
STATUTORY INSTRUMENTS

2022 No. 853

The Sizewell C (Nuclear Generating Station) Order 2022

PART 6

HARBOUR POWERS

Incorporation of the Harbours, Docks, and Piers Clauses Act 1847

49.—(1) With the exception of sections 6 to 23, 25, 27, 29, 31 to 34, 36, 40 to 50, 52, 53, 59, 60, 66 to 68, 70 to 72, 77, 79 to 82, 85 to 89, 92 and 97 to 102, the 1847 Act is incorporated in this Order subject to the modifications stated in paragraphs (2) and (10).

(2) Section 28 of the 1847 Act (exemption of vessels in her Majesty's or the public service, from rates) has effect as if the words "to charge with rates or duties, or" and the words "without any charge or rate being made for using the same" were removed.

(3) Section 35 of the 1847 Act (Masters to report arrival of vessel) has effect as if the words "liable to rates" were removed.

(4) Section 37 of the 1847 Act (Masters of vessels to give names of consignees, and accounts of goods intended to be unshipped, etc) has effect as if for the words "collector of rates" were substituted the words "harbour master".

(5) Section 39 of the 1847 Act (Shippers to give an account of goods intended to be shipped) has effect as if for the words "collector of rates" were substituted the words "harbour master".

(6) Section 62 of the 1847 Act (Penalty for wilfully cutting moorings) has effect as if for the words "level 1" were substituted the words "level 3".

(7) Section 63 of the 1847 Act (Penalty for placing, etc, vessels near the entrance of harbour or dock, etc, without permission) has effect as if the section was amended to read: "As soon as the Order comes into force, no vessel, except with the permission of the harbour master, shall lie or be moored within the harbour limits; and if the master of any vessel either places it or suffers it to remain within the harbour limits; without such permission, and does not, on being required to do so by the harbour master, forthwith proceed to remove such vessel, he must be liable on summary conviction to a fine not exceeding level 3 on the standard scale."

(8) Section 69 of the 1847 Act (Combustible matter on quays, &c., to be removed) has effect as if for the words from "shall forfeit" to the end of the section there were substituted the words "must be liable on summary conviction to a fine not exceeding level 3 on the standard scale."

(9) In construing the 1847 Act as so incorporated—

- (a) the expression "the special Act" means this Order;
- (b) the expressions "the Promoters of the undertaking" and "the undertakers" mean the undertaker;
- (c) the expression "the harbour, dock or pier" means the harbour;
- (d) the expressions "limits" and "prescribed limits" mean the harbour limits;
- (e) the expression "near the pier" does not extend beyond the harbour limits;

- (f) the expression “the harbour master”, in relation to the harbour, has the meaning given by article 2 (interpretation); and
- (g) the definition of “vessel” in article 2(1) of this Order is substituted for the definition in section 3 of the 1847 Act (Interpretation).

(10) Section 84 of the 1847 Act (Byelaws may be enforced by imposition of penalties) has effect as if the words “being limited to a summary conviction, and” were inserted between the words “shall think fit” and “not exceeding”.

Further powers as to works and extinguishment of rights

50.—(1) The undertaker may, in connection with the construction of the marine works—

- (a) enclose or reclaim from the foreshore and bed of the sea; and
- (b) hold and use as part of the marine works,

so much of the foreshore and bed of the sea as is situated within the limits of Work Nos. 2B, 2D, 2F, 2H, 2J and 2K as shown on the Works Plans and is required for, or in connection with, the construction of the marine works.

(2) As soon as the undertaker exercises the powers under paragraph (1), any right of navigation or other public rights over the part of the sea and the foreshore in respect of which it exercises those powers will be extinguished.

Harbour authority

51.—(1) The undertaker is the harbour authority in respect of the harbour.

(2) Without prejudice to any provision of the 1847 Act as incorporated in this Order by article 49 (incorporation of the Harbours, Docks, and Piers Clauses Act 1847), the area within which the harbour authority may exercise its functions under this Order must be the harbour.

