

**PROPOSED ASSOCIATED BRITISH PORTS (IMMINGHAM GREEN ENERGY TERMINAL)  
DEVELOPMENT CONSENT ORDER**

**DEADLINE 3**

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Response to Action Points from Issue Specific Hearing 7 on behalf of Harbour Master, Humber

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## Introduction

**1.1** This is a submission in response to the Examining Authority's Action Points from Issue Specific Hearing 7 [EV10-006] on behalf of the Harbour Master, Humber (**HMH**).

**1.2** The following action points are for **HMH**:

(a) **Action Point 1:** Provide copy of the General Direction relating to IOT that would be replicated for IGET.

(b) **Action Point 4:** Provide extract of Maritime Shipping Act 1995, in particular the section relating to the responsibilities of vessel masters to avoid accidents and collisions.

**1.3** A copy of the General Direction referred to in Action Point 1 is attached to this submission at **Annex A**.

**1.4** In relation to action point 4, the relevant provision is section 58 (conduct endangering ships, structures or individuals) of the Maritime Shipping Act 1995 which makes it an imprisonable offence, subject to certain conditions, for the master of, or any seaman employed in, a United Kingdom registered ship or a ship registered to another country but in a UK port or in UK waters to (a) do any act that causes or is likely to cause the loss or destruction of or serious damage to either his ship or it's machinery/equipment or to another ship or structure; or (ii) the death of or serious injury to any person; or (b) omits to do anything required to preserve this from happening. This provision is attached at **Annex B**.

**1.5** In respect of statutory responsibilities of vessel masters, and to assist with providing context to the Examining Authority, we also attach copies of the following:

(a) Section 11 (Master's responsibility to be unaffected) of the British Transport Docks Act 1972. Section 11 provides that the giving of a general or special direction (that is, a direction of the Statutory Conservancy and Navigation Authority for the Humber, the Harbour Master for the Humber, the Port of Immingham SHA or the Immingham Dockmaster) does not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons

on board, its cargo or any other person or property. This provision is attached at **Annex C**.

- (b) Section 16 (liability for ships under compulsory pilotage) of the Pilotage Act 1987; this provides that the fact that a ship is being navigated in an area and in circumstances in which pilotage is compulsory does not affect the liability of the owner or master of the ship for any loss or damage caused by the ship or by the manner in which it is navigated. This extract is attached at **Annex D**.

**Winckworth Sherwood LLP**

**Annex A - General Direction referred to in Action Point 1**

# ASSOCIATED BRITISH PORTS

P.O. Box No. 1, Port House, Northern Gateway,  
HULL HU9 5PQ

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## NOTICE TO MARINERS

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(No. S.H. 34)

### RIVER HUMBER

### PASSING IMMINGHAM JETTIES

**MASTERS AND PILOTS OF VESSELS WHICH HAVE TO PASS THE IMMINGHAM OIL TERMINAL JETTIES MUST NOT** approach nearer than 150 metres from the face of the berths.

Their speed should comply with the Humber Navigation bylaws 14 (3):

*The master of a vessel shall ensure that the vessel does not exceed a speed of 5 knots when approaching and passing any jetty when any vessel is mooring, moored or unmooring at a jetty.*

The Master/ Pilot of a vessel shall navigate the vessel with due care and caution when passing these berths and at a speed that shall not endanger the safety of the vessel or of vessels moored on the berths of Immingham Oil Terminals.

All vessels must ensure that they maintain good steerageway having regard to the prevailing tidal and meteorological conditions.

**ADDITIONALLY, MASTERS AND PILOTS OF ANY INWARD VESSEL WHICH REQUIRES a TUG(S)** to berth at Immingham Dock, East or West Jetty, Immingham Bulk Terminal, Immingham Outer Harbour, Humber International Terminal, Immingham Gas Terminal or South Killingholme Oil Jetty must reduce their speed and complete making at least one tug fast before the vessel passes No. 10 Upper Burcom Float. In order to facilitate this requirement, the tug(s) **MUST** meet the inward vessel at or seaward of the Humber Power Intake. In the case of large (pure) car carriers for the IOH, with a LOA greater than 180m the wire tugs should meet the vessel at the Sunk Spit buoy.

When passing the Humber Power Intake, if it is clearly evident that at least one tug will not be made fast by the time the vessel passes the No 10 Upper Burcom float, the vessel must abort her approach as soon as is safe and practicable. Once head to tide, the tugs can be made fast and the passage may be resumed if timings allow.

Under normal circumstances, vessels with a LOA less than 100m for the IGT or South Killingholme Oil Jetty are exempt from this requirement; however they should confirm tug(s) availability before passing the Immingham Oil Terminal.

Large Car Carriers (PCC's), with a LOA greater than 180m for the Humber Sea Terminal should have tugs in attendance, but not necessarily fast, before passing the Immingham Oil Terminal.

Ro-Ro Ferries berthing under normal circumstances at Immingham Dock or Immingham Outer Harbour are exempt from this requirement.

Standing Notice to Mariners S.H. 34, dated 26<sup>th</sup> February 2002  
issued by  
Associated British Ports is hereby cancelled.

