

RIXTON AND WARBURTON BRIDGE ORDER

THE TRANSPORT AND WORKS ACT 1992

**THE TRANSPORT AND WORKS
(APPLICATIONS AND OBJECTIONS PROCEDURE) (ENGLAND AND WALES) RULES 2006
RULE 10(2)(b)**



**RIXTON AND WARBURTON BRIDGE
EXPLANATORY MEMORANDUM**

November 2021

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EXPLANATORY MEMORANDUM

This memorandum explains the purpose and effect of each article of and Schedules to the draft Rixton and Warburton Bridge Order (“the Order”), as required by Rule 10(2)(b) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006.

The Order is promoted by The Manchester Ship Canal Company Limited (“MSCC”) to permit MSCC to update and modernise provisions of the existing legislation in respect of the Rixton and Warburton Bridge. The Order revises the tolls which MSCC may charge for use of the Rixton and Warburton Bridge and supersedes the toll levels set out in the Rixton and Warburton Bridge Act 1863. The Order contains provisions for MSCC, to make new byelaws in relation to the good management and use of the Rixton and Warburton Bridge in order to safeguard the navigation of the Manchester Ship Canal.

The Order also contains provisions for MSCC to transfer the Rixton and Warburton Bridge Undertaking to the Rixton and Warburton Bridge Company Limited, should MSCC so resolve, in order to ensure a more efficient operation and management of the Rixton and Warburton Bridge and the Manchester Ship Canal and also provide for increased transparency on costs and revenues and consequently the future setting of toll levels.

The Order follows previous orders and Acts of Parliament, in particular, The River Mersey (Mersey Gateway Bridge) Order 2011, Dunham Bridge (Amendment) Act 1994 and The Bridgewater Canal (Transfer of Undertaking) Order 2012 or in some instances, other orders. Occasionally, the Order is adapted for the circumstances of the Rixton and Warburton Bridge. Where there is an adaptation, an explanation is provided below.

PART 1

PRELIMINARY

Part 1 contains preliminary provisions.

Article 1 (Citation and commencement) provides for the citation and commencement of the Order.

Article 2 (Interpretation) contains provisions for the interpretation of the Order.

PART 2

OPERATIONAL

Part 2 of the Order contains provisions for and relating to the operation and maintenance of the Rixton and Warburton Bridge.

Article 3 (Offences and power to make byelaws) authorises MSCC to make and enforce byelaws to regulate the use and operation of the Rixton and Warburton Bridge, the maintenance of order on and about the Rixton and Warburton Bridge and the conduct of persons including employees of MSCC while on or about the Rixton and Warburton Bridge. Without prejudice to the general power in article 3 (1), byelaws may make provision for inter alia the payment or evasion of payment of tolls and the manner of payment.

Paragraph (18) introduces Schedule 4 (*the Rixton and Warburton Bridge Byelaws 202[]*) which contains byelaws which will come into effect on the date the Order comes into force. Precedent for this provision can be found in article 48(2) of the Silvertown Tunnel Order 2018, with some amendments made to reflect the nature of Rixton and Warburton Bridge in this case. The byelaws, at Schedule 4, follow previous byelaws in other orders, in particular, the Mersey Gateway Bridge Byelaws 2016 and the Lowestoft Third Crossing Byelaws 2020 or in some instances, other Orders with appropriate modifications to reflect the circumstances of the Rixton and Warburton Bridge.

Byelaws 1 to 4 contain introductory provisions regarding the power under which the byelaws are made, their citation and interpretation provisions. Precedent for these byelaws can be found in byelaws 1 to 5 of Mersey Gateway Bridge Byelaws 2016.

Byelaws 5 to 15 limits the instances in which a vehicle may stop, or disrupt traffic, on the Rixton and Warburton Bridge. Precedent for these byelaws can be found in Part 2 of the Mersey Gateway Bridge Byelaws 2016, with some amendments made to reflect the nature of Rixton and Warburton Bridge in this case. Byelaws 8 and 9 have been adapted from byelaws 11 and 14 of the Lowestoft Third Crossing Byelaws 2020.

Byelaw 16 restricts, unless expressly permitted, any vehicle carrying any goods, substances or articles of a dangerous nature to cross the Rixton and Warburton Bridge. Precedent for this byelaw can be found in byelaw 17 of the Mersey Gateway Bridge Byelaws 2016.

Byelaws 17 to 20 set out when vehicles are not permitted to use the Rixton and Warburton Bridge. Precedent for byelaws 17 and 18 can be found in byelaw 5 of the Lowestoft Third Crossing Byelaws 2020. Precedent for byelaws 19 and 20 can be found in byelaws 18 and 19 of the Mersey Gateway Bridge Byelaws 2016.

Byelaw 21 sets out the maximum dimensions of vehicles permitted to enter or use the Rixton and Warburton Bridge. Vehicles that exceed these dimensions require prior permission from an authorised person to enter or use the Rixton and Warburton Bridge. Precedent for this byelaw can be found in byelaw 20 of the Mersey Gateway Bridge Byelaws 2016.

Byelaws 22 to 35 sets out the basis upon which the level of toll shall be displayed in the vicinity of the Rixton and Warburton Bridge. It sets out the methods in which the toll can be paid, and further charges that will be imposed on unpaid tolls. The byelaws set out the process of a person applying for a Tag, an electronic device fitted to a vehicle, to allow tolling without physical payment using cash. The byelaws also set out the process of reporting when vehicles are sold or stolen to ensure that penalties on toll charges do not continue to be accrued.

