



# Cardiff Bay Barrage Act 1993

## 1993 CHAPTER 42

### PART III

#### OPERATION AND MANAGEMENT

##### *Operation of barrage*

#### **7 Power to operate barrage.**

- (1) The Development Corporation shall have power to operate the barrage; and in this Act references to operating the barrage are references to—
  - (a) opening or closing any lock gates, sluices or gates in the barrage,
  - (b) controlling the flow of water in the fish passes in the barrage, or
  - (c) managing any roadway, bridge or other structure or equipment forming part of the barrage.
- (2) The power conferred by subsection (1) above shall be exercised so as to safeguard and improve the environment and amenities of the inland bay.
- (3) Subsection (2) above shall not prevent the exercise of the power conferred by subsection (1) above in order—
  - (a) to prevent or alleviate flooding or to meet any other emergency,
  - (b) to ascertain the safest and most effective ways of using the barrage, to test its working or to train staff in its operation, or
  - (c) to facilitate the construction, maintenance, alteration, replacement or re-laying of any works in or beside the inland bay.

#### **8 Directions as to operation of barrage.**

- (1) The Development Corporation shall operate the barrage in accordance with any reasonable direction given [<sup>F</sup>by the Natural Resources Body for Wales in] order—
  - (a) to protect the quality of water in the inland bay by ensuring that it meets or continues to meet the relevant standard,

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- (b) to prevent or alleviate flooding, or
  - (c) to protect fish in the inland bay, allow the passage of migratory fish to or from the inland bay or enable trials to be carried out in the inland bay in connection with fishery management.
- (2) For the purposes of this section the quality of water meets the relevant standard—
- (a) if it meets such standard, whether fixed by reference to dissolved oxygen content or any other determinant of water quality, as may reasonably be [<sup>F2</sup>specified by the Natural Resources Body for Wales as] the standard to be achieved in order to comply with the current water quality objectives for the water, or
  - (b) where no standard is specified under paragraph (a) above, if it contains not less than five milligrams dissolved oxygen per litre at all times.
- (3) For the purposes of subsection (2)(a) above the water quality objectives for any water are—
- (a) if water quality objectives have been established for the water under section 83 of the <sup>M1</sup>Water Resources Act 1991, those objectives, and
  - (b) if they have not, such reasonable objectives as may be set [<sup>F3</sup>by the Natural Resources Body for Wales for] the water having regard to—
    - (i) the recreational or other purposes for which use of the water is permitted, or proposed to be permitted, by the Development Corporation, and
    - (ii) the needs of the fish in the water and of migratory fish passing to or from it.
- (4) Subject to subsection (5) below, notice of a direction under subsection (1) above—
- (a) shall be given in writing by a duly authorised officer of [<sup>F4</sup>the Natural Resources Body for Wales, and]
  - (b) shall be given as long as possible, but in any case not less than twenty-four hours, before the direction is to be complied with.
- (5) In case of emergency notice of such a direction—
- (a) may be given orally to be complied with as soon as it is practicable to do so, but
  - (b) shall be confirmed as soon as may be by notice given as required by subsection (4)(a) above.
- (6) Where there arises any dispute as to the reasonableness of—
- (a) any direction given under subsection (1) above, or
  - (b) any standard specified under subsection (2)(a) above or objectives set under subsection (3)(b) above,
- the matter shall be referred to the Secretary of State for determination by him.

#### Textual Amendments

- F1** Words in s. 8(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 349\(2\)](#) (with Sch. 7)
- F2** Words in s. 8(2)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 349\(3\)](#) (with Sch. 7)
- F3** Words in s. 8(3)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 349\(4\)](#) (with Sch. 7)

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**F4** Words in s. 8(4)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 349\(5\)](#) (with Sch. 7)

