

## TRANSPORT AND WORKS ACT 1992

### THE TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE) (ENGLAND AND WALES) RULES 2006

#### THE RIVER MERSEY(MERSEY GATEWAY BRIDGE) ORDER

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#### EXPLANATORY MEMORANDUM

This memorandum explains the purpose and effect of each article of, and Schedule to, the draft River Mersey (Mersey Gateway Bridge) Order, as required by Rule 10(2)(a) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. It also highlights and explains the requirement for and impact of any departures from the Model Clauses for Railways contained in Schedule 2 to The Transport and Works (Model Clauses for Railways and Tramways) Order 2006 (“the model clauses”).

The Order is promoted by Halton Borough Council (“the undertaker”) to permit it to construct, maintain and operate works and compulsorily to acquire land and rights in land construction of a new crossing over the River Mersey and related works pursuant to sections 3(1)(b) and 5 of the Transport and Works Act 1992 (“the 1992 Act”). The new crossing will run between Widnes on the north side of the River Mersey and Runcorn on the south side. The Order would also confer various ancillary powers on the undertaker in relation to the new crossing and associated works to the existing road network.

The Order is based on the model clauses but occasionally departs from those clauses and follows previous precedent orders, in particular, the River Tyne (Tunnels) Order 2005 (“the Tyne Tunnels Order”).

#### PART 1

#### PRELIMINARY

Part 1 of the Order contains preliminary provisions.

- Article 1* (Citation and commencement) provides for the commencement and citation of the Order.
- Article 2* (Interpretation) provides for the interpretation of the Order. Amongst other things, this article defines the Order limits as being any limits of deviation and any limits of land to be acquired or used which are shown on the works plans and the land plans. The limits of deviation are defined as the limits of deviation for the scheduled works shown on the works plans and the works plans and land are defined separately. This is slightly different to the approach used in the model clauses but provides for greater clarity elsewhere in the Order in relation to the area in which the functions under the Order are to be exercised.
- Article 3* (Application of 1991 Act) provides for the application of the New Roads and Street Works Act 1991 (1991 c.22). Even though Halton Borough Council, the applicant for the Order is a local highway authority and has the powers of such an authority, this provision is included because the Order provides for the powers of the undertaker to

be exercised by a concessionaire. Such a concessionaire might not be a local highway authority and, as such, it is appropriate for this provision to be included in the Order.

## PART 2

### WORKS PROVISIONS

Part 2 of the Order contains provisions for and relating to the construction of works.

*Article 4* (*Power to construct and maintain works*) would authorise the construction and maintenance of the principal works proposed (“the scheduled works”), which are described in *Schedule 1* (*scheduled works*) to the Order and shown on the plans and sections deposited in connection with the application. *Schedule 1* describes works for the purpose of the proposed construction of the new crossing. *Article 4* (*power to construct and maintain works*) also provides for the construction and maintenance works necessary and expedient for the purposes of the scheduled works and identifies such works. In identifying such works, the *article 4* also makes certain provision not included in the model clauses by providing for the undertaker to carry out:

- works to alter, erect and construct such offices and other buildings, yards, engines, machinery, apparatus, structures and other works, and conveniences as the undertaker sees fit;
- junctions and communications (including the provision of steps and ramps for the use of persons on foot) with any highway or access way for the purposes of connecting it with any of those works or another highway, or of crossing under or over the highway or access way; and
- all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other such works as the undertaker thinks fit.

*Article 5* (*Power to deviate*) provides for limits within which the undertaker can deviate in the construction of the proposed works.

*Article 6* (*Restriction on works in the River Mersey and saltmarshes*) provides specific limitations on the construction of any permanent work, or part of any such work, in the River Mersey. Such a provision is not in the model clauses but is appropriate to the particular circumstances of this Order in relation to the hydrodynamic regime in the River Mersey.

*Article 7* (*Power to execute street works*) would confer authority on the undertaker to interfere with and execute works in or under the streets specified in *Schedule 2* (*streets subject to street works*) within the Order limits for the purposes of the authorised works.

*Article 8* (*Stopping up of streets*) provides for the permanent stopping up of certain streets for which more specific details are given in *Schedule 3* (*streets to be permanently stopped up*) to the Order. *Schedule 3* splits the streets into two categories, streets for which a substitute is to be provided (*Part 1*), and streets for which no substitute is to be provided (*Part 2*). Limitations are placed with respect to the exercise of this power by reference to whether or not a substitute is to be provided.

