
STATUTORY INSTRUMENTS

2008 No. 969

**The River Humber (Upper Burcom
Tidal Stream Generator) Order 2008**

PART 3

MISCELLANEOUS AND GENERAL

Power to operate and use works

13. Subject to article 15, the undertaker may operate and use the authorised works as a system for generating and transmitting electricity.

Disapplication of section 9 of the Humber Conservancy Act 1899 and section 6 of the Humber Conservancy Act 1905

14. Section 9(ii) (licences for execution of works) of the Humber Conservancy Act 1899⁽¹⁾ and section 6(2) (no erections in Humber below river lines or without licence above river lines) of the Humber Conservancy Act 1905⁽²⁾ shall not apply to the authorised works.

Removal of authorised works

15. The undertaker shall remove—

- (a) Work No. 1 (except that, in relation to the two piles, it shall only remove as much as is practicable); and
- (b) Works Nos. 2 and 3,

no later than three years after the date on which this Order is made and shall, subject to the exception in paragraph (a), restore the sites of the works to their former condition, subject to natural change.

Obstruction and misuse of authorised works

16. Any person who without reasonable excuse—

- (a) obstructs another person from constructing or maintaining any of the authorised works under the powers conferred by this Order;
- (b) makes fast to any part of any tidal work; or
- (c) in any other way interferes with any of the authorised works or their operation,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(1) 1899 c.cci.
(2) 1905 c.clxxix.

Exclusion zone for navigation, trawling and anchoring

17.—(1) Subject to paragraph (3) there shall be a temporary exclusion zone (“exclusion zone”) extending to any waters within 75 metres of any part of Work No 1 and Work No 2 during the construction, relaying, replacement, removal or decommissioning of those works or any part of those works.

(2) Any person who without reasonable excuse navigates a vessel within an exclusion zone shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) An exclusion zone shall not come into effect until 7 days after the publication by A. B. Ports of a notice to mariners specifying—

(a) the date of publication of the notice; and

(b) the location and extent of the exclusion zone and its intended duration.

(4) The exclusion zone shall terminate on the completion of the construction, relaying, replacement, removal or decommissioning of the works to which it relates.

(5) As soon as reasonably practicable following the termination of an exclusion zone A. B. Ports shall publish notice of the termination by means of a notice to mariners.

(6) This article shall not apply to a person navigating a vessel within the exclusion zone for the purpose of, or in connection with, the construction, maintenance or operation of the authorised works.

Certain land to be treated as operational land

18. Planning permission which is deemed by a direction under section 90(2A) of the Town and Country Planning Act 1990(3) to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

Certification of plans, etc.

19.—(1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the works plans and sections sent to him with the application for this Order in accordance with rule 10(3) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(4).

(2) The Secretary of State shall, on receipt of such works plans and sections, certify that they are true copies of the works plans and sections so sent to him.

(3) A document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Transfer of powers

20.—(1) The undertaker may, with the consent of the Secretary of State, enter into, and carry into effect, agreements for the transfer to another person of all or any of the powers conferred on the undertaker by this Order.

(2) The exercise of any power conferred by this Order by any other person in accordance with an agreement under paragraph (1) shall be subject to the same obligations and liabilities under this Order as would apply if that power were exercised by the undertaker.

(3) 1990 c.8.

(4) S.I. 2006/1466.

(3) Not later than 21 days before any such agreement comes into effect which provides for the transfer to another person of powers relating to any tidal works the undertaker shall give written notice to the Secretary of State and to A. B. Ports stating the name and address of the person to whom the powers are being transferred and the date when the transfer is to take effect.

For protection of A. B. Ports

21. The provisions of Schedule 2 to this Order shall have effect.

Saving for Trinity House

22. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of the Corporation of Trinity House of Deptford Strond.

Crown rights

23.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown, and in particular, nothing in this Order authorises the undertaker 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 river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
- (b) belonging to 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) may be given unconditionally or subject to such conditions or upon such terms as may be considered necessary or appropriate.