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STATUTORY INSTRUMENTS

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**2015 No. 1386**

**The Swansea Bay Tidal Generating Station Order 2015**

**PART 5**

Tidal works

**Application of Marine and Coastal Access Act 2009**

**16.**—(1) Articles 17 to 19 are subject to the provisions of Part 4 of the 2009 Act and any licence granted pursuant to that Part and are without prejudice to the powers of the Welsh Ministers under that Part.

(2) No provision of this Order obviates the need to obtain a marine licence under Part 4 of the 2009 Act or to comply with the conditions of any marine licence.

**Right to dredge**

**17.**—(1) The undertaker may, for the purposes of constructing, operating and maintaining the authorised development, from time to time deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the land within the Order limits as adjoin or are near to the authorised development and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part 9 of the Merchant Shipping Act 1995(1)) from time to time dredged by it.

(2) No such materials are to be laid down or deposited in contravention of the provisions of any enactment as respects the disposal of waste or dredged arisings.

(3) The undertaker must consult with AB Ports before exercising the rights conferred on it by this article.

(4) This provision does not confer any power on the undertaker to deposit dredged arisings in any place and is subject always to the provisions of article 16 of this Order.

**Abatement of tidal works abandoned or destroyed**

**18.**—(1) Where a tidal work is abandoned, or falls into decay, the Welsh Ministers may by notice in writing require the undertaker at its own expense either to repair and restore that work or any part, or to remove that work and restore the site to its proper condition, to such an extent and within such limits as the Welsh Ministers think proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over the land above the level of high water is abandoned or falls into decay and that part of the work on or over land above the level of high water is in such 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 Welsh Ministers may include that part of the work, or any portion of it, in any notice under this article.

(3) If the undertaker fails to comply in any respect with a notice served under this article within the period of 30 days beginning with the date of service of the notice, the Welsh Ministers may take

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(1) 1995 c. 21.

whatever steps the Welsh Ministers consider appropriate to achieve the result required by the notice; and any expenditure incurred by the Welsh Ministers is to be recoverable from the undertaker.

### **Survey of tidal works**

**19.**—(1) If the Welsh Ministers or the harbour authority for the Port of Swansea or Neath consider it expedient to do so, the Welsh Ministers may order, or the harbour authority may undertake, a survey and examination of a tidal work or of the site on which it is proposed to construct the work, and any expenditure incurred by the Welsh Ministers or the harbour authority in any such survey and examination is recoverable from the undertaker.

(2) Where the Welsh Ministers or the harbour authority for the Port of Swansea or Neath propose to order or undertake a survey and examination referred to in paragraph (1), the Welsh Ministers or the harbour authority must do so in compliance with such reasonable stipulations relating to health, safety, security or confidentiality as the undertaker may impose.

### **Lights on tidal works, etc. during construction**

**20.** The undertaker must at or near—

- (a) a tidal work, including any temporary work; and
- (b) any plant, equipment or other obstruction placed in connection with the authorised development within the area of seaward construction activity,

during the whole time of construction, reconstruction, extension, enlargement, replacement or relaying, exhibit every night from sunset to sunrise and in periods of restricted visibility such lights, if any, and take such other steps for the prevention of danger to navigation as the Welsh Ministers and the harbour authority for the Port of Swansea or Neath may from time to time direct.

### **Provision against danger to navigation**

**21.** In case of damage to, or destruction or decay of, a tidal work or any part of it, the undertaker must as soon as reasonably practicable notify Trinity House and the harbour authorities for the Ports of Swansea and Neath and must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House or the harbour authority for the Port of Swansea or Neath within its area may from time to time direct.

### **Permanent lights on tidal works**

**22.** After the completion of a tidal work, the undertaker must at the outer extremity of it exhibit every night from sunset to sunrise and in periods of restricted visibility such lights, if any, and must take such steps, if any, for the prevention of danger to navigation as Trinity House or the harbour authority for the Port of Swansea or Neath within its area may from time to time direct.

### **Safety of navigation**

**23.**—(1) No marine works comprised in the authorised development are to be commenced until a scheme to secure safety of navigation has been submitted to and approved in writing by the harbour authority for the Port of Swansea in consultation with Trinity House, the Maritime and Coastguard Agency, the harbour authority for the Port of Neath and the City and County of Swansea Council.

(2) The approved scheme must make provision for—

- (a) the promulgation of notice to mariners;
- (b) additional aids to navigation;
- (c) retention of safety vessels during construction;

- (d) the installation of protective dolphin piles comprised in Work No. 2c;
  - (e) the relocation of any pilot station affected by the authorised development;
  - (f) reasonable marine access to be maintained into and out of the rivers Neath and Tawe including for small craft at high tides;
  - (g) the circumstances where Her Majesty's Coastguard should be notified of any matter; and
  - (h) an emergency response and co-operation plan.
- (3) The authorised development is to be carried out in accordance with the approved scheme except to the extent that a variation to the approved scheme is agreed by the harbour authority for the Port of Swansea after consulting the persons mentioned in paragraph (1).