
STATUTORY INSTRUMENTS

2006 No. 2310

The Borough of Poole (Poole Harbour
Opening Bridges) Order 2006

PART 4

PROVISIONS RELATING TO TIDAL WORKS

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

30.—(1) A tidal work shall not be constructed, altered, replaced or re-laid except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.

(2) If a tidal work is constructed, altered, replaced or re-laid 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 the Council at its own expense to remove the tidal work 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 Council, it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice, or
- (b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work 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 Council.

Lights on tidal works

31.—(1) The Council shall, at or near a tidal work during the whole time of the construction, alteration, replacement or relaying 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 or the Commissioners or, failing agreement between them, the Secretary of State shall from time to time direct.

(2) If the Council fails to comply with any requirement of a direction given under paragraph (1), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Provision against danger to navigation

32.—(1) In the case of injury to, or destruction or decay of, a tidal work or any part thereof the Council shall as soon as reasonably practicable notify Trinity House and the Commissioners and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House or the Commissioners or, failing agreement between them, as Trinity House may from time to time direct.

(2) If the Council fails to notify Trinity House and the Commissioners as required by paragraph (1) or to comply with any requirement of a direction under it, the Council shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Abatement of works abandoned or decayed

33.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State or the Commissioners may by notice in writing require the Council at its own expense either to repair and restore the work or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as either of them thinks fit.

(2) Where—

- (a) 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
- (b) that part of the work on or over land above the level of high water is in such a 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 or the Commissioners may include that part of the work, or any portion thereof, in any notice under paragraph (1).

(3) If, at the end of 30 days from the date when a notice under this article is served upon the Council, it has failed to comply with the requirements of the notice, the Secretary of State or the Commissioners may execute the work specified in the notice and any expenditure incurred by either of them in so doing shall be recoverable from the Council.

Survey of tidal works

34. If either of them deems it expedient, the Secretary of State or the Commissioners may at any time 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 either of them in relation to any such survey and examination shall be recoverable from the Council.

Permanent lights on tidal works

35.—(1) After the completion of a tidal work the Council shall at the outer extremity thereof 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 or the Commissioners or, failing agreement between them, as Trinity House may from time to time direct.

(2) If the Council fails to comply in any respect with a direction given under this article, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Obstruction of authorised works and misuse of new bridge

36. Any person who without lawful authority or excuse—

- (a) obstructs another person from constructing any of the authorised works;
- (b) closes or opens the bridges; or
- (c) in any other way interferes with the bridges or their operation,

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

Removal of vessels

37.—(1) If it appears to the Council necessary or convenient to do so for the purposes of the construction or maintenance of the authorised works, or to enable vessels to navigate through the Back Water Channel, it may, having first consulted the harbour master, remove from within the designated area, any vessel that is—

- (a) sunk, stranded or abandoned; or
- (b) moored or laid up (whether lawfully or not),

either to another place within the designated area or to a place outside the designated area where it may without injury to the vessel be moored or laid.

(2) Before exercising the powers conferred by paragraph (1) the Council shall—

- (a) publish a notice of its intention to do so in Lloyd’s List and once in each of two successive weeks in a local newspaper published or circulating in the borough of Poole, with an interval between the dates of publication of not less than 6 clear days; and
- (b) display notice thereof in a conspicuous position adjacent to Back Water Channel.

(3) Each of the notices shall—

- (a) state the reason for requiring removal of any vessel from within that part of the designated area specified in the notice; and
- (b) specify a date, which shall be a date not earlier than one month after the last date on which a notice is published pursuant to paragraph (2)(a), by which all vessels must be removed from within that part of the designated area specified in the notice.

(4) If the owner or master of any vessel within the designated area does not remove that vessel from within the designated area before the date specified in accordance with paragraph (3)(b), the Council may, having first consulted the harbour master, cause that vessel to be removed.

(5) The Council may recover as a debt from the owner of any vessel removed pursuant to paragraph (4) all expenses incurred by the Council in respect of its removal.

Removal of obstructions

38.—(1) If any obstruction is caused to the operation of opening or closing the bridges by any object being left on the bridges, the person in charge of the object shall remove it forthwith; and if he fails to do so the Council may take all reasonable steps to remove the obstruction and may recover the expenses reasonably incurred in doing so from—

- (a) any person by whom the object was put or left so as to become an obstruction to the operation of the bridges; or
- (b) any person who was the owner of the object at that time unless he shows that he was not, at that time, concerned in or aware of the object being so put or left.

(2) Paragraph (1) shall not apply to any obstruction to passage over any part of the bridges which forms part of a highway which shall be subject to proceedings under either section 137 or 149 of the 1980 Act.