
STATUTORY INSTRUMENTS

2022 No. 299

The Bridgwater Tidal Barrier Order 2022

PART 5

OPERATION OF SCHEDULED WORKS

Obstruction etc.

Removal of obstructions other than vessels

48.—(1) This article applies to anything, other than a vessel, causing an obstruction or impediment to the navigation or use of the river area (in this article and article 49 (arbitration in respect of removal of obstructions other than vessels) referred to as an “obstruction”) and which the owner of the obstruction, or the owner or occupier of the land on which the obstruction is situated, as the case may be, caused or knowingly permitted to become or remain an obstruction.

(2) Subject to paragraph (3), the Agency may after giving not less than 21 days’ written notice to the owner of an obstruction or, if the owner is not known, the owner or occupier of any land on which the obstruction is situated, require the owner or occupier to mark, modify or remove the obstruction.

(3) Without prejudice to article 50 (emergency powers and consents), the power conferred by paragraph (2) is not exercisable if—

- (a) it is within the powers of the Harbour Authority to deal with the obstruction and the Harbour Authority decides to do so; and
- (b) the Agency, having given not less than 14 days’ notice to the Harbour Authority, is informed by the Harbour Authority within that time that the Harbour Authority intends to act and the Harbour Authority subsequently does act within 14 days of informing the Agency of its intention to do so.

(4) If a person to whom a notice was given pursuant to paragraph (2) fails to take any action specified by the Agency in that notice the Agency may take that action and recover the reasonable costs of doing so from that person.

(5) In any proceedings by the Agency against any person under paragraph (2) for the recovery of costs which the Agency is entitled to recover under paragraph (4), it is not open to that person to raise any question which could have been raised on a referral to arbitration under article 49 (arbitration in respect of removal of obstructions other than vessels).

(6) If an obstruction removed by the Agency under this article is so marked as to be readily identifiable as the property of any person, the Agency must within one month of its coming into the Agency’s custody give written notice to that person and, if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice, it vests in the Agency at the end of that period.

(7) A notice given under paragraph (6) must specify the thing removed and state that, upon proof of ownership to the reasonable satisfaction of the Agency and payment of the reasonable costs of the raising, removal and storage of the thing, possession may be retaken at the place named in the

notice within the time specified in the notice, being not less than 14 days after the date when the notice is served.

(8) If an obstruction removed by the Agency under this article, which is not marked as described in paragraph (6), is not within 3 months of its coming into the custody of the Agency proved to the Agency's reasonable satisfaction to belong to any person, it vests in the Agency.

(9) The Agency may at such time and in such manner as it thinks fit dispose of anything referred to in paragraph (8) which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience even if at the time it has not vested in the Agency under this article, and if it is sold the proceeds of sale must be applied by the Agency in payment of the expenses incurred by it under this article in relation to the thing, and any balance is—

- (a) to be paid to any person who, within 3 months from the time when the thing came into the custody of the Agency, proves to the reasonable satisfaction of the Agency that the person was the owner of the thing at that time, or
- (b) otherwise, to vest in the Agency.

(10) If an obstruction removed by the Agency under this article—

- (a) is sold by the Agency and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred by it in the exercise of its powers of removal, or
- (b) is unsaleable,

the Agency may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner of the item removed at the time of its abandonment or loss, if that person caused or knowingly permitted the obstruction to be there.

(11) In paragraph (1), reference to anything causing an obstruction or impediment to the navigation or use of the river area is a reference to anything causing an obstruction or impediment to a vessel of a size customarily navigated or used in that area.