

*Changes to legislation: There are currently no known outstanding effects for the Channel Tunnel Act 1987, Part III. (See end of Document for details)*

## SCHEDULE 7

### PROTECTIVE PROVISIONS

#### PART III

##### PROTECTION OF NAVIGATION

1 (1) The following provisions of this Part of this Schedule shall have effect in relation to tidal works for the protection of navigation.

(2) In this Part of this Schedule—

“tidal work” means so much of the works authorised by this Act as is on the surface of lands below the level of mean high water springs;

“the Trinity House” has the meaning given in section [F1223 of the Merchant Shipping Act 1995].

#### Textual Amendments

**F1** Words in Sch. 7 Pt. III para. 1(2) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 81 (with s. 312(1), Sch. 14 para. 1)

2 (1) A tidal work shall not be constructed, extended, enlarged, altered, renewed, replaced or reconstructed 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) The Secretary of State’s primary concern in exercising his powers under subparagraph (1) above shall be to prevent danger to navigation; but he shall have regard, in exercising those powers in relation to such part of the sea wall as is a tidal work, to—

(a) any factors that have been or may be taken into account by the county planning authority in deciding under paragraph 3 of Schedule 3 to this Act whether to approve plans and specifications of the sea wall;

(b) any decision of that authority with respect to the approval of any such plans and specifications; and

(c) any conditions imposed on the grant of any such approval;

with a view to securing that his exercise of those powers is consistent so far as practicable with any decision that has been or may be made by that authority under that paragraph.

(3) In case of contravention of this paragraph or of any condition or restriction imposed under this paragraph—

(a) the Secretary of State may by notice in writing require the Concessionaires, at their 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 Concessionaires, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice; or

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(b) if it appears to the Secretary of State urgently necessary to do so, 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 Concessionaires.

3 The Secretary of State may at any time if he 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 in any such survey and examination shall be recoverable from the Concessionaires.

4 (1) The Concessionaires shall, at or near a tidal work, during the whole time of the construction, extension, enlargement, alteration, renewal, replacement or reconstruction thereof, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Concessionaires fail to comply in any respect with a direction given under this paragraph they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

5 (1) After the completion of a tidal work the Concessionaires shall, at the outer extremity thereof, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Trinity House shall from time to time direct.

(2) If the Concessionaires fail to comply in any respect with a direction given under this paragraph they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

6 (1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Concessionaires at their 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 may think proper.

(2) Where part of a work is situated on or over land above the level of mean high water springs and that part 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 may include that part of the work, or any portion thereof, in any notice under this paragraph.

(3) If on the expiration of 30 days from the date on which a notice under this paragraph is served upon the Concessionaires they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Concessionaires.

7 (1) In case of injury to or destruction or decay of a tidal work, or any part thereof, the Concessionaires shall forthwith notify the Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

(2) If the Concessionaires fail to notify the Trinity House as required by this paragraph or to comply in any respect with a direction given under this paragraph, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

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- 8 (1) In proceedings for an offence under paragraph 4, 5 or 7 above it shall be a defence for the Concessionaires to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) If in any case the defence provided by sub-paragraph (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the Concessionaires shall not, without leave of the court, be entitled to rely on that defence unless, within a period of seven 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.

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