STATUTORY INSTRUMENTS

2010 No. 319

MERCHANT SHIPPING

MARITIME SECURITY

The Port Security (Avonmouth Dock and Royal Portbury Dock and Port of Bristol Security Authority) Designation Order 2010

Made - - - -	*11th February 2010*
Laid before Parliament	*17th February 2010*
Coming into force - -	*19th March 2010*

The Secretary of State for Transport makes the following Order in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**a**).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to port security, measures relating to the safety of ships and the health and safety of persons on them, and maritime transport(**b**).

Citation and commencement

1. This Order may be cited as the Port Security (Avonmouth Dock and Royal Portbury Dock and Port of Bristol Security Authority) Designation Order 2010 and comes into force on 19th March 2010.

Port boundaries

2.—(1) For the purposes of regulation 3(2) of the Port Security Regulations 2009(**c**) the boundaries of the port of Avonmouth Dock and Royal Portbury Dock are those of Avonmouth Dock and Royal Portbury Dock.

(2) The boundaries of Avonmouth Dock are delineated in pink on the plan set out in Schedule 1.

(3) The boundaries of Royal Portbury Dock are delineated in pink on the plan set out in Schedule 2.

Port of Bristol Security Authority

3.—(1) The Port of Bristol Security Authority is designated as the port security authority for the port of Avonmouth Dock and Royal Portbury Dock.

(**a**) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 28 and by the European Union (Amendment) Act 2008 (c.7), section 3(3) and the Schedule.
(**b**) S.I. 1993/595, 1994/757 and 2004/706.
(**c**) S.I. 2009/2048.

(2) Schedule 3, which makes provision about the Port of Bristol Security Authority, has effect.

Signed by authority of the Secretary of State for Transport

Paul Clark
Parliamentary Under Secretary of State
Department for Transport

11th February 2010

SCHEDULE 1

Article 2

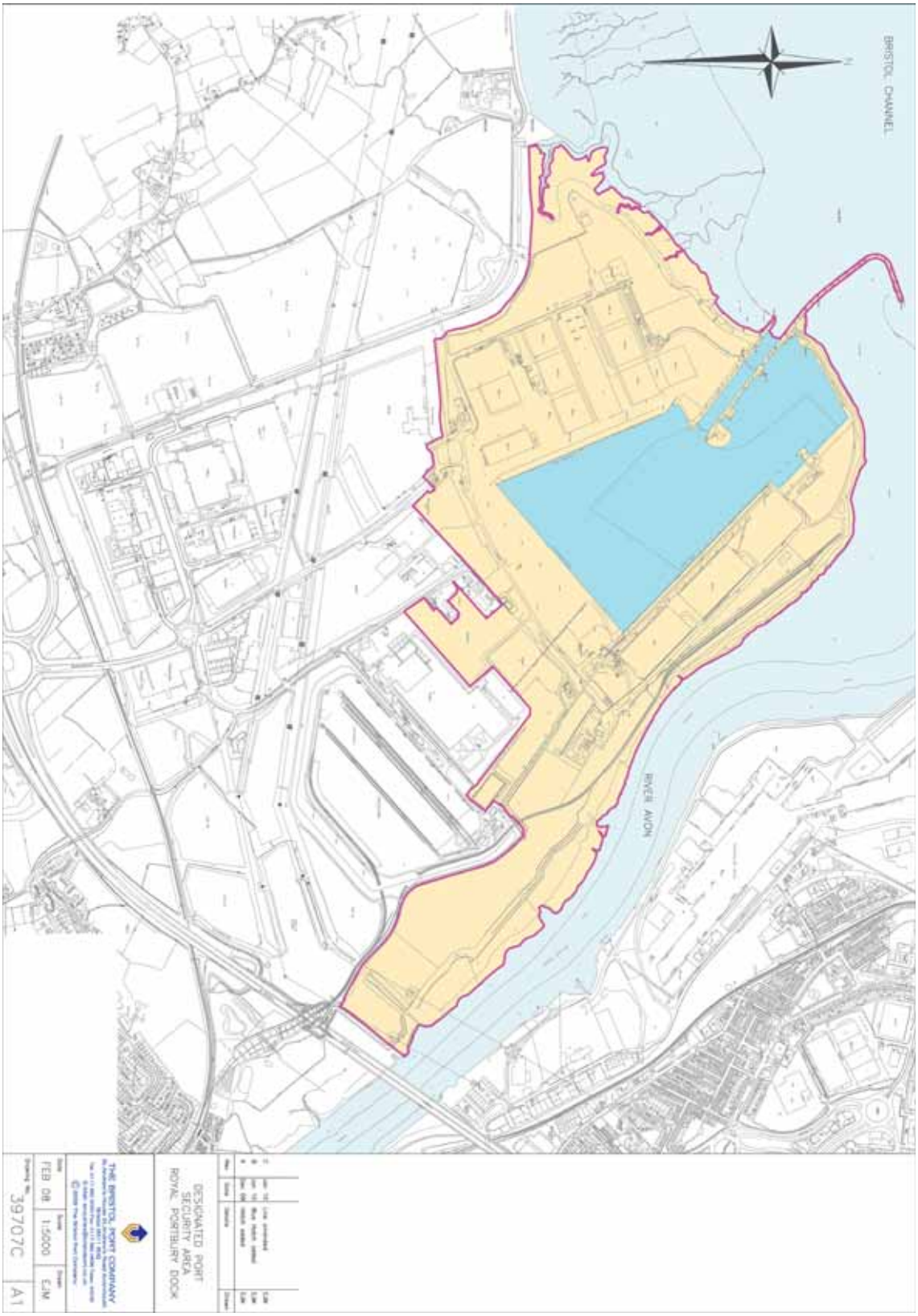
Boundaries of Avonmouth Dock



SCHEDULE 2

Article 2

Boundaries of Royal Portbury Dock



SCHEDULE 3

Article 3

The Port of Bristol Security Authority

Composition and membership of the Port of Bristol Security Authority

1.—(1) The Port of Bristol Security Authority (referred to in this Schedule as the "Authority") must consist of at least three persons, and all members of the Authority must be appointed by the Secretary of State.

