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STATUTORY INSTRUMENTS

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**2010 No. 2020**

**The Port of Bristol (Deep Sea Container Terminal) Harbour Revision Order 2010**

**PART 2**

**WORKS**

**Power to construct, etc., works**

3.—(1) The Company may, in the lines and situations and on the lands delineated on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections, construct, operate and maintain the whole or any part or parts of the works set out in Schedule 1(works) on and in the bed and foreshore of the River Severn.

(2) Notwithstanding anything in any other enactment, the Company may for the purpose of constructing the works dismantle, remove, deal with and dispose of the whole or any part or parts of all structures, pipelines and equipment lying within the limits of deviation (including the disused Oil Jetty and the Lighthouse) and any public rights over the same are extinguished.

(3) The Company may from time to time, within the limits of deviation, alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the works and may maintain and use the same as altered, enlarged, replaced, relayed, extended or reconstructed.

(4) The powers conferred by this article are subject to the restrictions set out in Schedule 2 (restrictions on works).

(5) The Company may authorise any person to carry out the works.

**Subsidiary works**

4.—(1) The Company may from time to time within the limits of deviation provide, construct, maintain and operate such dock facilities, together with works ancillary to those facilities, as may be necessary or convenient for the purposes of, or in connection with, the construction and maintenance of the works authorised by article 3 or the operation of the undertaking, and for this purpose the Company may construct, maintain and operate (whether temporarily or permanently) pumps, conduits, pipes, manifolds, hydrants, wires, drains, sewage and other treatment plants, mains, cables, substations, telecommunications equipment and other utilities plant, conveyors, cranes, lifts, hoists, container and other cargo handling and haulage equipment and stagings, rail mounted gantries, rubber tyred gantries, vessel power supply facilities, weighbridges, stairs, ladders, stagings, quays, berths, jetties, piers, approaches, catwalks, platforms, pontoons and gangways, buildings, sheds, silos, tanks, offices, workshops, depots, vehicle parking, holding and loading areas, roads and road improvements, road and rail crossings, service, outfall and culvert crossings, pavements, bridges, ramps, culverts, railway tracks, sidings, signals, security barriers, foundations, walls, bunds, fences, gates, paving and surfacing, equipment, machinery, appliances, dredged material washing, grading and weighing facilities, lights and lighting columns, signage, radio masts, CCTV cameras and masts, security installations, navigation signals, marks and lights, and such other port, harbour, dock, wharf or terminal facilities and conveniences as may be necessary or expedient.

(2) Without prejudice to paragraph (1), the Company may within the limits of deviation provide, construct, maintain and use such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance and use of the works, including—

- (a) within the limits of deviation for Works Nos. 1, 2 and 3 works for the accommodation or convenience of vessels (including but not limited to berthing heads, mooring posts, ladders, buoys, bollards, dolphins, fenders, rubbing strips and fender panels, fender units and pontoons);
- (b) works to alter the position of apparatus, including mains, sewers, drains, pipes, pipelines, conduits, cables, electrical substations and electrical lines; and
- (c) landscaping, habitat creation and other works to mitigate any adverse effect of the construction, maintenance and operation of the works or to benefit or protect any person or premises affected by the construction, maintenance and operation of the works.

(3) For the purpose of, or in connection with, the construction, maintenance and use of the works the Company may—