- Article 9* (*Temporary stopping up of streets*) provides for the temporary stopping up of streets subject to the consent of the street authority concerned (not to be unreasonably withheld but which may be subject to reasonable conditions) or, in the case of the temporary stopping up of those streets specified in *Schedule 4 (streets to be temporarily stopped up)* to the Order, following consultation with the street authority. In addition to the model clauses, the article provides that the undertaker may use any street stopped up under the powers of this article as a temporary working site.
- Article 10* (*Access to works*) would confer power for the purposes of the authorised works to provide or improve access at the locations specified in *Schedule 5 (access to works)* or, in the case of other locations within the Order limits provided the prior approval of the highway authority is obtained (such approval not to be unreasonably withheld).
- Article 11* (*Construction and maintenance of new or altered streets*) is based upon the model clauses and makes provision for new streets and street alterations taking account of the status of the applicant as local highway authority. Street alterations are to be carried out to the reasonable satisfaction of the street authority. Even though Halton Borough Council, the applicant for the Order, is a local highway authority and has the powers of such an authority including those relating to construction and maintenance of streets, this provision is included because the Order provides for the powers of the undertaker to be exercised by a concessionaire. Such a concessionaire might not be a local highway authority and, as such, it is appropriate for this provision to be included in the Order.
- The model clause has been varied so that the ownership of a bridge or tunnel over or under a railway vests in the undertaker. This ensures that the structure is in the control of the undertaker.
- Article 12* (*Agreements with street authorities*) would authorise street authorities and the undertaker to enter into agreements relating to the construction of new streets, works in or affecting streets and the stopping up, alteration or diversion of streets.
- Article 12A* (*Use of the Astmoor Busway for the purposes of the construction of the authorised works*) is included in the Order so as to allow the use of that busway for diverted traffic during the construction of the authorised works.
- Article 13* (*Discharge of water*) would enable the undertaker to discharge water into any watercourse, public sewer or drain, in connection with the construction and maintenance of the proposed works with the approval and superintendence (if provided) of the authority to which the watercourse, public sewer or drain belongs (such approval not to be unreasonably withheld) and subject to certain other conditions.
- Article 14* (*Protective works to buildings*) would permit the undertaker to carry out certain protective works before, during or after construction of the authorised works (up to a period of 5 years after that part of the authorised works is opened for use) to buildings which may be affected by the works.
- Article 15* (*Power to survey and investigate land*) would confer upon the undertaker power to survey and investigate land and to make trial holes after notifying the owners and occupiers of the land, and includes provision for the payment of compensation.
- Article 16* (*Additional powers*) confers additional powers upon the undertaker in relation to the carrying out and maintenance of the authorised works within the new crossing area

notwithstanding any interference with public or private rights, subject to the protection that may be afforded to any person by means of *Schedule 10 (protective provisions)*. The undertaker is required to compensate any person so entitled for the removal or relocation of a mooring. Such a provision is not in the model clauses but is used in orders under section 3, such as the Tyne Tunnels Order. Some elements of this drafting are also derived from the Borough of Poole (Poole Harbour Opening Bridges) Order 2006.

*Article 17* (*Prohibitions within the new crossing area*) obliges the relevant navigation authority to impose restrictions or prohibitions in respect of the new crossing area and provides for the creation of criminal offences if such restrictions or prohibitions are breached]. This drafting is drawn from the Tyne Tunnels Order and is intended to protect the works and those using the river from harm during the construction of the works.

*Article 18* (*Protection of the new crossing, etc.*) creates offences in relation to the works authorised by the Order, should a person interfere with them, or remove them without the consent of the undertaker or the relevant navigation authority. This drafting is drawn from the Tyne Tunnels Order and is intended to protect the works and those using the river from harm during the construction of the works.

*Article 19* (*Restriction on mooring of vessels, etc.*) restricts the right of any person not engaged in the construction of the works to moor any vessel or place any article on the bed of any relevant navigation within the new crossing area during the duration of the construction of the works and thereafter the same will be restricted within an exclusion zone around the new crossing, without the consent of the undertaker or the relevant navigation authority. This drafting is drawn from the Tyne Tunnels Order and is intended to protect the works and those using the river from harm during the construction of the works.

### **PART 3**

#### **ACQUISITION AND POSSESSION OF LAND**

Part 3 of the Order contains provisions for the compulsory acquisition of land and rights in land and for the temporary possession of land for the purposes of or in connection with the intended works.