(2) A member of the Authority—

(a) may resign by giving at least 21 days notice in writing to the Secretary of State;

(b) must hold and vacate office in accordance with the terms of his or her appointment.

(3) The Secretary of State may dismiss a member of the Authority by notice in writing but only on the ground that the member—

(a) has missed more than three consecutive meetings of the Authority;

(b) has a financial or other personal interest which is likely to influence the performance of his or her functions as a member;

(c) has been adjudged bankrupt, has had his or her estate sequestrated, or has made a composition or arrangement with, or granted a trust deed for, his or her creditors;

(d) has misbehaved in a way that is relevant to his or her position as a member; or

(e) is unable, unfit or unwilling to perform his or her functions as a member.

(4) Every member of the Authority must, in so far as it is reasonably practicable, attend all meetings of the Authority, or if unable to attend a meeting of the Authority, arrange for another member of the Authority to represent him or her at the meeting.

Proceedings of the Authority

2.—(1) The Authority must hold meetings at least twice a year.

(2) The Authority must determine arrangements for the conduct of its proceedings.

(3) At the first meeting of the Authority after the coming into force of this Order the members of the Authority must appoint one of its members as chairperson of the Authority.

(4) Other than in exceptional circumstances where a meeting of the Authority is unavoidably called at short notice, the Authority must give the Secretary of State reasonable notice of all meetings to be held by the Authority, together with a copy of the agendas for any such meetings.

(5) The Secretary of State may send a representative to attend any meeting of the Authority as an observer.

(6) The Authority must supply the Secretary of State with a copy of the minutes of any meeting of the Authority no later than 30 days after the meeting has been held.

Conflict of interest

3.—(1) If a member of the Authority has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter, and is present at a meeting of the Authority at which the contract or other matter is the subject of consideration, that member must at the meeting and as soon as practicable after its commencement disclose that fact and, subject to sub-paragraph (4), must not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

(2) Subject to sub-paragraph (3), a member of the Authority must be treated for the purposes of this paragraph as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

(a) the member, or a nominee of the member, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration, or

(b) the member is in partnership with, or is in the employment of, a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration,

and in the case of two persons living together as a couple (whether married or not) the interest of one must, if known to the other, be deemed for the purposes of this article to be also an interest of the other.

(3) A member of the Authority must not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only—

(a) of his or her membership of a company or other body if he or she has no beneficial interest in any securities of that company or other body; or

(b) of an interest in any contract, proposed contract or other matter which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in the consideration or discussion of, or voting on, any question with respect to that contract, proposed contract or other matter.

(4) The Secretary of State may, subject to such conditions as he or she may think fit to impose, remove the prohibition imposed by sub-paragraph (1) in any case in which it appears that the prohibition impedes, or is likely to impede, the ability of the Authority to comply with its duties under this Order or under the Port Security Regulations 2009.

(5) A person who fails to comply with the provisions of sub-paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale unless the person proves that he or she did not know that the contract, proposed contract or other matter in which he or she had a pecuniary interest was the subject of consideration at that meeting.

Status of the Authority

4.—(1) The Authority is not to be treated—

(a) as the servant or agent of the Crown; or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) The property of the Authority (if any) is not to be regarded as property of the Crown or as held on behalf of the Crown.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the first of a series of Orders to implement Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security (OJ L 310, 25.11.2005, p 28) (the "Directive") at individual ports across the United Kingdom. The Directive was transposed, in relation to the whole of the United Kingdom, by the Port Security Regulations 2009 (S.I. 2009/2048). It extends previous European Union security requirements beyond the ship/port facility interface (essentially the docking areas) further into port estates (for example, into areas concerned with transportation, cargo storage and other commercial and operational activities at ports).

In this Order *Article 2* and *Schedules 1* and *2* identify the boundaries of the port of Avonmouth Dock and Royal Portbury Dock, as required by Article 2.3 of the Directive and referred to in regulation 3(2) of the Port Security Regulations 2009.

Article 3 provides for the establishment of the Port of Bristol Security Authority, and for its designation as the port security authority for the port of Avonmouth Dock and Royal Portbury Dock, as required by Article 5.1 of the Directive and referred to in regulation 5 of the Port Security Regulations 2009. *Schedule 3* sets out provisions in relation to the membership and proceedings of the Port of Bristol Security Authority, including in relation to conflicts of interests amongst members, and also with regard to its status (namely not being a Crown body).

An impact assessment in respect of this instrument has been prepared. It is available from the Department for Transport (Maritime Security Policy Branch), Zone 5/5th Floor, Southside, 105 Victoria Street, London SW1E 6DT and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk). Copies of each document have been placed in the library of each House of Parliament.

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