#### Marginal Citations

**M1** 1991 c. 57.

## 9 Operation: supplementary.

- (1) Except where the barrage is being operated for any of the purposes mentioned in section 7(3) above and subject to any direction given under section 8 above, the Development Corporation shall operate the sluices and gates in the barrage so that the water immediately behind it is maintained at a level between four and four and a half metres (or thereabouts) above ordnance datum (Newlyn) unless a higher level is caused by high river flows or the tide-locking of the sluices or gates.
- (2) When operating the barrage (including when doing so to comply with a direction given under section 8 above) the Development Corporation shall have regard to—
  - (a) the safety of vessels in, or passing to or from, the inland bay or on the seaward side of the barrage,
  - (b) the requirements of vessels in, or passing to or from, the inland bay (including the need to have freedom of access to moorings and berths in the inland bay), and
  - (c) the desirability of developing and conserving flora and fauna in the inland bay.
- (3) The Development Corporation shall consult the [<sup>F5</sup>Natural Resources Body for Wales] to seek their view as to ways in which the barrage may be operated so as to develop and conserve flora and fauna in the inland bay.
- (4) Where any vessels seem likely to be affected by being endangered, or having their navigation interfered with, in consequence of any proposed operation of the barrage, the Development Corporation shall give notice of what is proposed to—
  - (a) the coastguard,
  - (b) any radio station operated in connection with the barrage, and
  - (c) sailing and motor boat clubs operating in the inland bay and outer harbour.
- (5) Except in case of emergency, not less than four hours' notice shall be given under subsection (4) above; and in case of emergency as much notice as is reasonably practicable shall be so given.
- (6) Where notice is given under subsection (4) above notice of what is proposed shall also be given to any vessels which subsequently leave the outer harbour or pass through any lock in the barrage and which seem likely to be affected as mentioned in that subsection.
- (7) No liability shall arise in respect of any costs, damages or expenses incurred by any person as a direct or indirect result of—
  - (a) any obstruction to, delay of or other interference with the passage of vessels, or
  - (b) any change in the level of water in the inland bay or the draining of, or of any part of, the inland bay,occasioned by the operation of the barrage, unless the costs, damages or expenses are incurred by reason of negligence in its operation.

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### Textual Amendments

- F5** Words in s. 9(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 350](#) (with Sch. 7)

## 10 Interference with barrage.

- (1) A person who, without lawful authority or reasonable excuse—
- (a) operates any equipment or machinery forming part of the barrage or used in its construction, maintenance or alteration, or
  - (b) otherwise interferes with the barrage or its operation,
- shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.

### *Management of inland bay and outer harbour*

## 11 Power of management.

The Development Corporation shall have power to manage the inland bay and the outer harbour and shall exercise it in accordance with sections 12 and 13 below.

## 12 Water quality.

- (1) The Development Corporation—
- (a) shall manage the inland bay with a view to ensuring, and
  - (b) shall comply with any reasonable direction given by [<sup>F6</sup>the Natural Resources Body for Wales for] the purpose of ensuring,
- that the quality of water in the bay meets or continues to meet the relevant standard.
- (2) For the purposes of this section whether the quality of water meets the relevant standard shall be determined as for the purposes of section 8 above.
- (3) Subject to subsection (4) below, notice of a direction under subsection (1)(b) above—
- (a) shall be given in writing by a duly authorised officer of [<sup>F7</sup>the Natural Resources Body for Wales, and]
  - (b) shall be given as long as possible, but in any case not less than twenty-four hours, before the direction is to be complied with.
- (4) In case of emergency notice of such a direction—
- (a) may be given orally to be complied with as soon as it is practicable to do so, but
  - (b) shall be confirmed as soon as may be by notice given as required by subsection (3)(a) above.
- (5) Where there arises any dispute as to the reasonableness of any direction given under subsection (1)(b) above the matter shall be referred to the Secretary of State for determination by him.

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#### Textual Amendments

- F6** Words in s. 12(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 351(2)** (with Sch. 7)
- F7** Words in s. 12(3)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 351(3)** (with Sch. 7)

