
STATUTORY INSTRUMENTS

2008 No. []

HARBOURS, DOCKS, PIERS AND FERRIES

The Associated British Ports (Fisher Fleet Quay)
Harbour Revision Order 200[]

<i>Made</i> - - - -	[]
<i>Laid before Parliament</i>	[]
<i>Coming into force</i> - -	[]

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Whereas Associated British Ports have applied for a harbour revision order under section 14 of the Harbours Act 1964(a);

The Secretary of State is satisfied as mentioned in section 14(2)(b) of that Act:

The Secretary of State (being the appropriate Minister under section 14(7)(b) of that Act), in exercise of the powers conferred by section 14 and now vested in him(c) makes the following Order:—

Citation and commencement

1. This Order may be cited as the Associated British Ports (Fisher Fleet Quay) Harbour Revision Order 200[] and comes into force on 200[].

Interpretation

2.—(1) In this Order—

“A.B. Ports” means Associated British Ports;

“Chart Datum” in relation to any depth of dredging is 3.027 metres below Ordnance Datum (Newlyn);

“the deposited plans” and “the deposited sections” mean respectively the plans and sections prepared in triplicate, signed by the Head of the Ports Division in the Department for Transport and marked “Plans and sections referred to in the Associated British Ports (Fisher Fleet Quay) Harbour Revision Order 200[]” one copy of which is deposited at the Department for Transport and the others at the principal office of A.B. Ports and at its office at King’s Lynn;

“the existing Fisher Fleet Quay” means the quay authorised by the King’s Lynn Dock Act 1877(d) and the King’s Lynn Dock Act 1881(e);

“the level of high water” means the level of mean high-water springs;

“the limits of deviation” means the limits of deviation shown on the deposited plan;

“reference point” means Ordnance Survey National Grid reference point;

“tidal work” means so much of any of the works as is on, under or over tidal waters or tidal lands below the level of high water;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the undertaking” means the undertaking of A.B. Ports at King’s Lynn as authorised from time to time;

“vessel” means every description of vessel, however propelled or moved, including a hovercraft (within the meaning of the Hovercraft Act 1968)(f), a hydrofoil vessel and anything constructed or used to carry persons or goods by water; and

“the works” means the works authorised by this Order.

(2) Any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

(3) All directions, distances, points and dimensions stated in any description of works, shall be construed as if the words “or thereabouts” were inserted after each such direction, distance, point or dimension.

(a) 1964 c.40: section 14 was amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 4 (1) and 14 and by the Transport and Works Act 1992 (c.42), section 63(1) and Schedule 3, paragraph 1.

(b) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(c) S.I. 1981/238.

(d) 1877 c.116.

(e) 1881 c.cxxxviii.

(f) 1968 c.59.

Power to make works

3.—(1) A.B. Ports may, in the lines and situations shown on the deposited plan and according to the levels shown on the deposited sections, make and maintain the following works in the Borough of King's Lynn and West Norfolk—

Work No. 1 A new quay of open construction extending the existing Fisher Fleet quay commencing at reference point 561338E 320906N, then extending into Fisher Fleet in a southerly and then easterly direction and terminating at reference point 561434E 320852N on the existing Fisher Fleet quay;

Work No. 2 A new quay of open construction extending the existing Fisher Fleet quay commencing at reference point 561573E 328009N, then extending into Fisher Fleet in a southerly and then westerly direction to reference point 561548E 320804N on the existing Fisher Fleet quay;

Work No. 3 A renovation of the existing Fisher Fleet Quay.

(2) A.B. Ports may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the works.

(3) The works shall for all purposes form part of the undertaking.

Power to make subsidiary works

4. A.B. Ports may—

- (a) from time to time within the limits of deviation erect, construct and maintain all such works, conveniences, appliances and apparatus as they from time to time deem necessary or convenient for the purposes of or in connection with or incidental to, the construction, operation and maintenance of the works or the accommodation of vessels thereat;
- (b) in the course of constructing, replacing, altering or reconstructing the works, carry out construction activity, including the temporary placing of plant and equipment, within the waters adjoining the limits of deviation.

Power to deviate

5. In constructing the works A.B. Ports may deviate laterally from the lines or situations shown on the deposited plans and described in article 3(Power to make works) to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding three metres upwards and to such extent downwards as may be found necessary or convenient.

Power to dredge adjoining works

6.—(1) For the purposes of affording uninterrupted means of access to the works A.B. Ports may from time to time deepen, dredge, scour, cleanse, alter and improve the bed of the Fisher Fleet within the area hatched black on the deposited plans to a maximum depth of 2.027 metres above Chart Datum and may (subject to paragraph (2)) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it in the course of any such operations.