Agreements entered into by the undertaker

52. Any agreement or undertaking entered into by the undertaker before the coming into force of this Order in connection with the proposed exercise of its function as harbour authority must be binding upon the harbour authority notwithstanding that it was entered into by the undertaker before it was established as a harbour authority by article 51 (harbour authority).

Application of Pilotage Act 1987

53. The undertaker is a competent harbour authority in respect of the harbour for the purposes of the Pilotage Act 1987(1).

Limits of harbour

54.—(1) The limits of the harbour within which the undertaker is permitted to exercise jurisdiction as the harbour authority and within which the powers of the harbour master are exercisable are the seaward and the landward areas described in Schedule 20 (Limits of harbour), as shown edged by a green broken line on the Works Plans.

(2) In the event that there is any discrepancy between the description of the seaward area in Schedule 20 and the area shown on the Works Plans, the description in Schedule 20 will prevail.

Obstruction of work

55. Any person who—

- (a) intentionally obstructs any person acting under the authority of the undertaker in setting out the lines of the harbour limits, or in constructing, Work No. 1A(l) permanent beach landing facility) or Work No. 1A(aa) (temporary marine bulk import facility); or
- (b) without reasonable excuse interferes with, moves or removes any pole, stake, station point or bench mark or equipment used in the construction, maintenance or use of the harbour, including Work No. 1A(l) (permanent beach landing facility) or Work No. 1A(aa) (temporary marine bulk import facility),

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Obstruction of officers

56.—(1) Any person who—

- (a) intentionally obstructs an officer of the harbour authority or other person acting in pursuance of this Order or of any enactment relating to the harbour limits;
- (b) without reasonable excuse fails to comply with a requirement properly made by such an officer; or
- (c) without reasonable excuse fails to give such an officer any information or produce any document which the officer may require for the purpose of performance of their functions,

is guilty of an offence and liable on summary conviction of a fine not exceeding level 3 on the standard scale.

(2) Any person who, in giving such information as is mentioned in paragraph (1)(c), makes a statement which that person knows to be false, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Nothing in paragraph (1) applies to the harbour master or to any person acting under the authority of the harbour master.

Abatement of works abandoned or decayed

57.—(1) Where a marine work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the undertaker at its own expense either to repair and restore that work or any part, or to remove that work and restore the 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 partly of a marine work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water 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 of it, in any notice under this article.

(3) If the undertaker fails to comply in any respect with a notice served under this article within the period of 30 days beginning with the date of service of the notice, the Secretary of State may take whatever steps the Secretary of State considers appropriate to achieve the result required by the notice; and any expenditure incurred by the Secretary of State in so doing will be recoverable from the undertaker.

Survey of marine works

58. If the Secretary of State considers it expedient to do so, the Secretary of State may order a survey and examination of a marine work or of the site on which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination will be recoverable from the undertaker.

Lights on marine works etc. during construction

59. The undertaker must at or near—

- (a) any marine work, including any temporary work; or
- (b) any plant, equipment or other obstruction placed, in connection with any authorised development, within the area of seaward construction activity,

during the whole time of the construction, reconstruction, extension, enlargement, replacement or relaying of such work or development, exhibit every night from sunset to sunrise such lights and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

Provision against danger to navigation

60. In case of damage to, or destruction or decay of, a marine work or any part of it, the undertaker must as soon as reasonably practicable notify Trinity House and must lay down such buoys, exhibit such lights, and take such other steps for preventing danger to navigation, as Trinity House may from time to time direct.

Permanent lights on marine works

61. After the completion of a marine work the undertaker must, at the outer extremity of it exhibit every night from sunset to sunrise such lights, and take such other steps for the prevention of danger to navigation, as Trinity House may from time to time direct.

Rights to lease etc.

62.—(1) The undertaker may at any time lease or grant for the purposes of the harbour undertaking the use or occupation of, or any right or interest in, over or relating to, any lands, works, buildings, equipment or other property forming part of the harbour undertaking for such period or periods and on such terms and conditions as may be agreed between the undertaker and the person taking the same.

(2) A lease or grant made or given under paragraph (1) may include provisions delegating to the lessee or grantee any of the functions of the undertaker other than those specified in sub-paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964 (Object for whose achievement harbour revision orders may be made)(2).

