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STATUTORY INSTRUMENTS

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**2012 No. 1867**

**The Ipswich Barrier Order 2012**

**PART 5**

**OPERATION OF SCHEDULED WORKS ETC.**

*Navigation*

**Arbitration in respect of removal of obstructions other than vessels**

**40.**—(1) Any person required by the Agency to modify, remove or mark an obstruction under article 39(2) (removal of obstructions other than vessels) may within 21 days of being so required serve a counter-notice on the Agency disputing the notice on any of the following grounds which are appropriate in the circumstances of the particular case—

- (a) that the thing required to be marked, removed or modified is not an obstruction;
- (b) that the thing required to be marked, removed or modified is an obstruction which has occurred naturally and that to require its marking, removal or modification is unreasonable;
- (c) where the requirement is to remove the obstruction, that it would be adequate in all the circumstances of the case to mark or modify the obstruction; or
- (d) where the requirement is to modify the obstruction, that it would be adequate in all the circumstances of the case to mark the obstruction,

and any dispute under this article is to be determined in accordance with article 54 (arbitration).

(2) Any person served with a notice under article 39(7) may within 21 days of service of the notice serve a counter-notice on the Agency disputing the notice on any of the following grounds which are appropriate in the circumstances of the particular case—

- (a) that the thing the Agency intends to mark, remove or modify is not an obstruction;
- (b) that the thing the Agency intends to mark, remove or modify is an obstruction which has occurred naturally and that to mark, remove or modify it is unreasonable;
- (c) where the Agency intends to remove the obstruction, that it would be adequate in all the circumstances of the case to mark or modify the obstruction; or
- (d) where the Agency intends to modify the obstruction, that it would be adequate in all the circumstances of the case to mark the obstruction,

and any dispute under this article is to be determined in accordance with article 54 (arbitration).

(3) On the hearing of a dispute under this article the arbitrator may confirm, vary or set aside the requirement of the notice, as the case may be.

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**Commencement Information**

**II** Art. 40 in force at 7.8.2012, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Ipswich Barrier Order 2012, Section 40.