(2) 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 otherwise than in such places and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(3) The power to use, appropriate or dispose of materials referred to in this article shall not extend to wreck (within the meaning of Part IX of the Merchant Shipping Act 1995)(a) found by A.B. Ports.

Fine for obstructing works

7. Any person who intentionally obstructs any person acting under the authority of A.B. Ports in constructing the works or who intentionally or recklessly interferes with equipment or materials used in the construction 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

8.—(1) A tidal work shall not be constructed, altered, enlarged, replaced, relaid, extended 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) If a tidal work is constructed, altered, enlarged, replaced, relaid, extended or reconstructed in contravention of this article or of any condition or restriction imposed under this article –

- (a) the Secretary of State may by notice in writing require A.B. Ports 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 A.B. Ports it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; and
- (b) if it appears to the Secretary of State urgently necessary so to do, he may 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 A.B. Ports.

Provision against danger to navigation

9.—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof, A.B. Ports 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 A.B. Ports fails to notify Trinity House as required by paragraph (1) or to comply in any respect with a direction given under the said paragraph, it shall be 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

10.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require A.B. Ports at its own expense either to repair and restore the work of 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 thinks proper.

(2) Where a work consisting partly of a tidal 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 thereof, in any notice under paragraph (1).

(a) 1995 c.21.

(3) If, on the expiration of 30 days from the date when a notice under paragraph (1) is served upon A.B. Ports, 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 A.B. Ports.

Survey of tidal works

11. 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 A.B. Ports.

Permanent lights on tidal works

12.—(1) After the completion of a tidal work A.B. Ports 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 Trinity House shall from time to time direct.

(2) If A.B. Ports fails to comply in any respect with a direction given under paragraph (1), it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine; but it shall be a defence for A.B. Ports to prove that all due diligence was used to secure compliance with the direction.

Lights on tidal works during construction

13.—(1) A.B. Ports shall at or near a tidal work during the whole time of the construction, alteration, enlargement, replacement, relaying or extension 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 A.B. Ports fails to comply in any respect with a direction given under paragraph (1), it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine; but it shall be a defence for A.B. Ports to prove that all due diligence was used to secure compliance with the direction.

Transfer of works

14.—(1) A.B. Ports may by agreement with the Kings Lynn Fleet Trust Limited or such other body as may be representative of local fishermen using the quay transfer to that body

- (a) Works Nos 1 and 2, and
- (b) the existing quay,

or any of them, together with the statutory responsibilities relating to those works arising under this Order and the King's Lynn Dock Acts 1877 and 1881 on such terms as may be specified in the agreement.

(2) Not later than 21 days after entering into any such agreement A.B. Ports shall give written notice to the Secretary of State and to Trinity House stating the name and address of the body to whom the works are being transferred and the date when the transfer is to take effect (which shall not be earlier than the date of the receipt of the notice by whichever of the Secretary of State or Trinity House is the last to receive the notice).

Disapplication of regulation 60 of the Conservation (Natural Habitats &c) Regulations 1994

15.—(1) Regulation 60 of the Conservation (Natural Habitats, &c.) Regulations 1994(a) ("the Habitats Regulations") shall not apply to any planning permission which relates to the works and

(a) S.I. 1994/2716.

which is granted by article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995(a) for the class of development described as permitted development in Part 11 of Schedule 2 to that Order.

(2) Paragraph (1) does not apply if and to the extent that the works—

- (a) do not form part of the plan and project which was subject to an appropriate assessment in accordance with regulation 48 of the Habitats Regulations in connection with the making of this Order; and
- (b) are not subject to a further consent, permission or authorisation by a competent authority as defined in the Habitats Regulations.

Signed by authority of the)
Secretary of State for Transport)

Head of Ports Division in the
Department for Transport

(a) S.I. 1995/418 to which there have been amendments not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises A.B.Ports to construct and maintain extensions to and renovation of the quay in Fisher Fleet, and confers ancillary powers in connection with the works. The Order also authorises the transfer of the quay to Kings Lynn Fleet Trust Limited or such body as represents local fishermen using the quay.

The deposited plans and sections defined in Article 2 of the Order may be inspected during normal hours at the offices of A.B.Ports at 150 Holborn, London EC1N 2LR and at St Ann's Fort, King's Lynn, Norfolk PE30 1QS.

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Harbour Revision Order 200[]

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