
STATUTORY INSTRUMENTS

1995 No. 519

The Barking Barrage Order 1995

PART IV

OPERATION OF BARRAGE ETC.

Power to operate barrage

33.—(1) The Borough shall have power to operate the barrage including the power to—

- (a) open or close the barrage gates;
- (b) regulate the water level in so much of the river as is impounded by the barrage;
- (c) control the flow of water in the fish passes in the barrage, or
- (d) manage any bridge or other structure or equipment forming part of the barrage.

(2) The power contained in paragraph (1) shall be exercised so as to safeguard and improve the environment and amenities of the river.

(3) Paragraph (2) shall not prevent the exercise of the power contained in paragraph (1) in order—

- (a) to prevent or alleviate any emergency;
- (b) to ascertain the safest and most effective ways of using the barrage, to test its working or to train staff in its operation;
- (c) to facilitate the construction, maintenance, alteration, replacement or re-laying of any works in or beside the upstream river; or
- (d) to secure and maintain satisfactory navigation in the vicinity of the barrage and the upstream river.

(4) When operating the barrage the Borough shall have regard to—

- (a) the safety of vessels in, or passing to or from, the upstream river or on the river downstream of the barrage;
- (b) the requirements of vessels in, or passing to or from the upstream river (including the need to have freedom of access to moorings and berths in the upstream river);
- (c) the desirability of developing and conserving flora and fauna in the upstream river; and
- (d) any reasonable request of—
 - (i) the Port Authority or other navigation authority for the river for the time being for or in connection with their functions;
 - (ii) the police or other emergency services;
 - (iii) the Port Health Authority;
 - (iv) Redbridge; or
 - (v) the Railway Undertaker.

(5) The Borough shall operate the barrage in accordance with—

- (a) any reasonable request of the River Authority in order—
 - (i) to protect the quality of water in the upstream river;
 - (ii) to protect fish in the upstream river or the river downstream of the barrage, allow the passage of migratory fish to or from the upstream river, or enable trials to be carried out in the upstream river in connection with fishery management; and
- (b) any reasonable requirement of the Port Authority as to the general programme for the operation of the barrage in order to secure satisfactory navigation in the river.
- (6) Subject to paragraph (7), notice of a request under paragraph (5)(a)—
 - (a) shall be given in writing by a duly authorised officer of the River Authority; and
 - (b) shall be given as long as possible, but in case not less than 24 hours, before the request is to be complied with.
- (7) In an emergency—
 - (a) upon receipt of a request from either the River Authority or the Port Authority to operate the barrage the Borough shall as soon as practicable operate the barrage in accordance with such request;
 - (b) the request may be given orally by a duly authorised officer of the River Authority or the Port Authority but if so given it shall be confirmed in writing as soon as practicable thereafter.
- (8) The Borough shall consult English Nature to seek their view as to ways in which the barrage may be operated so as to develop and conserve flora and fauna in the upstream river.
- (9) The Borough shall give to the River Authority, the Port Authority and Redbridge as much notice as is reasonably practicable in the circumstances of its intention to operate the control gates for the following purposes—
 - (a) enabling experiments to be carried out for or in connection with the development of the most effective use of the barrage;
 - (b) testing the barrage;
 - (c) exercising and instructing staff in the operation and control of the barrage;
 - (d) maintaining, extending, enlarging, altering, replacing, repairing or renewing the barrage, on such occasions as may be reasonably necessary, or removing the barrage;
 - (e) enabling statutory undertakers to place, maintain, alter, replace, repair, remove or renew apparatus in, under or over the river;
 - (f) of removing any debris or deposit of silt which may accumulate in the river;
 - (g) combatting an emergency (including one where a request has been made under paragraph (7),
 - (h) enabling riparian owners and others so entitled to repair walls and carry out other works in the upstream river.
- (10) The Port Authority shall have regard to the notice given under paragraph (9) in exercising its powers to regulate the movement of vessels on the river.
- (11) Subject as otherwise expressly provided in this Order, no liability shall arise in respect of any costs, damages, losses or expenses incurred by any person as a direct or indirect result of—
 - (a) any obstruction to, delay of, or other interference with the passage of vessels, or
 - (b) any change in the level of water in the upstream river,occasioned by the operation of the barrage unless the costs, damages, losses or expenses are incurred by reason of negligence in its operation.