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STATUTORY INSTRUMENTS

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**2007 No. 1803**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Associated British Ports (Immingham  
Gas Jetty) Harbour Revision Order 2007**

*Made* - - - - 22nd June 2007

*Coming into force* - - 6th July 2007

Associated British Ports have applied for a harbour revision order under section 14 of the Harbours Act 1964(1);

The Secretary of State for Transport is satisfied as mentioned in section 14(2)(b) of that Act; The Secretary of State (being the appropriate Minister under section 14(7)(2) of that Act) makes the following Order in exercise of the powers conferred by section 14 and now vested in him(3):

**Citation and commencement**

1. This Order may be cited as the Associated British Ports (Immingham Gas Jetty) Harbour Revision Order 2007 and shall come into force on 6th July 2007.

**Interpretation**

2.—(1) Subject to the provisions of article 3(2), the words and expressions assigned meanings by Acts wholly or partly incorporated with this Order shall have those meanings in this Order, and—

“A.B. Ports” means Associated British Ports;

“the 1847 Act” means the Harbours, Docks and Piers Clauses Act 1847(4);

“the 1966 Act” means the British Transport Docks Act 1966(5);

“the 1969 Act” means the British Transport Docks Act 1969(6);

“the 1971 Act” means the British Transport Docks Act 1971(7);

“the 1983 Act” means the Associated British Ports Act 1983(8);

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(1) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4(1) and 14, section 40 and Schedule 12 (Part II) and by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 1. See also the Criminal Justice Act 1982 sections 37 and 46.

(2) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(3) S.I.1981/238.

(4) 1847 c. 27 (10 & 11 Vict.).

(5) 1966 c. xxxi.

(6) 1969 c. xxiii.

(7) 1971 c. lix.

(8) 1983 c. viii.

- “the 1988 Act” means the Associated British Ports (Barrow) Act 1988(9);
- “the deposited plan” and “the deposited sections” mean respectively the plan and sections comprising a single sheet prepared in duplicate, signed by the Head of Ports Division in the Department for Transport and marked “Plan and sections referred to in the Associated British Ports (Immingham Gas Jetty) Harbour Revision Order 2007” one copy of which is deposited at the Department and the other at the principal office of A.B. Ports;
- “the Dock Master” means the dock master of A.B. Ports at Immingham and Grimsby;
- “the existing gas jetty” means the Immingham Gas Jetty in the river Humber authorised by the 1983 Act;
- “the limits of deviation” means the limits of deviation shown on the deposited plan;
- “reference point” means Ordnance Survey National Grid reference point;
- “tidal work” means so much of any of the works as is on, under or over tidal waters or tidal lands below the level of high water;
- “the undertaking” means the undertaking of A.B. Ports as authorised from time to time;
- “vessel” has the meaning assigned to it in section 3 (Interpretation) of the 1983 Act; and
- “the works” means the works authorised by this Order.

(2) Any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

(3) All directions, distances and dimensions stated in any description of works shall be construed as if the words “or thereabouts” were inserted after each such direction, distance or dimension.

### **Incorporation of Act of 1847**

3.—(1) The 1847 Act, except sections 6 to 9, 11 to 13, 16 to 26, 33, 49, 50, 79, 80, 84 to 90, 94, 95, 97 and 98, so far as applicable for the purposes of and not inconsistent with this Order, is incorporated with and forms part of this Order.

(2) For the purposes of the 1847 Act, as so incorporated—

- (a) the expression “the special Act” means this Order;
- (b) the expression “the harbour, dock, or pier” means the works;
- (c) the expression “the harbour master” means, in relation to the works, the Dock Master;
- (d) for the meaning assigned to the word “vessel” by section 3 of the 1847 Act there shall be substituted the definition of the word “vessel” contained in article 2(1) above; and
- (e) section 53 of the 1847 Act shall not be construed as requiring the Dock Master to serve upon the master of a vessel a notice in writing of his directions but such directions may be given orally or otherwise communicated to such master.

Provided that a notice which is not in writing shall not be deemed to be sufficient unless in the opinion of the court before which any case may be heard it was not reasonably practicable to serve a written notice on the master of the vessel.

### **Power to make works**

4.—(1) Subject to the provisions of this Order, A.B. Ports may, in the lines and situations shown on the deposited plan and within the limits of deviation and according to the levels shown on the deposited sections, make and maintain the following works on the bed of the river Humber—

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(9) 1988 c. xviii.

Work No. 1 A new jetty of open pile construction between reference points 518584 418194, 518597 418203, 518612 418152 and 518625 418161;

Work No. 2 A new dolphin at reference point 518543 418201 and connecting walkways between the said new dolphin, the new jetty (Work No. 1) and the existing dolphin at reference point 518575 418155;

Work No. 3 A new structure for pipe support, including a walkway for maintenance purposes, between the new jetty (Work No. 1) at reference point 518985 418173 and the existing gas jetty at reference point 518693 418028 running alongside the new walkway comprised in Work No. 2 and the existing walkway and jetty head comprised in the existing gas jetty.

(2) A.B. Ports may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the works.

(3) The works shall for all purposes form part of the undertaking.

#### **Power to make subsidiary works**

5. A.B. Ports may from time to time within the limits of deviation erect, construct and maintain all such works, conveniences, appliances and apparatus as it from time to time deems necessary or convenient for the purposes of or in connection with or incidental to, the construction and maintenance of the works or the accommodation of vessels thereat.

