STATUTORY INSTRUMENTS

2012 No. 1867

The Ipswich Barrier Order 2012

PART 2

WORKS PROVISIONS

Supplementary powers and provisions

Power to dredge etc.

8.—(1) The Agency may deepen, dredge and remove obstructions from the bed, foreshore and banks of, the river—

(a) for the purposes of the construction, operation or maintenance, of the scheduled works; or

(b) for the purpose of facilitating the navigation of vessels.

(2) The powers conferred by this article are only exercisable with the prior written consent of A.B. Ports, such consent not to be unreasonably withheld.

(3) The Agency must pay compensation to all persons for any damage sustained by them by reason of the exercise by the Agency of its powers under paragraph (1) and the amount of the compensation to be paid, where not agreed, is to be determined by the tribunal.

(4) The Agency may use, appropriate or sell or otherwise dispose of anything (other than wreck within the meaning of Part 9 of the Merchant Shipping Act 1995(**1**)) removed in exercise of the power conferred in paragraph (1).

River not to be a reservoir

9. Regardless of the provisions of subsection (2) of section 1 of the Reservoirs Act 1975(**2**), no part of the river as is impounded by the scheduled works is, by virtue of the retention of water by means of the scheduled works, to be taken to be a reservoir for the purposes of that Act.

Agreements with owners of land and others for construction of works

10.—(1) The Agency may enter into and carry into effect agreements or arrangements with A.B. Ports and the owners of, or other persons interested in, any land in or through which any of the authorised works are or may be constructed, or the drainage of which may be affected by the construction of any of the authorised works, for or with respect to the doing of anything which may be necessary in order to carry out, or in consequence of, the authorised works.

(2) Without limitation on the scope of paragraph (1), any such agreement may provide for—

(**1**) 1995 c. 21.
(**2**) 1975 c. 23.

(a) the payment by the Agency of, or the making of contributions by it towards, the cost incurred, or to be incurred, by A.B. Ports and any such owners or other persons in or in connection with the doing of any such thing; or

(b) the payment by the Agency of compensation for any injury suffered or loss incurred by A.B. Ports and any such owners or other persons by reason or in consequence of the execution by the Agency of the authorised works, or entry upon land.

Temporary closing of river in connection with works

11.—(1) Regardless of anything in any other enactment or in any rule of law, the Agency may temporarily close the river or any part of it within the limits of deviation, to navigation during or for the purposes of executing any works or doing anything authorised by or under this Order.

(2) In exercising the powers conferred by this article, the Agency must seek to minimise interference with navigation on the river so far as is reasonably practicable and consistent with the efficient and economical execution of the works.

(3) The Agency must not exercise the powers conferred by paragraph (1) so as to preclude access from the river to the Wet Dock without the consent of A.B. Ports (such consent not to be unreasonably withheld).

(4) Subject to paragraph 10 of Schedule 7 (protection of A.B. Ports) neither the Agency nor A.B. Ports is to be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of any closure of the river under paragraph (1).

Diversion of flow of water

12. The Agency may by means of the authorised works divert, intercept, stop up or otherwise interfere with the waters of, or the flow of water in, the river.

Power to take, pump, impound and discharge water

13.—(1) The Agency may take, impound and use water from, and discharge water into, the river, and may pump any water required by it from or into the river or pump any water found by it into the river or into any watercourse, public sewer, or drain in connection with the construction or maintenance of the authorised works and for those purposes may lay down, take up and alter conduits, pipes and other works and conveniences and may, on any land within the limits of deviation, make openings into, and connections with, the river, or any watercourse, public sewer or drain.

(2) Any dispute arising from the exercise of the powers conferred by paragraph (1) to connect to or use a public sewer or drain is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(**3**).

(3) The Agency must not, in exercise of the powers conferred by this article—

(a) discharge any water into any public sewer or drain except with the consent (which is not to be unreasonably withheld) of the person to whom it belongs and subject to such terms and conditions as that person may reasonably impose; and

(b) make any opening into any public sewer or drain except in accordance with plans reasonably approved by and under the superintendence (if provided) of the person to whom the sewer or drain belongs.

(4) Nothing in this articles obviates the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(**4**).

(**3**) 1991 c. 56.
(**4**) S.I. 2010/675.

(5) The Agency must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain in exercise of the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(6) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to a sewerage undertaker, the Agency, a harbour authority within the meaning of the Harbours Act 1964(**5**), an internal drainage board, a local authority, or a joint planning board; and

(b) other expressions except "watercourse" used both in this article and in the Water Resources Act 1991(**6**) have the same meaning as in that Act.

Application of docks legislation

14. Section 32 of the Ipswich Dock Act 1852(**7**) (obligations in respect of works authorised by the Ipswich Dock Act 1837) has effect subject to the provisions of this Part.

(**5**) 1964 c. 40.
(**6**) 1991 c. 57.
(**7**) 1852 c. cxvi.