### 13 Use by vessels and for recreational purposes.

- (1) The Development Corporation shall manage the inland bay and the outer harbour so as to facilitate their use—
  - (a) by pleasure craft and other vessels, and
  - (b) for water sports and other open-air recreational activities.
- (2) In managing the outer harbour the Development Corporation shall secure that it is at all times available for use by pleasure craft and other vessels which—
  - (a) are about to pass to, or have recently passed from, the inland bay, or
  - (b) need to use it as a harbour of refuge.
- (3) In connection with the management of the inland bay and the outer harbour the Development Corporation may license and control—
  - (a) the hiring to the public of pleasure craft and fishing boats,
  - (b) the use of water buses, water taxis and other vessels plying for hire, and
  - (c) the use of houseboats and other moored vessels.
- (4) The Development Corporation may—
  - (a) provide, maintain and use moorings and berths for vessels on so much of the bed or banks of the inland bay as is owned or occupied by them, and
  - (b) grant persons licences to use, or enjoy preference in the use of, moorings or berths provided there by the Development Corporation.
- (5) The Development Corporation may—
  - (a) on such terms and conditions as they think fit, grant licences permitting, and
  - (b) contribute to the cost of,  
the provision, maintenance and use by any persons of moorings and berths for vessels on so much of the bed or banks of the inland bay as is owned or occupied by the Development Corporation.
- (6) Nothing in this section shall prejudice the exercise by the Cardiff City Council of the power conferred by section 94 of the <sup>M2</sup>Public Health Acts Amendment Act 1907 (pleasure boat licences).

#### Marginal Citations

- M2** 1907 c. 53.

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## 14 Development and conservation of flora and fauna.

- (1) When managing the inland bay (including when doing so to comply with a direction given under section 12(1)(b) above) the Development Corporation shall have regard to the desirability of developing and conserving flora and fauna.
- (2) The Development Corporation shall consult the [<sup>F8</sup>Natural Resources Body for Wales] to seek their view as to ways in which the inland bay may be managed so as to develop and conserve flora and fauna.

### Textual Amendments

- F8** Words in s. 14(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 352](#) (with Sch. 7)

## 15 Charges.

- (1) The Development Corporation may impose reasonable charges—
  - (a) in respect of any vessel for use of (or of any part of) the inland bay or for passing through any lock in the barrage,
  - (b) in respect of any vessel for use of, or for entering or leaving, the outer harbour,
  - (c) in respect of licences granted under section 13(3) above,
  - (d) for fishing in the inland bay,
  - (e) in respect of licences granted under section 13(4)(b) or (5)(a) above, and
  - (f) for the use of any facilities which the Development Corporation provide in the inland bay or the outer harbour.
- (2) The Development Corporation may agree a discount, or make any other arrangements, with any persons with respect to the amounts payable by them in respect of charges under this section on any occasion or during any period.
- (3) In setting the amount of any charges under this section, and in agreeing discounts or making other arrangements under subsection (2) above, the Development Corporation shall have regard to the desirability of enabling the local community to participate at low cost in the water sports and other open-air recreational activities permitted in the inland bay and outer harbour.
- (4) Section 31 of the <sup>M3</sup>Harbours Act 1964 (right of objection to ship, passenger and goods dues) shall apply in relation to charges imposed under subsection (1)(a), (b) or (e) above as if they were ship, passenger and goods dues.
- (5) No charges relating to the inland bay or the outer harbour—
  - (a) shall be imposed by the Development Corporation otherwise than under this section, or
  - (b) subject to subsection (6) and section 26 below and to the power of the Development Corporation to transfer the whole or any part of their undertaking, shall be imposed by any other person.
- (6) Subsection (5) above shall not prejudice—
  - (a) the exercise by the Cardiff City Council of the power conferred by section 94 of the <sup>M4</sup>Public Health Acts Amendment Act 1907 (charges for pleasure boat licences), or

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- (b) the [<sup>F9</sup>power of the Natural Resources Body for Wales under] Part IV of the <sup>M5</sup>Salmon and Freshwater Fisheries Act 1975 (charges for fishing licences).

#### Textual Amendments

- F9** Words in s. 15(6)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 353** (with Sch. 7)

#### Marginal Citations

- M3** 1964 c. 40.  
**M4** 1907 c. 53.  
**M5** 1975 c. 51.