(3) A person—

- (a) exercising powers conferred by this Order; or
- (b) carrying out any development under planning permission granted by article 3 (Permitted development) of, and Class B of Part 8 of Schedule 2 (Dock, pier, harbour, water transport, canal or inland navigation undertakings) to, the 2015 Order,

in pursuance of a lease or grant under paragraph (1) (“the lessee or grantee”) is subject to the same restrictions, liabilities and obligations as would apply under this Order or by virtue of any agreement

(2) 1964 c. 40.

or undertaking by the undertaker if those powers were exercised, or the development carried out, by the undertaker.

(4) The provisions of this Order or of any such agreement or undertaking, as respects any such exercise of powers or carrying out of development by the lessee or grantee, have effect (where the context so permits) as if any reference in those provisions to the undertaker included a reference to the lessee or the grantee, as the case may be.

Byelaws

63.—(1) The undertaker may, from time to time, make and enforce byelaws regulating the use and operation of the authorised development or the harbour, the maintenance of order on and about the authorised development or the harbour and the conduct of all persons including employees of the undertaker while on and about the authorised development or the harbour.

(2) Without prejudice to the generality of paragraph (1), byelaws made under this article may provide for—

- (a) regulating the use, operation and superintendence of the harbour and the berths, quays, piers, warehouses, sheds, landing places, equipment, works and conveniences (including moorings) in the harbour;
- (b) regulating the admission to, the movement within, and the departure from, the harbour of vessels, or the removal of vessels;
- (c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the harbour;
- (d) regulating the berthing and mooring of vessels within the harbour;
- (e) preventing damage or injury to any goods, vehicles, plant, machinery, property or person within the harbour;
- (f) regulating the conduct of all persons within the harbour not being members of a police force or officers or servants of the Crown whilst in the execution of their duties;
- (g) regulating the placing and maintenance of moorings within the harbour;
- (h) preventing and removing obstructions or impediments within the harbour;
- (i) regulating in the harbour the use of yachts, sailing boats, sailboards, rowing boats, rowing punts, pleasure craft and other small craft;
- (j) regulating or prohibiting the activities in the harbour of divers, surfers, water skiers and other persons engaged in similar recreational pursuits but not so as to prohibit the use for navigation of the vessels referred to in sub-paragraph (i);
- (k) regulating the launching of vessels within the harbour;
- (l) prohibiting persons in or entering the harbour, or any part of the harbour, from smoking in open spaces in the harbour;
- (m) regulating the movement and parking of vehicles within the harbour;
- (n) regulating the exercise of the powers vested in the harbour master;
- (o) safety precautions to be observed by persons within the harbour, whether or not on board vessels;
- (p) the protection and conservation of flora and fauna and other natural features;
- (q) making the carrying out of specified harbour operations, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbour master, and for authorising the harbour master to take such action as may be reasonably required in default of compliance with any such condition, control or direction;

- (r) regulating the admission and access to the marine works forming part of the authorised development;
 - (s) preventing and removing obstructions or impediments within the authorised development;
 - (t) preventing damage or injury to any goods, vehicles, plant, machinery, property or persons within the authorised development; and
 - (u) preventing nuisances on the authorised development or works.
- (3) Byelaws made under this article may—
- (a) provide for imposing upon persons found guilty on summary conviction of offending against them, or against any condition, requirement or direction imposed, made or given under them, fines not exceeding level 3 on the standard scale;
 - (b) only relate to the area of the harbour limits as described in Schedule 20 to this Order and land controlled or used by the harbour authority; and
 - (c) make different provision for different parts of the harbour or in relation to different classes of vessels or vehicles.

Confirmation of byelaws

64.—(1) Byelaws made by the undertaker under this Order will not come into operation until they have been confirmed by the Secretary of State.

(2) At least 28 days before an application for confirmation of byelaws is made by the undertaker to the Secretary of State, notice of the intention to apply for confirmation and of the place at which and times during which a copy of the byelaws will be open to inspection must be published as follows—

- (a) once in each of two successive weeks in two local newspapers circulating in the district of East Suffolk Council; and
- (b) on a website managed by the undertaker.