*Article 20* (*Power to acquire land*) would authorise the compulsory acquisition of the land shown on the land plans so far as required for the purposes of the authorised works.

*Article 21* (*Application of Part I of the Compulsory Purchase Act 1965*) provides for Part 1 of the Compulsory Purchase Act 1965 (as modified by the Order) to apply to the acquisition of land under the Order as it would to a compulsory purchase authorised under the Acquisition of Land Act 1981.

*Article 22* (*Application of Compulsory Purchase (Vesting Declarations) Act 1981*) provides for the application, with modifications, of the Compulsory Purchase (Vesting Declarations) Act 1981, which contains vesting procedures for land subject to compulsory purchase powers.

*Article 23* (*Power to acquire new rights*) would permit the undertaker to create and acquire easements and other new rights affecting land rather than the whole interest in any land. For this purpose, various enactments concerning compulsory acquisition and compensation would have effect as modified by *Schedule 6 (modification of*

*compensation and compulsory purchase enactments for creation of new rights*) to the Order.

*Article 24* (*Rights under or over streets*) provides that the undertaker may use a street for the works without being required to acquire any part of the street or any easement or right in the street. Provision is made for the payment of compensation.

*Article 25* (*Temporary use of land for construction of works*) provides that the undertaker may take temporary possession of land (i) specified in *Schedule 7 (land of which temporary possession may be taken)* and (ii) it may acquire compulsorily in so far as it has not already begun the compulsory acquisition process in relation to that land, for the construction of the authorised works.

*Article 26* (*Temporary use of land for maintenance of works*) provides that the undertaker may take temporary possession of land within the Order limits required for the purpose of maintaining the work or any ancillary works connected with it or securing the safe operation of any such work in the 5 years following the beginning of public use of the works. Temporary works can be constructed on the land as reasonably necessary. Provision is made for notice and compensation. This power does not apply with respect to houses, gardens or any other buildings for the time being occupied.

*Article 27* (*Disregard of certain interests and improvements*) provides for disregarding certain interests in and enhancements to the value of land for the purposes of assessing compensation with respect to its compulsory acquisition where the creation of the interest or the making of the enhancement was designed with a view to obtaining compensation or increased compensation.

*Article 28* (*Set-off for enhancement in value of related land*) provides that in assessing the compensation payable to any person in respect of the acquisition of any land, the tribunal shall set off against the value of the land any increase in value of any contiguous or adjacent land belonging to that person arising out of the construction of the authorised works.

*Article 29* (*Acquisition of part of certain properties*) would enable the undertaker to acquire a part rather than the whole of properties subject to compulsory acquisition and contains a procedure enabling the relevant owner in certain circumstances to require the whole to be taken, with disputes being determined by the Lands Tribunal. It replaces section 8(1) of the Compulsory Purchase Act 1965.

*Article 30* (*Extinction or suspension of private rights of way*) provides for the extinction or suspension of private rights of way over land subject to compulsory acquisition or appropriation for the purposes of the Order. Such rights are suspended where the undertaker takes temporary possession, until this is given up. Provision for notification and the payment of compensation is included.

*Article 31* (*Time limit for exercise of powers of acquisition*) provides a time limit of 5 years from the coming into force of the Order for the exercise of the proposed powers of acquisition and possession.

## PART 4

### OPERATIONAL

Part 4 relates to the way in which the undertaker operates and maintains the new crossing and makes provision for byelaws and criminal offences. A number of these provisions are not contained in the model clauses. They relate specifically to works authorised under section 3 of the TWA 1992 and follow precedents in other orders such as the Tyne Tunnels Order, with appropriate modification. This includes articles 34, 35, 37 and 38.

*Article 32* (*Power to operate, use and maintain the new crossing*) would authorise the undertaker to operate, use and maintain the new crossing. Even though Halton Borough Council, the applicant for the Order is a local highway authority and has the powers of such an authority, this provision is included because the Order provides for the powers of the undertaker to be exercised by a concessionaire. Such a concessionaire might not be a local highway authority and, as such, it is appropriate for this provision to be included in the Order.

*Article 33* (*Restriction on use of the new crossing by way of certain classes of vehicle*) limits those vehicles or persons who are to be permitted to enter or upon or use the new crossing to Classes 1 and 2 of Schedule 4 to the Highways Act 1980. Such a provision is not in the model clauses and is not based on a precedent. However, restricting the use of a street is common practice by highway authorities, particularly for tolled crossings where access by pedestrians, cyclists or other vulnerable users would be inappropriate. It is appropriate for the same approach to be taken here, particularly as a way on foot already exists between Runcorn and Widnes *via* the existing Silver Jubilee Bridge.

