
STATUTORY INSTRUMENTS

1989 No. 1545

**The Harwich Dock Company
Harbour Empowerment Order 1988**

PART III

WORKS

Power to construct works

5.—(1) Subject to the provisions of this Order, the Company may, in the lines or situations and within the limits of deviation and according to the levels shown on the deposited sections, make and maintain the works hereinafter described, in the district of Tendring, with all necessary works and conveniences connected therewith—

Work No. 1—

- (a) A quay, being partly of solid construction with reinforced concrete and infill material and partly of open construction with bearing piles and a reinforced concrete platform, commencing at the western extremity of the existing berth number 2/3 proceeding thence in a northerly direction for a distance of 21 metres to reference point TM 2600732957, thence in an east-north-easterly direction for a distance of 66 metres to reference point TM 2606732984, thence continuing in an east-north-easterly direction for a distance of 177 metres to reference point TM 2623733034 thence in a south-south-easterly direction for a distance of 66 metres to the face of existing berth number 5 and thence following the face of that berth westwards and subsequently of existing berths numbers 4 and 2/3 respectively to the point of commencement and together with all necessary excavation of the bed of the harbour.
- (b) An open face quay being of open construction with bearing piles and a reinforced concrete platform commencing at the extreme north-east corner of Work No. 1(a) at reference point TM 2623733034 proceeding thence in an east-north-east by easterly direction for a distance of 214 metres to reference point TM 2645033053 thence in a south-south-easterly direction for a distance of 25 metres to reference point TM 2646133030 thence continuing in a west-south-westerly direction to the eastern extremity of existing berth number 5 and thence following that berth to abut and join the extreme south-east extremity of Work No. 1(a) and thence in a north-north-westerly direction to the point of commencement and together with all necessary excavation of the bed of the harbour.

Work No. 2—A quay of open construction with bearing piles and a reinforced concrete platform commencing at the extreme south-east corner of the Navyard and proceeding in an east-north-easterly direction for a distance of 202 metres to reference point 2648532975, thence proceeding in a north-north-westerly direction for a distance of 62 metres to abut and join the extreme south-east corner of Work No. 1(b) thence in a west-south-westerly direction for a distance of 202 metres and thence in south-south-easterly direction to the point of commencement.

(2) The Company may within the limits of deviation reconstruct, renew, alter, extend, enlarge, add to, replace or relay the works and may maintain the same as reconstructed, renewed, altered, extended, enlarged, added to, replaced or relaid.

(3) The Company may, by means of the works authorised by paragraph (1) above, enclose and reclaim so much of the bed of the harbour and of the foreshore as lies within the limits of deviation and may hold and use the same as part of the dock undertaking.

(4) The start of Construction of Works Nos. 1 and 2 shall not take place until authorisation has been given by the highway authority for the financing of the construction of Stage 2 of the Dovercourt Bypass.

Power to deviate

6. In the construction of the works the Company may deviate laterally from the lines or situations thereof shown on the deposited plan to any extent not exceeding the limits of deviation and may deviate vertically from the levels of those works shown on the deposited sections to any extent not exceeding 3 metres upwards and to any extent downwards as may be found necessary or convenient.

Subsidiary works

7. Subject to the provisions of this Order, the Company may from time to time within the limits of deviation erect, construct and maintain whether temporarily or permanently all such works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance or use of the works.

Period for completion of works

8. If the works are not completed within ten years from the date mentioned in article 5(4) above or such extended time as the Secretary of State may on the application of the Company allow, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to the Company for making and maintaining the works shall cease except as to so much thereof as shall then be completed.

Works to form part of dock undertaking

9. The works shall for all purposes form part of the dock undertaking.

Works to be within county of Essex, etc.

10.—(1) So much of the works as are beyond mean low water shall be deemed to be within—

- (a) the county of Essex;
- (b) the district of Tendring;
- (c) the petty sessional division of Harwich;
- (d) the Harwich electoral division; and
- (e) the East Ward.

(2) During the period between the coming into force of this Order and the date when the works have been completed each of the areas mentioned in paragraph (1) above shall be deemed to include all lands beyond mean low water which are within the limits of deviation.

(3) Nothing in this article shall require the performance of any functions under the Ordnance Survey Act 1841(1) until the Company have certified in writing to the Director General of Ordnance Survey that the works have been completed.