- (a) carry out, within the limits of construction activity and the limits of deviation for dredging and within the areas within which the dredging works authorised by article 5 (power to dredge the Severn Estuary) are authorised to be carried out, such construction activity as may be necessary or expedient, including the temporary placing of materials, plant and equipment and the construction of temporary bunds, accesses, jetties, lighting and pipelines within those areas and the water adjoining those areas;
- (b) within the limits of construction activity alter and refurbish the Graving Dock to create pre-casting facilities and facilities for the manufacture of caissons (including the temporary installation and use of hoists, crawler cranes and tower cranes) and construct, maintain and operate temporary construction compounds with concrete batching and aggregate plants, workshops, offices, laboratories and stores, laydown areas, temporary stockpiles and areas for storage of construction materials, plant and equipment, sites for the stationing of caravans for use for the temporary residential accommodation of construction workers and temporary offices, welfare facilities, waste and recycling facilities, foul drainage and sewage treatment facilities and other utilities plant and equipment and vehicle parking;
- (c) within the limits of construction activity dismantle, demolish and remove existing oil, kerosene, spirit, molasses, derv and other associated pipelines and construct and install new pipelines in replacement together with all associated manifolds and other equipment, stanchions, supports, bunds and pipebridges; and
- (d) within the limits of deviation for dredging and within the areas within which the dredging works authorised by article 5 are authorised to be carried out and within the water adjoining those areas, construct, maintain and use temporary pipelines (including pontoons and booster pumps) on, under or over the surface of the River Severn for the purpose of conveying dredged material from the site of the dredging works authorised by article 5 to the site of Works Nos. 1 to 6.

(4) The Company may from time to time in connection with the construction, maintenance and use of the works abstract, impound and use water from the River Severn, the River Avon and the sea and may discharge surface water into the River Severn and the River Avon, but nothing in this Order authorises the entry into controlled waters of any matters whose entry or discharge into controlled waters is prohibited by section 85 of the Water Resources Act 1991<sup>(1)</sup>.

(5) The powers conferred by this article are subject to the restrictions set out in Schedule 2 (restrictions on works).

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(1) 1991 c. 57. Section 85 is amended by S.I. 2007/3538, regulations 73 and 74, Schedule 21, Part 1 paragraph 21 and Schedule 23; and S.I. 2009/1799, regulation 28(1) and Schedule 2, paragraph 2.

### **Power to dredge the Severn Estuary**

5.—(1) The Company may deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the River Severn to the extent described in Schedule 3 (dredging works) or as may be required for the purpose of maintaining the works described in that Schedule to enable uninterrupted means of access to the works by vessels and enabling the use of the works at all states of the tide.

(2) The power to dredge described in Schedule 3 includes the power to carry out such additional dredging as may be required to provide side slopes or otherwise secure the dredged areas against siltation, scouring or collapse.

(3) Any materials dredged, taken or collected by the Company in the exercise of the powers of this article (other than wreck within the meaning of Part 9 of the Merchant Shipping Act 1995<sup>(2)</sup>) shall be the property of the Company and may be used, sold, deposited or otherwise disposed of as the Company thinks fit.

(4) 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 high water except within the designated harbour for the purposes of constructing the works or otherwise in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State pursuant to Part 2 of the Food and Environment Protection Act 1985<sup>(3)</sup>.

### **Power to deviate**

6.—(1) In constructing and maintaining the works authorised by article 3(1) (power to construct, etc., works) and in exercising the powers conferred by article 5(1) (power to dredge the Severn Estuary), the Company may deviate laterally from the lines or situations of those works shown on the deposited plans to the extent of the limits of deviation or, for works authorised by article 5(1), to any extent not exceeding the limits of deviation for dredging.

(2) In constructing and maintaining the works authorised by article 3(1) the Company may deviate vertically from the levels of those works shown on the deposited sections to any extent downwards and up to three metres upwards as may be necessary or convenient.

(3) In exercising the powers conferred by article 5(1) the Company may deviate vertically to any extent upwards and up to 0.3 metres downwards as may be necessary or convenient.

### **Period for completion of works**

7.—(1) Subject to paragraph (2), if the works are not completed within ten years from the coming into force of this Order or such extended time as the Secretary of State may, on the application of the Company, allow then, on the expiration of that period, or such extended time (as the case may be), the powers conferred by this Order to the Company for constructing the works shall cease except as to so much of them as is then substantially commenced.

(2) Nothing in paragraph (1) shall apply to any works carried out under paragraph (3) of article 3 (power to construct, etc., works) or article 4 (subsidiary works), or to any maintenance dredging.

### **Works to be within the district of The City of Bristol**

8.—(1) During the period beginning with the date on which this Order comes into force and ending on the accretion date, the area within the limits of deviation shall, to the extent that it is

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(2) 1995 c. 21.