*Article 34* (*Closing the new crossing*) permits the undertaker to close any of the bridge roads when in its opinion such closure is necessary. Except in an emergency, the undertaker must follow the notice procedure set out in this article prior to closing any of the bridge roads.

*Article 35* (*No mains or pipes*) restricts the right of any person to break open any carriageway or footway comprised in the new bridge roads for the purposes of laying mains, pipes or wires or carrying out works to the bridge roads without the consent of the undertaker, which may not be unreasonably withheld. The undertaker's consent may be given subject to conditions. *Article 58 (arbitration)* shall apply. This provision is necessary to prevent the undertaking being interrupted by the use of the new bridge and the bridge roads for reasons other than for the transport of vehicular traffic. A precedent exists in Section 24 of the Cheshire and Lancashire County Councils (Runcorn-Widnes Bridge &c.) Act 1947, which applies to the existing Silver Jubilee Bridge.

*Article 36* (*Obstruction of works and trespass on the new crossing*) provides that any person entering on those parts of the new crossing not being a carriageway, cycleway or footway, or is trespassing on any other land of the undertaker in proximity to the new crossing or any apparatus used in connection with its operation shall be guilty of an offence. It is a defence that a notice to this effect was not displayed. In addition, any person refusing to pay tolls demanded of him may be refused entry upon and use of the new crossing. The provision has been amended from the model clauses to reflect the status of the new crossing as a highway. IT is needed in order to protect the bridge, the undertaker's undertaking and the public.

*Article 37* (*Power to contract for police services*) makes provision to enable agreements between the undertaker and police authorities for the provision of police services for the authorised activities. Even though Halton Borough Council, the applicant for the Order is a local highway authority and has the powers of such an authority, this provision is included because the Order provides for the powers of the undertaker to be exercised by a concessionaire. Such a concessionaire might not be a local highway authority and, as such, it is appropriate for this provision to be included in the Order.

*Article 38* (*Power to make byelaws*) authorises the undertaker to make and enforce byelaws to regulate the use and operation of the new crossing, the maintenance of order on and about the new crossing and the conduct of persons including employees of the undertaker while on or about the new crossing. Without prejudice to the general power in article 38(1), byelaws may make provision for *inter alia* the payment or evasion of payment of tolls and the manner of payment.

## **PART 5**

### **TOLLING, CONCESSION AND FINANCING ARRANGEMENTS**

Part 5 relates to the arrangements that the undertaker may make in relation to funding the new crossing, the disposal of, or any part of, the new crossing and the charging of tolls. It is necessary in order to enable the undertaker to finance the construction and operation of the new crossing.

This Part is not found in the model clauses but follows other orders that contain more complex tolling provisions, including in part the Tyne Tunnels Order.

*Article 39* (*Power to charge tolls*) grants to the undertaker a power to demand, take and recover or waive tolls or charges in respect of the new crossing. *Article 39* makes provision for the commencement of the power to charge tolls on the opening day, for exemptions from tolls and for the tolls to be collected by the undertaker's agent.

*Article 39* also introduces *Schedule 11 (level of tolls)*, which sets out the basis upon which the initial toll to be levied shall be set and revised thereafter. This sets out a mechanism by which the initial toll level is to be set, by reference to a range provided in the Schedule and in accordance with the classification of vehicles set out in Part 2 of the Schedule. Thereafter, the undertaker may vary the amount of tolls (subject to paragraphs 3 to 6 of the Schedule) in accordance with increases in the retail price index. Where such increases would be insufficient for the purposes set out in paragraph 7 of the Schedule, or the undertaker wishes to change the classification of vehicles in respect of which tolls may be charged or the amount of penalty charges, it must follow the procedure in paragraphs 8 to 13 of the Schedule.

*Article 39A* (*Payment of tolls*) provides that the undertaker may elect that tolls shall be administered through the mechanism of requiring vehicle to have a licence for the use of the new bridge. This is necessary to allow the use of open road tolling technology for the collection of tolls in the future. The undertaker may elect that this manner of toll collection applies in place of tolls being collected at a barrier. The provision is derived from the Greater London (Central Zone) Congestion Charging Order 2004.

