
STATUTORY INSTRUMENTS

1998 No. 1209

The Bristol City Docks Harbour Revision Order 1998

PART II

LICENSING OF WORKS

Restriction of works

3.—(1) Subject to paragraph (4) below, no person other than the Council shall construct, alter, renew, or extend any works in, under or over the waters of the City Docks unless he is licensed to do so by a works licence, nor 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 5 of this Order.

(2) Any person who without reasonable excuse contravenes paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) The Council may by notice require a person who contravenes paragraph (1) above 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 that person fails to comply with the notice, the Council may carry out the work so required and recover from him the cost of so doing.

(4) 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.

Control of certain operations and works of statutory undertakers

4.—(1) This article applies to any operations or works of a statutory undertaker in, under or over the waters of the City Docks, 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 Council and has supplied the Council 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 Council 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 Council to the statutory undertaker, being directions such as in the opinion of the Council are necessary for the avoidance of danger and the prevention, so far as reasonably 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

5.—(1) The Council may, upon such terms and conditions as they think fit, grant to any person a licence to construct, alter, renew or extend works in, under or over the waters of the City Docks, notwithstanding that the works as constructed, altered, renewed or extended interfere with the public right of navigation or any other public right.

- (2) Application for a works licence shall be made in writing to the Council and shall—
- (a) be accompanied by such plans, sections and particulars of the works to which the application relates as the Council may reasonably require; and
 - (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 Council may require modifications in the plans, sections and particulars so submitted.

(3) Without prejudice to paragraph (1) above, the Council may require an applicant for a works licence, on making his application, to pay a reasonable charge in respect of the administrative expenses of dealing with the application; and different charges may be required to be paid in relation to different cases or classes of case.

- (a) (4) (a) On receipt of an application for a works licence the Council shall serve on the Environment Agency a copy of the application and all plans, sections and particulars incidental thereto.
- (b) The Council shall consider such observations as the Environment Agency may submit to the Council within six weeks after service on that Agency of the application and particulars as aforesaid and shall not grant a works licence before the expiry of that period.
- (c) In granting any works licence in response to such an application the Council shall impose on the applicant such terms and conditions as give effect to such reasonable requirements to prevent pollution of any watercourse, to safeguard it against damage or to secure that its efficiency for land drainage purposes is not impaired, as the Environment Agency may, within the said period, make in any observations to the Council.
- (d) The provisions of sub-paragraph (c) above are subject to the Council's duty under article 6(5) of this Order to give effect to any decision or requirement given or made by the Secretary of State under article 6(4) of this Order.

(5) Where the Council refuse to grant a works licence which has been applied for they shall give reasons in writing for the refusal.

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

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

(8) Articles 7 to 12 of the Bristol City Docks Harbour Revision Order 1995(1) (provisions to be complied with in the case of certain works) apply in relation to works authorised by a works licence as they apply in relation to works authorised by that Order as if references to the Council were references to the holder of the works licence in question.

(9) 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 a 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.

(10) Nothing in this article affects the operation in relation to any works of section 109 of the Water Resources Act 1991(2) (obstruction of main river) or section 23 of the Land Drainage Act 1991 (obstructions in other watercourses).

Appeals in respect of works licences

6.—(1) An applicant for a works licence who is aggrieved by—

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

may, within 28 days beginning with the date on which the Council notify the applicant of their decision, or the date on which the Council are, under article 5(7) 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 appeal.

- (3) (a) A person who appeals under paragraph (1) above shall send to the Council a copy of his notice of appeal.
- (b) The Council may, within 28 days from the receipt of the notice, make to the Secretary of State representations in writing on the appeal; and, if they do, they shall as soon as reasonably practicable send a copy of their representations to the appellant.

(4) On an appeal under paragraph (1) above, the Secretary of State may—

- (a) dismiss the appeal; or
- (b) require the Council to grant the licence or, as the case may be, to give their approval upon such terms or conditions and with such modifications (if any) of plans, sections or particulars as the Secretary of State may specify.

(5) The Council shall give effect to any decision or requirement given or made by the Secretary of State under paragraph (4) above.