#### **Power to deviate**

6. In constructing Works Nos. 1 to 3 A.B. Ports may deviate laterally from the lines or situations shown on the deposited plan and described in article 4 (Power to make works) to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding three metres upwards and to such extent downwards as may be found necessary or convenient.

#### **Fine for obstructing works**

7. Any person who intentionally obstructs any person acting under the authority of A.B. Ports in constructing the works or intentionally or recklessly interferes with equipment or materials used in the construction of the works shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Power to dredge in Humber**

8.—(1) For the purposes of affording uninterrupted means of access to the works and of enabling their use at all states of the tide, A.B. Ports may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river Humber adjoining or in the approaches to any of the works and may (subject to paragraphs (2) or (3) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it in the course of any such operations.

(2) No materials referred to in this article shall—

- (a) be disposed of in contravention of the provisions of any enactment relating to the disposal of waste; or
- (b) be deposited below the level of mean high-water springs otherwise than in such places and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(3) The power to use, appropriate or dispose of materials referred to in this article shall not extend to wreck (within the meaning of Part IX of the Merchant Shipping Act 1995(10)) found by A.B. Ports.

#### **Limits of jurisdiction of Dock Master**

9. The limits within which the powers of the Dock Master in relation to the works may be exercised under and subject to the provisions of the 1847 Act, as incorporated with this Order, shall extend to a distance of 200 metres in every direction from those works:

Provided that such powers shall be limited to vessels going to, moored at or departing from the works.

#### **Application of byelaws of A.B. Ports**

10.—(1) The Immingham Dock Byelaws 1929 shall be deemed to apply in relation to the works as they apply in relation to the existing gas jetty and may be enforced by A.B. Ports accordingly until such time as new byelaws relating to the works shall be made by A.B. Ports and come into operation.

(2) In the Immingham Dock Byelaws as applied by paragraph (1) above, references to “the prescribed limits” shall be construed as references to the limits within which the powers of the Dock Master may be exercised under article 9 (Limits of jurisdiction of Dock Master) of this Order.

(3) In this article “Immingham Dock Byelaws 1929” means the byelaws made by the London and North Eastern Railway Company on the 1st day of January 1929 and confirmed by the Minister of Transport on the 4th day of January 1929.

#### **Works to be within district of North Lincolnshire, etc.**

11. The works shall be deemed to be within—
- (a) the district of North Lincolnshire; and
  - (b) the parish of South Killingholme; and
  - (c) the petty sessional division of Scunthorpe.

#### **Incorporation of provisions**

12.—(1) The following provisions of the under-mentioned Acts are incorporated with and form part of this Order—

The 1966 Act—

Section 21 (Tidal works not to be executed without approval of Board of Trade);

Section 23 (Abatement of works abandoned or decayed);

Section 24 (Survey of tidal works); and

Section 26 (Lights on tidal works during construction):

The 1969 Act—

Section 17 (Provision against danger to navigation):

The 1971 Act—

Section 16 (Permanent lights on works):

The 1988 Act—

Section 11 (Crown rights).

- (2) For the purposes of the said sections 26, 17 and 16, as so incorporated—
- (a) for the words “one hundred pounds” in subsection (2) of each of those sections there shall be substituted “level 4 on the standard scale”;
  - (b) in proceedings for an offence under any of those sections it shall be a defence for A.B. Ports to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; and
  - (c) if in any case that defence involves the allegation that the commission of the offence was due to the act or default of another person A.B. Ports 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.

### **Protection for Environment Agency**

**13.**—(1) Subject to paragraph (3), AB Ports shall not exercise the powers under article 8 (Power to dredge in Humber) except after prior consultation with, and in accordance with plans approved by, the Environment Agency.

(2) The approval of plans under paragraph (1) above shall not be unreasonably withheld but may be granted subject to reasonable conditions.

(3) This article shall not apply to such maintenance dredging as may be required from time to time in order to allow continued access to the works.

(4) Any dispute under this article shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing 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.

### **Restrictions on piling**

**14.** Unless otherwise agreed with Natural England no piling activity in connection with the works shall be carried out in the period between the beginning of October in any one year and the end of March in the following year.

### **Disapplication of regulation 60 of the Conservation (Natural Habitats &c) Regulations 1994**

**15.**—(1) Regulation 60 of the Conservation (Natural Habitats, &c.) Regulations 1994<sup>(11)</sup> (“the Habitats Regulations”) shall not apply to any planning permission which relates to the works and which is granted by article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995<sup>(12)</sup> for the class of development described as permitted development in Part 11 of Schedule 2 to that Order.

(2) Paragraph (1) does not apply if and to the extent that the works—

- (a) do not form part of the plan and project which was subject to an appropriate assessment in accordance with regulation 48 of the Habitats Regulations in connection with the making of this Order; and
- (b) are not subject to a further consent, permission or authorisation by a competent authority as defined in the Habitats Regulations.

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<sup>(11)</sup> S.I. 1994/2716.

<sup>(12)</sup> S.I. 1995/418.

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**Status:** *This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.*

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Signed by the authority of the Secretary of State for Transport

22nd June 2007

*Phil Carey*  
Head of the Ports Division,  
Department for Transport

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises Associated British Ports to construct an extension to the existing Immingham Gas Jetty and confers ancillary powers in connection with the works.

The deposited plans and sections defined in article 2 of the Order may be inspected during normal hours at the principal office of Associated British Ports at 150 Holborn, London EC1N 2LR.