*Article 40* (*Application of Part III of the Transport Act 2000*) applies Part 3 of the Transport Act 2000, which relates to road user charging schemes. This provides that the provisions of the order in respect of tolls and *Schedule 11 (level of tolls)* and *12 (tolls, penalty charges and enforcement)* are to have effect as an order making a charging scheme

under Part 3 of the Transport Act 2000 and as regulations under that act. The intention of this is to avoid the problem of sub-delegation. Provisions as to the enforcement of penalty charges are also to have effect as regulations made under the relevant provisions of the Transport Act so that the powers of a charging authority under the Transport Act are available to the undertaker. This approach has also been adopted because it reflects the most up to date Government policy in respect of charging for the use of roads. This is necessary as it enables the undertaker to revise tolls and toll ranges within which tolls are set. Penalty charge and enforcement provisions are necessary and addressed by Schedule 12 because these provisions are required if pen road tolling is imposed on the new bridge in place of barrier tolling. They allow those not paying to use the bridge to be pursued even after they have left the vicinity of the bridge.

The drafting in *Schedule 12* is derived from the Road User Charging (Enforcement and Adjudication)(London) Regulations 2001. This is appropriate and necessary because if open road tolling is applied, the mechanism for recovery of tolls from users will be analogous to the system in operation under those Regulations.

This Article also introduces *Schedule 13 (application of the Transport Act 2000)* which sets out certain modifications to that Act in respect of this Order. Section 168(3) of the Transport Act is disapplied because it provides a procedure for the making of changes to charges payable pursuant to a road user charging scheme under that Act. The Order prescribes its own mechanism for that purpose and, as such, it is appropriate that the Order's mechanism should be applied in the specific circumstances of its undertaking. The same reason applies to the disapplication of sections 172 and 197 of the Transport Act.

*Article 41* (*Power to enter into concession agreements and lease or transfer the undertaking etc*) empowers the undertaker to transfer its powers (including its rights and obligations) and the works, or part of them, to another person. As it is likely that the authorised works will be constructed, operated and maintained by a concessionaire under a concession agreement, this Article also authorises the undertaker to enter into such agreement. The model clauses do contain a provision enabling the undertaker to transfer the undertaking. However, previous orders such as the Merseytram Liverpool City Centre to Kirkby Order 2005 and the Tyne Tunnels Order have used similar, more extensive provisions, that, like the one used here, reflect the particular requirements in each case of the power to transfer, etc.

*Article 42* (*Application of landlord and tenant law*) would override the application of landlord and tenant law in so far as it may prejudice agreements for the leasing of the new crossing.

*Article 43* (*Application of Section 2 of the New Roads and Street Works Act 1991*) allows for the application of the provision in the New Roads and Street Works Act 1991 that allows a concessionaire to exercise in place of the highway authority (in this case the undertaker) such of its functions in relation to the road subject to the concessions may be set out in the agreement. In such circumstances, the highway authority shall not be liable for anything done or omitted by the concessionaire in respect of the highway function exercised by the concessionaire. There is no such provision in the model clauses. However, this is an accepted statutory provision in respect of concession agreements relating to analogous road orders made under the 1991 Act and is appropriate to be applied by this Order. This provision is necessary to allow the



undertaker to transfer risk to any concessionaire it appoints to construct and operate the authorised works.

*Article 44* (*Penalty charges and enforcement*) applies (with modifications) the sections of the Transport Act 2000 that relate to the enforcement of charges levied by a road user charging scheme made under that Act. For this purpose, the provisions of the order that relate to the payment and enforcement of tolls and charges are to have effect as if the order were made under Part 3 of the Transport Act 2000.

This Article also introduces *Schedule 12 (tolls, penalty charges and enforcement)*, which deals with the circumstances in which penalty charges may be levied and how these are to be recovered. Whilst sections 173 to 177A of the Transport Act 2000 contain some provisions relating to the payment and enforcement of charges, a large part of the detail of these sections is left to be set out in regulations made by the Secretary of State or the Lord Chancellor. No such regulations have been made. Therefore, the provisions of Schedule are to have effect as regulations made under the relevant sections of the Transport Act. There are no provisions that deal with this in the model clauses. In the absence of regulations these provisions are included to allow concessionaire to be certain that if open road tolling technology is adopted, then they will be able to enforce the payment of tolls.

Further, in the absence of regulations, the provisions of *Schedule 12 (tolls, penalty charges and enforcement)* are based on the precedent of the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001 (as amended) and the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 (as amended). Whilst these regulations were made under the provisions of the Greater London Act 1999 relating to the London congestion charging scheme, the provisions of that Act and the Transport Act 2000 in respect of road user charging schemes are similar and therefore those regulations are an appropriate precedent.