(3) 1985 c. 48.

outside the area of The City of Bristol for the purposes of the Control of Pollution Act 1974<sup>(4)</sup> and the 1990 Act, be annexed to and incorporated with the district of The City of Bristol.

(2) On the accretion date, the area of the whole or so much of the works authorised by article 3 (power to construct, etc., works) and article 4 (subsidiary works) as shall have been completed or substantially completed shall, to the extent that they are outside the area of The City of Bristol, be annexed to and incorporated within the district of The City of Bristol.

(3) In this article, “accretion date” means whichever of the following dates first occurs—

- (a) the date when the works referred to in paragraph 2 have been completed; or
- (b) the date when the powers conferred by this Order cease to have effect pursuant to article 7 (period for completion of works).

(4) Nothing in this article shall require the performance of any functions under the Ordnance Survey Act 1841<sup>(5)</sup> until the Company has certified in writing to the Director General of Ordnance Survey that the works have been completed.

### **Obstruction of works**

9. Any person who, without reasonable excuse—

- (a) obstructs any person acting under the authority of the Company in constructing, maintaining or using the works; or
- (b) interferes with, moves or removes any equipment used in connection with the construction, maintenance or use 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.

### **Tidal works not to be executed without approval of Secretary of State**

10.—(1) Unless construction has commenced within five years of the coming into force of this Order, a tidal work shall not be constructed 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) If a tidal work is constructed in contravention of paragraph (1), the Secretary of State may—

- (a) give notice to the Company to remove the tidal work or any part of it and to restore the site of that tidal work to its former condition; or
- (b) where necessary remove the tidal work or any part of it and restore the site of that tidal work to its former condition.

(3) Notice given under paragraph (2)(a) shall be in writing and shall be served on the Company, and such service may be effected by transmission to an electronic address and in an electronic form specified by the Company.

(4) If, within 30 days of service of notice given under paragraph (2)(a), the Company has failed to comply with the notice, the Secretary of State may—

- (a) execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary to do so, he may remove the tidal work or part of it and restore the site to its former condition.

(5) Any expenditure incurred by the Secretary of State pursuant to paragraphs (2) to (4) shall be recoverable from the Company.

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(4) 1974 c. 40.

(5) 1841 c. 30.

### **Provision against danger to navigation**

**11.**—(1) In case of injury to, or destruction or decay of, a tidal work or any part of it, the Company shall as soon as reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

(2) If, without reasonable excuse, the Company fails to notify Trinity House as required by paragraph (1), or to comply in any respect with a direction given under that paragraph, the Company shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and, on conviction on indictment, to a fine.

### **Abatement of works abandoned or decayed**

**12.**—(1) Where a tidal work is abandoned or suffered to fall into decay, the Secretary of State may by notice in writing require the Company at its own expense either to repair and restore the work or any part of it, or to remove the work and restore its site to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting—

- (a) partly of a tidal work; and
- (b) partly of works on or over land above the level of high water,

is abandoned or suffered to fall into decay and the works mentioned in sub-paragraph (b) are in such condition as to interfere or to cause reasonable apprehension that they may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include those works, or any portion of those works, in any notice under paragraph (1).

(3) If, at the end of 30 days beginning with the date on which a notice under this article is served upon the Company, it has 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 the Secretary of State in so doing shall be recoverable from the Company.

### **Survey of tidal works**

**13.** The Secretary of State may at any time, if the Secretary of State deems it expedient to do so, 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 so doing shall be recoverable from the Company.

### **Permanent lights on tidal works**

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

(2) If the Company fails to comply in any respect with a direction given under paragraph (1), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and, on conviction on indictment, to a fine.

### **Lights on tidal works during construction, etc.**

**15.**—(1) The Company shall, at or near a tidal work, during the whole time of the construction, extension, enlargement, alteration, replacement or re-laying of such work exhibit every night from sunset to sunrise such lights, if any, and take such other steps, if any, for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

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(2) If the Company fails to comply in any respect with a direction given under paragraph (1), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and, on conviction on indictment, to a fine.

**Application of permitted development rights**

**16.** Schedule 4 shall have effect.