
STATUTORY INSTRUMENTS

1994 No. 1693

**The North Killingholme Haven
Harbour Empowerment Order 1994**

PART IV

MISCELLANEOUS AND GENERAL

Power to mortgage jetty premises

18. The Company may mortgage, charge or otherwise encumber the jetty premises.

Power to make charges

19.—(1) Subject to paragraph (2) below, the Company may make such reasonable charges as they think fit for services and facilities provided by them.

(2) Paragraph (1) above does not authorise the levying of ship, passenger or goods dues within the meaning of the Harbours Act 1964.

(3) Nothing in this article shall affect any power of the Company to demand, take or recover charges which they may have under or by virtue of any enactment or rule of law.

Further provisions as to byelaws

20.—(1) The Company shall consult A.B.Ports and the National Rivers Authority not less than three months before making any byelaw under or by virtue of this Order.

(2) The Company shall not under or by virtue of this Order—

- (a) make any byelaw for the control or regulation of vessels not going to, moored at or departing from the works;
- (b) make any byelaw which in the reasonable opinion of the Harbour Master would conflict with any byelaws made by A.B.Ports or with any powers exercisable by A.B.Ports or the Harbour Master for the regulation of navigation in the river; or
- (c) make any byelaw regulating any vessel owned or used by A.B.Ports or regulating the conduct of officers of A.B.Ports whilst in the exercise of their duties as such.

(3) The Company shall not make any byelaw under or by virtue of this Order so as to conflict with any byelaws of the National Rivers Authority.

Local inquiries

21. The Secretary of State may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval under this Order, and subsections (2) to (5) of section 250 of the Local

Government Act 1972(1) shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Company were a local authority.

Defence of due diligence

- (a) **22.** (1) (a) In proceedings for an offence under any provision of this Order mentioned in sub-paragraph (b) below it shall be a defence for the Company to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.
- (b) The provisions referred to in sub-paragraph (a) above are— article 13 (Lights on tidal works during construction); article 14 (Provision against danger to navigation); article 17 (Permanent lights on tidal works).

(2) If in any case the defence provided by sub-paragraph (a) of paragraph

(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, within a period of seven clear days before the hearing, they have 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 their possession.

Power to remove goods

23.—(1) If any goods are left on or in any part of the jetty premises the Company may require the owner of the goods to remove them, and if the goods are not so removed within six hours after such requirement the Company may cause them to be removed to the Company's or any other public warehouse or store, and such removal shall be carried out at the expense and risk of the owner:

Provided that notwithstanding such removal on behalf of the Company, the goods shall be subject to a lien for the cost of removal, and for any charges payable to the Company by the owner in respect of the goods.

(2) In this article, "goods" includes vehicles and equipment.

Obstruction of officers

24.—(1) Any person who—

- (a) intentionally obstructs an officer of the Company acting in pursuance of this Order; or
- (b) without reasonable excuse fails to comply with a requirement properly made by such an officer; or
- (c) without reasonable excuse fails to give such an officer any information which he may require for the purpose of the performance of his functions; shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Any person who in giving such information makes a statement which he knows to be false shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Crown rights

25.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing herein contained shall authorise any person to take, use, enter upon or in any manner interfere

(1) Subsection 2 has been amended by the Statute Law (Repeals) Act 1989 (c. 43), Schedule 1, Part IV; subsection (3) by the Criminal Justice Act 1982 (c. 48), sections 38 and 46; and subsection (4) by the Housing and Planning Act 1986 (c. 63), Schedule 12, Part III.

with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
- (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under paragraph (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

Saving for Trinity House

26. None of the provisions of this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.

Protection of interests

27.—(1) The Schedule to this Order shall have effect for protecting the interests of the bodies specified in that Schedule (being bodies who may be affected by other provisions of this Order).

(2) Where under the Schedule to this Order any difference is to be determined by arbitration, the difference shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, in default of agreement, to be appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.

Special exemptions

28. Section 5 (Removal of obstructions) of the Humber Conservancy Act 1899⁽²⁾ and section 6 (No erections in Humber below river lines or without license above river lines) of the Humber Conservancy Act 1905⁽³⁾ shall not apply to the works, and section 8 (Sand &c. not to be removed from bed or foreshore of River Humber without license of Commissioners) of the said Act of 1905 shall not apply to the exercise by the Company of the powers of article 10 (Power to dredge) of this Order.

(2) 1899 c. cci.
(3) 1905 c. clxxix.