



River Humber (Upper Pyewipe Outfall) Act 1992

1992 CHAPTER xv

PART II

WORKS, ETC.

4 Power to construct works

- (1) Subject to the provisions of this Act, the Company may, in the line or situation shown on the deposited plan and within the limit of deviation and according to the levels shown on the deposited section, construct and maintain the following work in the county of Humberside with all necessary works and conveniences connected therewith:—

Partly in the boroughs of Great Grimsby and Cleethorpes and partly on or beneath the foreshore and bed of the river adjacent thereto—

Work No. 1 An outfall (1,400 metres in length), with an outlet port at its riverward extremity, commencing behind the wall of the southern bank of the river at reference point TA 25262:11853 and extending into the river in a north-north-easterly direction to reference point TA 25745:13161 and there terminating.

- (2) The Company may, within the limit of deviation, from time to time shorten, reduce, alter, renew, replace, relay or reconstruct or, subject to subsection (3) below, enlarge temporarily or permanently the works.
- (3) Notwithstanding anything shown on the deposited section the Company may from time to time and to such extent as may be agreed with A.B. Ports, the National Rivers Authority and the Secretary of State as being necessary, enlarge Work No. 1.

5 Power to construct subsidiary works

Subject to the provisions of this Act, the Company may, in connection with the works, from time to time construct or place and maintain in, under or over any of the land

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within the limit of deviation all such works and conveniences subsidiary or ancillary to the works and all such appliances, machinery and apparatus as it may from time to time deem necessary or convenient for any purpose of, or in connection with, the works.

6 Power to dredge

- (1) The Company may (subject to the consent required by section 21 (Crown rights) of this Act) from time to time deepen, dredge, scour, cleanse, alter and improve the bed and foreshore of the river in the vicinity of the works, and blast any rock therein, for the purpose of constructing and maintaining the works.
- (2)
 - (a) Any materials taken up or collected in the course of such operation shall (subject to the consent required by section 21 (Crown rights) of this Act) be the property of the Company and may be used, sold, removed, deposited or otherwise disposed of as it may think fit.
 - (b) No such materials shall be deposited below the level of high water, except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.
- (3)
 - (a) The Company shall not exercise the powers of this section except with the consent of A.B. Ports (whose consent shall not be unreasonably withheld) and in accordance with such reasonable conditions and restrictions as may be approved or prescribed by A.B. Ports.
 - (b) Any question whether consent has been unreasonably withheld or conditions or restrictions have been unreasonably imposed shall be referred to and settled by arbitration.

7 Temporary stoppage of bridleway

The Company, during and for the purpose of the execution of the works, may temporarily stop up and interfere with so much of the bridleway as lies between the points marked A and B on the deposited plan and prevent all persons from passing along and using the same.

8 Power to deviate

In the construction of Work No. 1 the Company may deviate from the line or situation thereof shown on the deposited plan to the extent of the limit of deviation and may deviate vertically from the levels shown on the deposited section in the case of the outlet port to any extent upwards not exceeding 2 metres above the surface of the bed of the river at the time of construction but not otherwise and in the case of the works to such extent downwards as may be found necessary or convenient.

9 Tidal works not to be executed without approval of Secretary of State

- (1) A tidal work shall not be constructed, shortened, reduced, altered, renewed, replaced, relaid, reconstructed or enlarged except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.
- (2) If a tidal work is constructed, shortened, reduced, altered, renewed, replaced, relaid, reconstructed or enlarged in contravention of this section or of any condition or restriction imposed under this section—

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- (a) the Secretary of State may by notice in writing require the Company at its own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the Company, it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Company.

10 Survey of tidal works

The Secretary of State or A.B. Ports may at any time if he or A.B. Ports deems it expedient 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 the Secretary of State or by A.B. Ports in any such survey and examination shall be recoverable from the Company.

11 Prevention of danger to navigation

- (1) The Company shall at or near a tidal work during the whole time of the construction, shortening, reduction, alteration, renewal, replacement, relaying, reconstruction or enlargement thereof take such steps for the prevention of danger to navigation as the Secretary of State and A.B. Ports, or as, failing agreement between them, the Secretary of State, may from time to time direct.
- (2) After the completion of a tidal work the Company shall at the outer extremity thereof take such steps for the prevention of danger to navigation as A.B. Ports may from time to time direct.
- (3) If the Company fails to comply in any respect with any direction given under this section, it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

12 Abatement of works abandoned or decayed

- (1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State or A.B. Ports may by notice in writing require the Company at its 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 the Secretary of State or A.B. Ports may think proper.
- (2) If Work No. 1 is abandoned or suffered to fall into decay and any part thereof 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 Secretary of State or A.B. Ports may include that part of the work, or any portion thereof, in any notice under this section.
- (3) If, on the expiration of 30 days from the date on which a notice under this section is served upon the Company, it has failed to comply with the requirements of the notice, the Secretary of State or A.B. Ports may execute the works specified in the notice,

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and any expenditure incurred by him or by A.B. Ports in so doing shall be recoverable from the Company.

13 Provision against danger to navigation

- (1) In case of injury to or destruction or decay of a tidal work, or any part thereof, the Company shall as soon as reasonably practicable notify A.B. Ports and shall take such steps for preventing danger to navigation as A.B. Ports may from time to time direct.
- (2) If the Company fails to notify A.B. Ports as required by this section or to comply in any respect with a direction given under this section, it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

14 Defence of due diligence

- (1) In proceedings for an offence under this Act it shall be a defence for the Company to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.
- (2) If in any case the defence provided by subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the Company shall not, without leave of the court, be entitled to rely on that defence unless, not less than seven clear days before the hearing, it has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in its possession.

15 Works to be within borough of Cleethorpes, etc

So much of the works as is below the level of mean low-water springs shall be deemed to be within—

- (a) the borough of Cleethorpes; and
- (b) the petty sessional division of Grimsby and Cleethorpes.