## 16 Byelaws.

- (1) The Development Corporation may make byelaws for the good rule and government of the inland bay and the outer harbour and, in particular, may make byelaws applicable in, or in any part of, the inland bay or outer harbour for—
- (a) regulating use of the inland bay and the outer harbour and of any facilities provided there by the Development Corporation,
  - (b) preventing damage to property and injury to persons,
  - (c) preventing and removing obstructions,
  - (d) regulating the provision, maintenance and use of moorings and berths,
  - (e) regulating matters relating to vessels including, in particular—
    - (i) the use of vessels for particular purposes,
    - (ii) the speed and manner of navigation,
    - (iii) noise on board vessels or caused by their navigation,
    - (iv) the use of lights and signals,
    - (v) the launching and recovery of vessels,
    - (vi) the entry of vessels into, and their departure from, the inland bay, and
    - (vii) the embarkation and disembarkation of passengers,
  - (f) prohibiting or regulating discharges into water,
  - (g) regulating fishing (including prohibiting it at specified times or in specified areas),
  - (h) regulating water sports and other recreational activities (including prohibiting them at specified times or in specified areas),
  - (i) regulating or prohibiting the use of vehicles, and
  - (j) otherwise regulating the conduct of persons.
- (2) Byelaws made under this section may provide that a person who contravenes or fails to comply with a byelaw shall be guilty of an offence.
- (3) A person guilty of any such offence shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale, and
  - (b) in the case of a continuing offence, to a fine not exceeding £40 for each day on which the offence continues after conviction.
- (4) Before making any byelaw under this section the Development Corporation shall consult—



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- (a) any harbour authority (within the meaning of the <sup>M6</sup>Harbours Act 1964) which may be affected by the proposed byelaw,
- [<sup>F10</sup>(b) the South Glamorgan County Council,]
- (c) to the extent that the proposed byelaw would apply in the City of Cardiff, the Cardiff City Council, and
- (d) to the extent that it would apply in the Borough of the Vale of Glamorgan, the Vale of Glamorgan Borough Council.
- (5) Before making any byelaw under this section relating to discharges into water, fishing or water sports or other recreational activities, the Development Corporation shall consult [<sup>F11</sup>the Natural Resources Body for Wales].
- (6) In making a byelaw under this section the Development Corporation shall take account of the navigation requirements of pleasure craft and other vessels in, or passing to or from, the inland bay or the area seaward of the barrage.
- (7) Byelaws under this section may make different provision for different cases.
- (8) [<sup>F12</sup>Sections 236(3) to (8) and (11) and 238 of the <sup>M7</sup>Local Government Act 1972 (procedure for making, and confirmation and evidence of, byelaws) shall apply to byelaws under this section as if—
- (a) the Development Corporation were a local authority, and
- (b) the Chief Executive of the Development Corporation were the proper officer of that local authority.]
- (9) [<sup>F13</sup>The Secretary of State may by virtue of subsection (8) above (instead of confirming or refusing to confirm a byelaw under this section) confirm a byelaw under this section with such modifications as he thinks fit; and where the Secretary of State proposes to make a modification which appears to him to be material—
- (a) he shall inform the Development Corporation and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification, and
- (b) he shall not confirm the byelaw until the end of such period as he thinks reasonable for consideration of, and comment on, the proposed modification by the Development Corporation and other persons who have been informed of it.]
- (10) [<sup>F14</sup>The Secretary of State may cause an inquiry to be held in connection with the confirmation of byelaws under this section; and subsections (2) to (5) of section 250 of the <sup>M8</sup>Local Government Act 1972 shall apply to such an inquiry as if—
- (a) it were an inquiry held under that section, and
- (b) the Development Corporation were a local authority.]

#### Textual Amendments

- F10** S. 16(4)(b) omitted (E.W.)(1.4.1996) by virtue of S.I. 1996/525, art. 3, **Sch. Pt I para. 4(1)**
- F11** Words in s. 16(5) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 354** (with Sch. 7)
- F12** S. 16(8) omitted (E.W.) (31.3.2015) by virtue of [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), s. 22(2), **Sch. 2 para. 15**; S.I. 2015/1025, art. 2(r) (with art. 3)
- F13** S. 16(9) omitted (E.W.) (31.3.2015) by virtue of [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), s. 22(2), **Sch. 2 para. 15**; S.I. 2015/1025, art. 2(r) (with art. 3)



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**F14** S. 16(10) omitted (E.W.) (31.3.2015) by virtue of [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), s. 22(2), [Sch. 2 para. 15](#); S.I. 2015/1025, art. 2(r) (with art. 3)

#### Marginal Citations

**M6** 1964 c. 40.

**M7** 1972 c. 70.

**M8** 1972 c. 70.

## 17 Development Corporation as harbour authority.

On and after such date as the Secretary of State may direct—

- (a) the Development Corporation shall for the purposes of any enactment referring to harbour authorities (including any passed after this Act) be regarded as the harbour authority for the inland bay and the outer harbour, and
- (b) subject to the power of the Development Corporation to transfer the whole or any part of their undertaking, no other person shall for the purpose of any such enactment be regarded as the harbour authority for any part of the inland bay or outer harbour.