(3) Not later than the first date on which the notice under paragraph (2) is published, the undertaker must send a copy of the notice to the Chief Executive Officer of East Suffolk Council and to the Secretary of State.

(4) During a period of at least 28 days before application is made for confirmation of the byelaws, a copy of the byelaws must be kept by the undertaker at the office of the harbour master and must at reasonable hours be open to public inspection without payment, and must be available on a website managed by the undertaker.

(5) The undertaker must supply a copy of the byelaws or of part of the byelaws to a person who applies for it on payment of a reasonable charge.

(6) During the period of 28 days after completion of the publication of any notice required by paragraph (2), any person may make in writing to the Secretary of State any objection to or representation respecting the byelaws to which the notice relates.

(7) Subject to paragraph (8), the Secretary of State may confirm the byelaws in the form submitted to the Secretary of State with such modifications as the Secretary of State thinks fit or may refuse to confirm them.

(8) Where the Secretary of State proposes to make a modification that appears to the Secretary of State to be substantial the Secretary of State must inform the undertaker and require it to take any steps the Secretary of State considers necessary for informing persons likely to be concerned with the modification, and the Secretary of State may not confirm the byelaws until such period has elapsed as the Secretary of State thinks reasonable for consideration of, and comment upon, the proposed modification by the undertaker and by other persons who have been informed of it.

(9) A copy of the byelaws when confirmed must be printed and deposited by the undertaker at the office of the harbour master and must at all reasonable hours be open to public inspection without payment, must be available on a website managed by the undertaker and a copy of the byelaws must on application be furnished to any person on payment of such reasonable sum as the undertaker may determine.

Power to make general directions to vessels

65.—(1) Subject to paragraph (3), the undertaker may give directions, or revoke or amend directions that it has previously given, for the purpose of—

- (a) designating areas which vessels are to use, or refrain from using, for movement or mooring;
- (b) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master to identify the vessel, its cargo and its likely time of arrival at and departure from the harbour; and
- (c) the protection of property, flora and fauna.

(2) A direction under paragraph (1) may apply—

- (a) to all vessels or to a class of vessels designated in the direction;
- (b) to the whole of the harbour and the approaches and channels leading to the harbour, or to a part designated in the direction; and
- (c) at all times or at certain times or at certain states of the tide designated in the direction,

and every direction given under this article must specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c).

(3) Before giving a direction, or revoking or amending a direction previously given, under paragraph (1), the undertaker must consult the Royal Yachting Association and the Chamber of Shipping and have regard to any written representations received from them.

Publication of general directions

66.—(1) Notice of the giving of a general direction or of any amendment or revocation of a general direction must, except in case of emergency, be published by the undertaker as soon as practicable:

- (a) once in each of two successive weeks in two local newspapers circulating in the district of East Suffolk Council; and
- (b) on a website managed by the undertaker

and, if the notice relates to the giving or amendment of a direction, the notice must state a place at which copies of the direction or the amended direction (as the case may be) may be inspected and bought, and the price of the direction or amended direction (as the case may be).

(2) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the undertaker considers appropriate.

Power to make special directions to vessels

67.—(1) The harbour master may give a special direction under this article—

- (a) requiring any vessel anywhere within the harbour to comply with a requirement made in or under a general direction;
- (b) regulating the time at which and the manner in which any vessel must enter into, go out of, or lie in or at the harbour;

- (c) for securing that vessels move only at certain times or during certain periods;
 - (d) prohibiting the mooring of vessels in any particular part or parts of the harbour;
 - (e) regulating or requiring the movement, mooring or unmooring of a vessel; and
 - (f) regulating the manner in which within the harbour a vessel takes in or discharges (from ship to shore or shore to ship) personnel, cargo, fuel, water, ship's stores or ballast in the harbour.
- (2) A special direction may be given in any manner considered by the harbour master to be appropriate.
- (3) The harbour master may revoke or amend a special direction.