Tidal works subject to licensing by Board

11.—(1) Notwithstanding paragraph (i) in the proviso to section 19(1) of the Harwich Harbour Act 1974, but subject to paragraph (2) below, the Company shall not construct any of the works below the level of high water unless they are licensed to do so by a works licence granted by the Board under section 20 of that Act and except in accordance with any conditions subject to which the licence is granted and in accordance with plans, sections and particulars approved under that section.

(2) If there shall be any inconsistency between the plans approved under section 20 of the Harwich Harbour Act 1974 and the plans approved by the Secretary of State under article 15 of this Order, the works shall be constructed in accordance with the plans approved by the Secretary of State.

Other works subject to licensing by Board

12.—(1) This article applies to any additional permanent structure exceeding a height of 4 metres above deck level and which in this article is hereafter referred to as a “new structure”.

(2) The provisions of section 20 of the Harwich Harbour Act 1974 shall apply (with the necessary modifications) to a new structure and, accordingly, the Company shall not place or permit to be placed on any of their quays any new structure unless they are licensed to do so by the Board under and in accordance with that section as so modified.

(3) When deciding whether or not to grant a licence in accordance with this article the Board shall take account of any detrimental effect to the safety of navigation which may be caused by loss of visual or radar surveillance of the harbour arising from the new structure which is the subject of an application for the licence in question.

(4) The Company shall be entitled to appeal to the Secretary of State on the grounds specified and in accordance with section 23 of the Harwich Harbour Act 1974.

Power to dredge

13. Subject to article 26 of this Order, and sections 19 and 21 of the Harwich Harbour Act 1974, the Company may, for the purposes of constructing and maintaining the works or otherwise for the purposes of the dock undertaking from time to time deepen, dredge, scour, cleanse, alter and improve so much of the harbour and foreshore as lies within their limits of jurisdiction and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894(2)) from time to time dredged by them—

Provided that no materials so dredged, other than those dredged for the purpose of constructing the works or filling in and reclaiming from the harbour and foreshore so much of the harbour and foreshore as is situated within the limits of deviation, shall be deposited below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Obstruction of works

14. Any person who intentionally obstructs any person acting under the authority of the Company in setting out the lines of the works, or who interferes with, moves or removes any pole, stake, station

(1) 1841 c. 30.

(2) 1894 c. 60.

point or bench mark established for the purpose of such setting out, shall for every such offence be liable on summary conviction to a fine not exceeding £400.

Tidal works not to be executed without approval of Secretary of State

15.—(1) A tidal work shall not be constructed, reconstructed, renewed, added to, extended, enlarged, altered, replaced or relaid except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.

(2) If a tidal work is constructed, reconstructed, renewed, added to, extended, enlarged, altered, replaced or relaid in contravention of this article or of any condition or restriction imposed under this article—

- (a) the Secretary of State may by notice in writing require the Company at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the Company they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work, or part of it, and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Company.

(3) The Company shall not apply to the Secretary of State for approval for any work for which a licence from the Board is required under section 20 of the Harwich Harbour Act 1974 as applied by article 11 or article 12 of this Order until they have applied to the Board for a works licence and the Board have notified them of their decision or, where there is an appeal under section 23 of that Act in respect of any decision given, or deemed to have been given, by the Board upon that application, the appeal has been dealt with.

Lights on tidal works during construction

16.—(1) The Company shall at or near a tidal work during the whole time of the construction, reconstruction, renewal, extension, enlargement, alteration, replacement or relaying thereof or addition thereto, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State or the Board, or as, failing agreement between them, the Secretary of State shall from time to time direct.

(2) If the Company fail to comply with any requirement of a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 and on conviction on indictment to a fine.

Provision against danger to navigation

17.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Company shall forthwith notify Trinity House and the Board and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Board shall from time to time direct.

(2) If the Company fail to notify the Board as required by this article or to comply with any requirement of a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

18.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Company at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such a condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Company, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Company.

(4) Nothing in this article shall prejudice or affect the powers of the Board under section 18 of the Harwich Harbour Act 1974.

Survey of tidal works

19. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Company.

Permanent lights on tidal works

20.—(1) After the completion of a tidal work the Company shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps, if any, for the prevention of danger to navigation as the Board may from time to time direct.

(2) If the Company fail to comply in any respect with a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 and on conviction on indictment to a fine.