Byelaws 36 to 50 prohibits certain behaviours in the vicinity of Rixton and Warburton Bridge, in the interests of health and safety and the prevention of damage and nuisance generally. These prohibitions are preceded in Part 7 of the Mersey Gateway Bridge Byelaws 2016 and byelaw 4 of the Lowestoft Third Crossing Byelaws 2020. Amendments have been made to reflect the nature of Rixton and Warburton Bridge in this case.

Byelaw 51 contains provisions in relation to the closure of the Rixton and Warburton Bridge or any part of it under Article 4 of the Order and restricts access to the Rixton and Warburton Bridge without consent of MSCC. Precedent for this byelaw can be found in byelaw 30 of the Mersey Gateway Bridge Byelaws 2016.

Byelaw 52 enables an authorised person to prevent from gaining access to the Rixton and Warburton Bridge the driver of any vehicle or any other person who an authorised person has reasonable cause to believe is contravening, or will so if he proceeds, any of these byelaws. Precedent for this byelaw can be found in byelaw 31 of the Mersey Gateway Bridge Byelaws 2016.

Byelaws 53 to 54 relate to the implications of contravention of a byelaw and specifically that the contravention of a byelaw is an offence. Precedent for byelaws 53 and 54 can be found in byelaws 32 and 33 of the Mersey Gateway Bridge Byelaws 2016.

Article 4 (Closing the Rixton and Warburton Bridge) empowers MSCC to close all or any part of the Rixton and Warburton Bridge when in its opinion such closure is necessary including emergencies. This articles provides for certain consultation and notification requirements. Precedent for this provision can be found in article 37 of the River Mersey (Mersey Gateway Bridge) Order 2011.

PART 3

TRANSFER OF THE UNDERTAKING

Part 3 of the Order contains provisions for MSCC to transfer the Rixton and Warburton Bridge Undertaking to the Rixton and Warburton Bridge Company Limited (the Company), should MSCC so resolve. The provisions in Part 3 derive from The Bridgewater Canal (Transfer of Undertaking) Order 2012.

Article 5 (Transfer of Undertaking) transfers the statutory powers and duties of MSCC in relation to the Rixton and Warburton Bridge to the Company and also transfers the undertaking, as existing immediately before the transfer date, of MSCC to the Company. The transfer of the undertaking relates only to the Rixton and Warburton Bridge and not to the whole of MSCC's interests.

Article 6 (Saving of agreements, etc.) provides for agreements entered into by MSCC prior to the transfer day to remain in force as if they had been entered into by the Company.

Article 7 (Continuance of proceedings) provides for legal and other proceedings prior to the transfer of the undertaking to be carried on by or in relation to MSCC.

PART 4

TOLLING, CONCESSION AND FINANCING ARRANGEMENTS

Part 4 of the Order contains provisions for the charging of tolls at Rixton and Warburton Bridge and the power to enter into concession and financing agreements with persons liable to pay a toll.

Article 8 (Tolls) empowers MSCC to use its existing powers to levy tolls under the Rixton and Warburton Bridge Act 1863 in accordance with the provisions of this Order and sets out provisions in relation to the payment of tolls. This article also empowers MSCC to apply the tolls for any purposes in connection with the safe efficient and economic management, operation and maintenance of the Rixton and Warburton Bridge. This provision is generally based on the provisions of the River Mersey (Mersey Gateway Bridge) Order 2011 with some modifications in relation to prioritising the use of the application of toll funds, which is based on the provisions of the Dunham Bridge (Amendment) Act 1994, to reflect the difference in scale of the undertaking, type of ownership of the Bridge and the level of the toll increase.

This article also introduces Schedule 1 which includes provisions as to the level of tolls to be charged and the mechanism and procedure for any adjustments of the toll. This provision is generally based on the provisions of article 41 of the River Mersey (Mersey Gateway Bridge) Order 2011 with appropriate modifications to reflect the circumstances of the Rixton and Warburton Bridge.

Article 9 (Payment of tolls) provides that MSCC may elect that tolls shall be administered through the mechanism of requiring vehicles to have a licence for the use of the Bridge. This is necessary to allow the use of open road tolling technology for the collection of tolls in the future. This provision is derived from article 42 of the River Mersey (Mersey Gateway Bridge) Order 2011.

Article 10 (Power to enter into concession agreements and lease or transfer the Undertaking, etc.) empowers MSCC to transfer its powers (including its rights and obligations) to another person. This Article also authorises MSCC to enter into such agreement. This provision is derived from article 43 of the River Mersey (Mersey Gateway Bridge) Order 2011.

Article 11 (Protection of the Canal) contains provisions in order to safeguard the operation and navigation of the Manchester Ship Canal.

Article 12 (*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 Rixton and Warburton Bridge. This provision is derived from article 44 of the River Mersey (Mersey Gateway Bridge) Order 2011.

Article 13 (*Application of the 2000 Act*) 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 1 (level of tolls) 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 2000 so that the powers of a charging authority under the Transport Act 2000 are available to MSCC. 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 provision is derived from article 46 of the River Mersey (Mersey Gateway Bridge) Order 2011.

Article 14 (*Modification of Transport Charges &c. (Miscellaneous Provisions) Act 1954*) allows for section 6(3) of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 to have effect as if the reference to the paid up share capital of the undertaking there was a reference to any amounts invested in the undertaking. This provision is derived from Article 47 of the Dunham Bridge (Amendment) Act 1994.

PART 5

MISCELLANEOUS AND GENERAL

Part 5 of the Order contains a number of miscellaneous and general provisions.

Article 15 (*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 16 (*Amendments*) makes amendments to the Rixton and Warburton Bridge Act 1863 to ensure alignment with the Order.

Article 17 (*Repeals*) repeals those provisions of the Rixton and Warburton Bridge Act 1863 which are no longer necessary as they are being updated and replaced by the provisions of the Order.

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