Master's responsibility in relation to directions

68. The giving of a general direction under article 65 (power to make general direction to vessels) or a special direction under article 67 (power to make special directions to vessels) does not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to that vessel, persons on board, its cargo or any other person or property.

Failure to comply with directions

69.—(1) Any person who fails without reasonable excuse to comply with a general direction issued under article 65 (power to make general directions to vessels) or a special direction under article 67 (power to make special directions to vessels) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) In any proceedings for an offence under paragraph (1) it shall be a defence for the person charged to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Enforcement of special directions

70.—(1) Without prejudice to any other remedy available to the undertaker, if a special direction issued under article 67 (power to make special directions to vessels) is not complied with within a reasonable time the harbour master may, where practicable and, except in an emergency, only where 48 hours' notice has been given to the owner or person appearing to have charge of the vessel, put persons on board the vessel to carry out the direction or otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board the vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with; but the harbour master must not do so unless, after reasonable inquiry has been made, the master of the vessel cannot be found.

(3) Reasonable expenses incurred in the exercise of the powers conferred by this article are recoverable by the undertaker from the owner of the vessel as if they were a charge of the undertaker in respect of the vessel.

Boarding of vessels

71. Any duly authorised officer of the undertaker may, on producing if so required their authority, enter and inspect a vessel in the harbour limits—

- (a) for the purposes of any enactment relating to the harbour authority or of any byelaw relating to the harbour authority or of any direction or byelaw of the harbour authority, including the enforcement thereof; or
- (b) to prevent or extinguish fire,

but, except in an emergency, no entry must be made under this article without 48 hours' notice first having been given to the owner or the person appearing to have charge of the vessel; and the notice must have annexed to it a copy of this article.

Charges

72.—(1) The undertaker may levy charges for any services performed by it in the exercise and performance of its statutory powers and duties at the harbour.

(2) The undertaker may confer total or partial exemption from, allow rebates to or make compositions with any person with respect to, charges and may vary or extinguish any such exemption, rebate or composition.

(3) In this article “charges” means any charges other than ship, passenger and goods dues.

Use of beach landing facility and marine bulk import facility

73. The undertaker may only use the temporary marine bulk import facility (Work No. 1A(aa)) for the purposes of, or in connection with, the construction of the authorised development and may only use the permanent beach landing facility for the purposes of, or in connection with the construction, operation, maintenance and decommissioning of the authorised development.

Duration of the powers in Part 6

74.—(1) Within 28 days following completion of all works for the removal of the temporary marine bulk import facility in accordance with requirement 29, the undertaker must—

- (a) appoint, by resolution, a date on which this Part 6 (Harbour Powers) will cease to have effect, which shall be not more than 28 days after the resolution;
- (b) publish a notice containing a copy of the resolution proposed to be passed by the undertaker appointing that date in—
 - (i) Lloyd’s List newspaper or some other newspaper specialising in shipping news;
 - (ii) a local newspaper circulating in the district of East Suffolk Council; and
 - (iii) on a website managed by the undertaker.

(2) Except as provided in article 75 (saving for termination of Part 6) this Part 6 will cease to have effect on the date specified in the resolution.

Saving for termination of Part 6

75.—(1) In the article, “relevant proceedings” means any proceedings or inquiries in respect of any situation, matter, thing, happening, act, refusal, neglect or failure occurring during the period before this Part ceased to have effect in accordance with article 74 (duration of the powers in Part 6), so far as relating to the harbour or any part of the harbour, including, but without prejudice to the generality of the foregoing, proceedings for an offence committed or penalty incurred, or for recovery of expenses, rates, dues, fees or charges incurred, during that period.

(2) No relevant proceedings shall be affected by this Part ceasing to have effect, and any such proceedings or inquiries may be commenced, continued and concluded, and any decision, judgment or ruling in them may be enforced as if this Part, and any relevant general or special direction or byelaw, had not ceased to have effect.

(3) Any period of time current in relation to relevant proceedings when this Part ceases to have effect shall not be affected by its ceasing to have effect and may continue to run as if this Part, and any relevant general or special direction or byelaw, had not ceased to have effect.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Saving for Trinity House

76. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.