**CAPT. P.J. COWING**  
**HARBOUR MASTER, HUMBER**  
16<sup>th</sup> August 2011

**Annex B - section 58 of the Maritime Shipping Act 1995**

*Offences by seamen, etc*

✓ Law In Force

**58.— Conduct endangering ships, structures or individuals.**

(1) This section applies—

- (a) to the master of, or any seaman employed in, a United Kingdom ship; and
- (b) to the master of, or any seaman employed in, a ship which—
  - (i) is registered under the law of any country outside the United Kingdom; and
  - (ii) is in a port in the United Kingdom or within United Kingdom waters while proceeding to or from any such port.

(2) If a person to whom this section applies, while on board his ship or in its immediate vicinity—

- (a) does any act which causes or is likely to cause—
  - (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
  - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
  - (iii) the death of or serious injury to any person, or
- (b) omits to do anything required—
  - (i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or
  - (ii) to preserve any person on board his ship from death or serious injury, or
  - (iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,

and either of the conditions specified in subsection (3) below is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7) below) be guilty of an offence.

(3) Those conditions are—

- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
- (b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.

(4) If a person to whom this section applies—

- (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a) above, or
- (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,

he shall (subject to subsections (6) and (7) below) be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.



- (6) In proceedings for an offence under this section it shall be a defence to prove—
- (a) in the case of an offence under subsection (2) above where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
  - (b) in the case of an offence under subsection (2) above, that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;
  - (c) in the case of an offence under subsection (4) above, that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
  - (d) in the case of an offence under either of those subsections—
    - (i) that he could have avoided committing the offence only by disobeying a lawful command, or
    - (ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.
- (7) In the application of this section to any person falling within subsection (1)(b) above, subsections (2) and (4) above shall have effect as if subsection (2)(a)(i) and (b)(i) above were omitted; and no proceedings for any offence under this section shall be instituted against any such person—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (8) In this section—
- “breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;
- “duty” —
- (a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and
  - (b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment
- ; and
- “structure” means any fixed or movable structure (of whatever description) other than a ship.

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**Commencement**

Pt III s. 58(1)-(8) definition of "structure": January 1, 1996 (1995 c. 21 Pt XIII s. 316(2))

**Extent**

Pt III s. 58(1)-(8) definition of "structure": United Kingdom (may extend to any relevant British possession as specified by Orders in Council made under this Act)

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**Annex C - section 11 of the British Transport Docks Act 1972**

some other newspaper specialising in shipping news, and, if the notice relates to the giving or amendment of a general direction, shall state a place at which copies of the direction may be inspected and bought and the price thereof.

PART II  
—cont.

(2) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Board consider appropriate.

10. A special direction may be given in any reasonable manner considered appropriate.

Manner of giving special directions.

11. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

Master's responsibility to be unaffected.

12.—(1) The master of a vessel who fails to comply with a general or special direction shall be guilty of an offence and liable to a fine not exceeding two hundred pounds.

Failure to comply with directions.

(2) It shall be a defence to the master of a vessel charged with an offence under subsection (1) of this section to prove that he had reasonable ground for supposing that compliance with the direction in question would be likely to imperil his vessel or any person for whom he is responsible or that in the circumstances compliance was impracticable.

13.—(1) Without prejudice to any other remedy available to the Board, if a special direction is not complied with within a reasonable time, the harbour master or dock master may, where practicable, put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

Enforcement of directions.

(2) If there is no one on board a vessel to attend to a special direction, the harbour master or dock master may proceed as if the direction had been given and not complied with:

Provided that the powers of this subsection shall not be exercised—

(a) in relation to a vessel other than a lighter, unless, after reasonable inquiry has been made, the master cannot be found; or

**Annex D - section 16 of the Pilotage Act 1987**

[(3) The master of a ship commits an offence if—

- (a) the ship is navigated in which a pilotage direction applies to it, and
- (b) the competent harbour authority which gave the direction has not been given pilotage notification.

(4) Pilotage notification is notification that the ship will be navigated in an area in which a pilotage direction will apply to it and—

- (a) that an authorised pilot is required to pilot the ship, or
- (b) that an authorised pilot is not required because the ship will be piloted by a specified person acting in accordance with a pilotage exemption certificate.

(5) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale. ]<sup>2</sup>

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#### Notes

<sup>1</sup> Substituted by Marine Navigation Act 2013 c. 23 s.2(3) (October 1, 2013: as SSI 2013/254)

<sup>2</sup> S.15(3)-(5) substituted for s.15(3) by Marine Navigation Act 2013 c. 23 s.4 (October 1, 2013: as SSI 2013/254)

#### Commencement


Pt II s. 15: October 1, 1988 (SI 1988/1137 art. 4)

#### Extent

Pt II s. 15(1)-(3), (4), (4)(b): United Kingdom

Pt II s. 15(3)(a)-(3)(b), (4)(a), (5): England, Wales, Scotland

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 Law In Force

### 16. Liability for ships under compulsory pilotage.

The fact that a ship is being navigated in an area and in circumstances in which pilotage is compulsory for it shall not affect any liability of the owner or master of the ship for any loss or damage caused by the ship or by the manner in which it is navigated.

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#### Commencement

Pt II s. 16: October 1, 1988 (SI 1988/1137 art. 4)

#### Extent

Pt II s. 16: United Kingdom

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*Rights of pilots*