
STATUTORY INSTRUMENTS

1994 No. 3162

The Gloucester Harbour Revision Order 1994

PART IV

CONTROL OF WORKS AND DREDGING IN THE HARBOUR

Restriction of works and dredging

17.—(1) Subject to paragraph (3) below, no person other than the Trustees shall—

- (a) construct, alter, renew or extend any works in the harbour; or
- (b) dredge in the harbour; on, under or over tidal waters or tidal land below the level of high water unless he is licensed so to do, in the case of works by a works licence and in the case of dredging by a dredging licence, and no such person shall do so except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of article 19 or, as the case may require, article 20 of this Order.

(2) The Trustees may by notice require a person who contravenes this article to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates and to restore the site thereof to its former condition; and if he fails to comply with the notice, the Trustees may carry out the works so required and may recover from him the cost of so doing.

(3) Nothing in this article shall apply to—

- (a) any operations or works specifically authorised by any enactment; or
- (b) any operations or works of a statutory undertaker.

(4) Any person who without reasonable excuse contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Control of certain operations and works of statutory undertakers

18.—(1) This article applies to any operations or works in the harbour of a statutory undertaker on, under or over tidal waters or tidal land below the level of high water, not being operations or works which are specifically authorised by any enactment.

(2) Subject to paragraph (3) below, a statutory undertaker shall not carry out any operations or works to which this article applies unless it has given notice of its intention to do so to the Trustees and has supplied the Trustees with such particulars as they may reasonably require.

(3) Where, in an emergency, it is impracticable to give notice as required by paragraph (2) above, the statutory undertaker shall inform the Trustees of the operations or works as soon as reasonably practicable.

(4) Any operations or works to which this article applies shall be carried out subject to any directions which may from time to time be given by the Trustees to the statutory undertaker, being

directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of such operations or works.

(5) Any person who, without reasonable excuse, contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Licensing of works

19.—(1) The Trustees may upon such terms and conditions as they think fit grant to any person a licence to construct, alter, renew or extend any works in the harbour on, under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with the public right of navigation or any other public right by such works as constructed, altered, renewed, or extended.

(2) Application for a works licence shall be made in writing to the Trustees and shall—

- (a) be accompanied by plans, sections and particulars of the works to which the application relates;
- (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted;

and, in granting a licence, the Trustees may require modifications in the plans, sections and particulars so submitted.

(3) The Trustees may require an applicant for a works licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of dealing with the application.

(4) The Trustees may require a licensee, being an applicant to whom a licence has been granted or his successor, where works are constructed pursuant to the licence and as a condition of the grant of the licence to pay such reasonable fees in respect of the Trustees' administrative expenses and overheads in supervising or inspecting where necessary the construction or maintenance of the works.

- (a) (5) (a) On receipt of an application for a works licence the Trustees shall serve on the National Rivers Authority a copy of the application and all plans, sections and particulars incidental thereto.
- (b) The Trustees shall consider such observations as the National Rivers Authority may submit to the Trustees within six weeks after service on the National Rivers Authority of the application and particulars in accordance with paragraph (a) above, and the Trustees shall not grant a works licence before the expiry of that period.
- (c) In granting a works licence the Trustees shall impose on the applicant such terms and conditions as give effect to such reasonable requirements as the National Rivers Authority may, within the said period, make in any observations to the Trustees to prevent pollution of any watercourse, to safeguard it against damage or to secure that its efficiency for land drainage purposes is not impaired.
- (d) The provisions of subparagraph (c) above are subject to the Trustees' duty under paragraph (5) of article 21 of this Order to give effect to any direction given by the Secretary of State under that paragraph.

(6) Where the Trustees refuse to grant a works licence which has been applied for, they shall give reasons in writing for their refusal.

(7) Where the Trustees grant a works licence upon terms or conditions or require any modification in the plans and particulars, they shall give reasons in writing for the terms and conditions imposed or the modifications required.

(8) If within three months from the receipt of the application under paragraph (2) above the Trustees do not grant a works licence they shall be deemed to have refused the application.

(9) Articles 23 to 26 of this Order shall apply in relation to the holder of a works licence as respects the works which are authorised by the licence as they do in relation to the Trustees as respects works belonging to the Trustees.

(10) In the carrying out of operations in pursuance of a works licence, the holder of the licence shall not—

- (a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or
- (b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus;

without the consent of the statutory undertaker concerned.

(11) Nothing in this article affects the application in relation to any works of section 109 of the Water Resources Act 1991⁽¹⁾ (obstruction of a main river).

Licence to dredge

20.—(1) The Trustees may upon such terms and conditions as they think fit grant to any person a licence to dredge in any part of the harbour.

(2) Application for a dredging licence shall be made in writing to the Trustees and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence and, in granting any such licence, the Trustees may require modifications in the plans, sections and particulars so submitted.

(3) Paragraphs (3) to (8), (10) and (11) of article 19 of this Order shall apply in relation to a dredging licence as they apply in relation to a works licence.

(4) The grant of a dredging licence shall not confer statutory authority for the carrying out of the operations covered by the licence.

Appeals in respect of works or dredging licence

21.—(1) An applicant for a works licence or a dredging licence who is aggrieved by—

- (a) a refusal of the Trustees to grant a licence; or
- (b) any terms or conditions subject to which the licence is granted; or
- (c) any modifications required by the Trustees in the plans, sections and particulars submitted by the applicant;

may, within 28 days from the date on which the Trustees notify the applicant of their decision or the date on which the Trustees are, under article 19(8) of this Order, deemed to have refused the application, appeal to the Secretary of State.

(2) An appeal under paragraph (1) above shall be made by notice in writing stating the grounds of the appeal.

(3) The appellant shall send to the Trustees a copy of the notice of his appeal;

and the Trustees may, within 28 days of the receipt of the notice, furnish to the Secretary of State their observations on the appeal.

(4) The Secretary of State may confirm, vary or revoke the decision appealed against and may make such consequential amendment as he may specify.

(1) 1991 c. 57.

(5) The Secretary of State may direct the Trustees to give effect to his decision, and the Trustees shall forthwith comply with any direction given.

Lights on tidal works during construction

22.—(1) The Trustees shall at or near a tidal work during the whole time of the construction, extension, enlargement, alteration, replacement or relaying thereof, 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 shall from time to time direct.

(2) If the Trustees 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 the statutory maximum and on conviction on indictment to a fine.

Provision against danger to navigation

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

(2) If the Trustees fail to notify the Trinity House as required by this article or to comply with any requirement of a direction under it, the Trustees shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

24.—(1) Where a tidal work constructed after the coming into force of this Order is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Trustees 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 he thinks fit.

(2) Where—

- (a) 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
- (b) 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, at the end of 30 days from the date when a notice under this article is served upon the Trustees, they have failed to comply with the requirements of the notice, the Secretary of State may execute the work specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Trustees.

Survey of tidal works

25. If he deems it expedient, the Secretary of State may at any time 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 him in any such survey and examination shall be recoverable from the Trustees.

Permanent lights on tidal works

26.—(1) After the completion of a tidal work the Trustees 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 Trinity House may from time to time direct.

(2) If the Trustees 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 the statutory maximum and on conviction on indictment to a fine.