.0013267 and connecting to a new floating pontoon at Work No. 3B so as to connect the new cruise liner terminal at Work No. 2 with the existing landing stage at Work No. 4 as shown on Sheet No. 4 of the deposited plans and sections.

Work No. 3B — The construction of a new floating pontoon approximately 20 metres in length commencing at a point at 53.409048, -3.0013685 and terminating at a point at 53.408882, - 3.0012533 so as to connect the new linkspan bridge at Work No. 3A with the existing landing stage at Work No. 4 as shown on Sheet No. 4 of the deposited plans and sections.

(**a**) 1971 c. x.

Work No. 4 — The modification of the existing landing stage, including—

(a) the removal and relocation of the existing pilot boat launch facility;

(b) the removal and replacement of the existing walkway cover so as to connect to the pedestrian linkspan bridge at Work No. 2; and

(c) works to the existing lower terminal buildings.

Work No. 5 — The removal of two existing steel mono pile mooring dolphins and the construction of two new steel mono pile mooring dolphins set into the river bed commencing at a point at 53.409441, -3.0017667 proceeding in a southerly direction, terminating at a point at 53.409231, -3.0016213 as shown on Sheet No. 4 of the deposited plans and sections, the access to which will be via a fixed bridge from the suspended deck.

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

Period for completion of works

4.—(1) If the works are not substantially completed within 10 years from the coming into force of this Order or such extended time as the Secretary of State may, on the application of the Company, allow, then on the expiry of that period, or such extended time (as the case may be), the powers by this Order granted to the Company for constructing and maintaining the works will cease to have effect except as to so much of them as is then substantially commenced.

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

Subsidiary works

5.—(1) Subject to the provision of this Order, the Company may from time to time, within the limits of deviation, erect, construct, lay down, place, remove, replace, work or use and maintain whether temporarily or permanently all such works, conveniences, appliances and apparatus and take such measures as they from time to time consider fit for the purposes of or in connection with or incidental to the construction, maintenance and use of the works, including, without prejudice to the generality of the foregoing, navigation marks and lights.

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

Power to deviate

6. In carrying out the works the Company may—

(a) deviate laterally from the lines or situations of those works as shown on the deposited plans and sections to any extent not exceeding the limits of deviation;

(b) deviate vertically from the levels as shown to any extent not exceeding 3 metres upwards; and

(c) deviate vertically in a downwards direction from the levels of the works as shown to such extent as may be found necessary or convenient.

Obstruction of works

7. Any person who without lawful authority—

(a) intentionally or recklessly obstructs any person acting under the authority of the Company in setting out the lines of or in constructing the works; or

(b) who interferes with, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out,

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

Effect of existing Acts upon works

8. The works, and the bed, banks and shores of the river Mersey on which the works are constructed will 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, and the byelaws, directions, rules and regulations of the Company for the time being in force relating to the port, will (so far as they are applicable and are not inconsistent with or varied by this Order) apply to the works and may be enforced by the Company accordingly.

Lights on relevant works during construction, etc.

9.—(1) The Company must 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 Trinity House may from time to time direct.

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

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

Provision against danger to navigation

10.—(1) In case of injury to, or destruction or decay of, a relevant work or any part thereof, the Company must—

(a) as soon as reasonably practicable notify Trinity House, the Maritime and Coastguard Agency and the United Kingdom Hydrographic Office, and

(b) lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may from time to time direct.

(2) If the Company fails to comply with paragraphs 1(a) or (b), it is guilty of an offence and liable—

(a) on summary conviction, to a fine; or

(b) on conviction on indictment, to a fine.

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

Abatement of works abandoned or decayed

11.—(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 of it, or to remove the work and restore the site of the work to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work authorised by this Order consisting partly of a relevant work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights, the Secretary of State may include that part of the work, or any portion of it, 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 will be recoverable from the Company.

Survey of relevant works

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

Permanent lights on relevant works

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

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

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

PART 3

MISCELLANEOUS AND GENERAL

Crown rights

14.—(1) Nothing in this Order shall—

(a) prejudicially affect any estate, right, power, privilege, authority or exemption of the Crown; or

(b) authorise 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) belonging to—

(i) Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or

(ii) Her Majesty in right of Her Majesty's Duchy of Lancaster without the consent in writing of the Chancellor of the Duchy of Lancaster, or

(iii) a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

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

For protection of the Environment Agency

15. Nothing in this Order or in any enactment applied by this Order may prejudice or affect the operation of regulation 12 of the Environmental Permitting (England and Wales) Regulations

2016(**a**), any byelaw made under the Water Resources Act 1991(**b**) or the Land Drainage Act 1991(**c**), in relation to anything done under or in pursuance of this Order.

Saving for Trinity House

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

Signed by authority of the Marine Management Organisation

Tom McCormack
Chief Executive Officer
14th January 2021 An employee of the Marine Management Organisation

(**a**) S.I. 2016/1154 to which there are amendments not relevant to this Order.
(**b**) 1991 c. 57.
(**c**) 1991 c. 59.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises The Mersey Docks and Harbour Company Limited ("the Company") to construct and maintain works as defined in article 2(1) (interpretation) within the limits of deviation shown on the deposited plans and sections.

The principal works comprise the demolition of the existing timber and concrete jetty known as Princes Jetty; the construction of a suspended deck on piles driven into the river bed to support a new cruise liner terminal building for use as a baggage hall, passenger lounges and other associated facilities; the construction of a vehicular and pedestrian linkspan bridge and floating pontoon; modifications to the existing landing stage; the removal of two existing mooring dolphins and construction of two new mooring dolphins (article 3).

The Order creates an offence of, without lawful authority, intentionally or recklessly obstructing the carrying out of the works, with a fine on summary conviction not exceeding level 3 on the standard scale (article 7).

Provision is made against danger to navigation (article 10) and for the abatement of works abandoned or decayed (article 11).

The Secretary of State may order a survey and examination of the works (defined in article 2(1)) or of the site on which they are to be constructed (article 12).

Provision is made for the lighting of the works permanently (article 13) and during construction (article 10).

A defence of due diligence is available to the Company in respect of offences under articles 9, 10 and 13.

The deposited plans and sections referred to in article 2(1) may be inspected during working hours at the offices of The Mersey Docks and Harbour Company Limited at Maritime Centre, Port of Liverpool, L21 1LA and at the offices of Liverpool City Council at Cunard Building, Water Street, Liverpool, L3 1DS.

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

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

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