*Article 44A. (Interoperability of Electronic Road User Charging and Road Tolling Systems)* has been included because European Legislation (Directive 2004/52) of indirect effect requires tolling and road user charging schemes in the United Kingdom to be consistent.

## **PART 6**

### **MISCELLANEOUS AND GENERAL**

Part 6 of the Order contains miscellaneous and general provisions.

*Article 45 (Planning permission and supplementary matters)* modifies planning legislation as respects the application of Tree Preservation Orders and the treatment of land as operational land.

*Article 46 (Power to lop trees overhanging the authorised works)* enables the undertaker to fell or lop trees and shrubs for the purposes of preventing obstruction or interference with the new crossing. Provision is included for the payment of compensation for loss and damage.

*Article 47 (Disapplication of the Commons Act 2006)* disapplies the provisions of the Commons Act relating to the registration of Village Greens within the order limits. It would prevent any such registrations from interfering with the order powers. This provision is not in the model clauses but would be appropriate here because of the areas of

undeveloped land required for the construction of the authorised works to which such an application for registration may apply.

- Article 48* (*Proceedings in respect of statutory nuisance*) provides that no one shall be able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise, if the noise is created in the course of carrying out the works authorised by this Order and which is unavoidable or works for which notice has been given under section 60, or consent obtained under section 61 or 65 of the Control of Pollution Act 1974. Such a provision is not in the model clauses but is common in other Orders (for example, the Merseytram (Liverpool Centre for Kirkby) Order 2005 (article 73) and the Docklands Light Railway (Stratford International Extension) Order 2006 (article 46)).
- Article 49* (*Saving for Trinity House and protection of navigation*) provides a specific saving for Trinity House in relation to any of the order powers so as not to provide or derogate from any of the powers, privileges or jurisdiction of Trinity House. Specific protection is set out more fully in *Schedule 8 (protection of navigation)* to the Order. Ordinarily, a Harbour Revision Order or a Harbour Empowerment Order under the Harbours Act 1964 is required to include such provision. This requires - *inter alia* - the inclusion of a requirement to obtain the Secretary of State's consent to works that interfere with navigation. However, recent Harbour Revision Orders, including the Felixstowe Dock and Railway Harbour Revision Order 2007 waive this requirement if authorised works are constructed within five years of a harbour revision order being made.
- Article 50* (*Removal of vessels*) permits the undertaker to remove moored or laid up and sunk, stranded or abandoned vessels from within the new crossing area for the purposes of the construction or maintenance of the authorised works. This power is subject to notice requirements and a procedure that are set out in the article.
- Article 51* (*Obstruction of construction of authorised works*) would make obstructing the construction of the authorised works or interfering with apparatus belonging to a person acting under the authority of the undertaker a criminal offence.
- Article 52* (*Disclosure of confidential information*) makes disclosure of confidential information relating to any manufacturing process or trade secret obtained upon entry to a factory, workshop or workplace in pursuance of the undertaker's powers under *article 14 (safeguarding works to buildings)* and *article 15 (power to survey and investigate land)* a criminal offence.
- Article 53* (*Statutory undertakers, etc.*) introduces *Schedule 9 (provisions relating to statutory undertakers)* to the Order, which contains specific safeguards for statutory undertakers generally. As stated in the Report on Consultation, relevant statutory undertakers have been consulted.
- Article 54* (*Protective provisions*) introduces *Schedule 10 (protective provisions)*, which may contain specific safeguards for certain persons.
- Article 54A* (*Disapplication of provisions relating to the conservation of the River Mersey*) is included because the Order will itself authorise interference with navigation. As such a requirement to obtain the consent of the conservator of the River - which is the Secretary of State for Transport - is unnecessary.

- Article 55* (*Certification of plans, etc.*) would require the undertaker to submit copies of the book of reference, plans and sections referred to in the Order to the Secretary of State for certification as true copies, following the making of the Order.
- Article 56* (*Service of notices*) makes provision as to the manner in which notices or other documents required or authorised to be served for the purposes of the Order are to be served.
- Article 57* (*No double recovery*) makes provision to ensure that any compensation is not payable both under this Order and other compensation regimes for the same loss or damage.
- Article 58* (*Arbitration*) makes provision for differences arising under any provision of the Order, other than those referred to the Lands Tribunal and unless otherwise agreed between the parties, to be determined by arbitration.