## 18 Application of harbours clauses.

- (1) Subject to subsection (2) below, the <sup>M9</sup>Harbours, Docks and Piers Clauses Act 1847, in so far as it is not inconsistent with the provisions of this Act, shall be incorporated with this Act.
- (2) Sections 6 to 23, 37 to 50, 60, 66 to 68 and 79 to 90 of that Act shall not be incorporated with this Act.
- (3) In its application by virtue of this section that Act shall have effect as if—
  - (a) references to the harbour, dock or pier were references to the inland bay and the outer harbour,
  - (b) “vessel” had the same meaning as in this Act,
  - (c) any provision referring to rates applied to charges imposed under section 15(1) (a), (b) or (e) above as if they were rates payable under this Act,
  - (d) in section 33 for the words “the harbour” onwards there were substituted the words “ all persons shall have access to the inland bay and the outer harbour in order to use them in accordance with the provisions of the special Act or of any byelaws made or licence granted under it ”,
  - (e) in section 63 for the words “liable to” onwards there were substituted the words “ guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale ”, and
  - (f) in section 69 for the words “shall forfeit” onwards there were substituted the words “ shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale ”.

#### Marginal Citations

**M9** 1847 c. 27.

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*Other provisions*

**19 Operation and management: supplementary.**

Schedule 6 to this Act, which contains supplementary provisions about the operation and management of the barrage, outer harbour and inland bay etc., shall have effect.

**20 The Cardiff Bay Advisory Committee.**

- (1) The Development Corporation shall establish a Committee to be known as the Cardiff Bay Advisory Committee.
- (2) The Committee shall consist of persons with an interest in, or representing persons or bodies with an interest in—
  - (a) the operation of the barrage,
  - (b) the management of the inland bay, or
  - (c) navigation in the inland bay or outer harbour.
- (3) The following bodies shall be represented on the Committee—
  - <sup>F15</sup>(a) the South Glamorgan County Council,
  - (b) the Cardiff City Council, and
  - (c) the Vale of Glamorgan Borough Council.
- (4) The Secretary of State may, after consultation with the Cardiff City Council and the Vale of Glamorgan Borough Council, direct the Development Corporation—
  - (a) that any person specified in the direction shall be a member of the Committee, or
  - (b) that any person or body so specified shall be represented on the Committee.
- (5) The Development Corporation shall, except where it is not reasonably practicable to do so, consult the Committee about any matter substantially affecting—
  - (a) the environment or amenities of the inland bay, or
  - (b) navigation in the inland bay or outer harbour.
- (6) The Development Corporation shall inform the Committee if the level of the water immediately behind the barrage falls below four metres above ordnance datum (Newlyn) otherwise than by reason of the operation of the barrage—
  - (a) for any of the purposes mentioned in section 7(3) above, or
  - (b) in order to comply with a direction given by <sup>F16</sup>the Natural Resources Body for Wales under] section 8 above.
- (7) The Committee may make to the Development Corporation representations relating to any matter affecting—
  - (a) the environment or amenities of the inland bay, or
  - (b) navigation in the inland bay or outer harbour,
 whether or not the Development Corporation have consulted the Committee about it.
- (8) The Development Corporation shall, in exercising any of their functions under this Act, take into account any representations made by the Committee under subsection (7) above.

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#### **Textual Amendments**

- F15** S. 20(3)(a) omitted (E.W.)(1.4.1996) by virtue of S.I. 1996/525, art. 3, **Sch. Pt. I para. 4(2)**
- F16** Words in s. 20(6)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 355** (with Sch. 7)

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There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993, Part III.