
STATUTORY INSTRUMENTS

2012 No. 1867

The Ipswich Barrier Order 2012

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

3.—(1) The Agency may—

- (a) construct and maintain the scheduled works; and
- (b) break out and remove such structures that are contained within the limits of deviation as may be necessary or expedient for or in connection with the construction or maintenance of the scheduled works.

(2) Subject to article 4 (power to deviate), the scheduled works may only be constructed in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (6), the Agency may carry out and maintain such of the following works as may be necessary or expedient for the purpose of, or for purposes ancillary, to the construction of the scheduled works, namely—

- (a) works for the strengthening, alteration or demolition, in whole or in part, of any building, structure or erection;
- (b) works for the removal or retention, with such modifications as the Agency sees fit, of the existing velocity control structure in the river;
- (c) works to alter the position of any street furniture or apparatus, including mains, sewers, drains, pipes, cables and lights;
- (d) works to alter the course of, or otherwise interfere with, watercourses;
- (e) landscaping, ecological and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works; and
- (f) facilities and works for the benefit or protection of land or premises affected by the authorised works.

(4) Subject to paragraph (6) the Agency may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works.

(5) Where the Agency lays down conduits for the accommodation of cables or other apparatus for the purposes of or associated with the authorised works it may provide in, or in connection with, such conduits, accommodation for the apparatus of any other person, and manholes and other facilities for access to such accommodation, and may permit the use of such conduits and facilities on such terms and conditions as may be agreed between it and such other person.

(6) Paragraphs (3) and (4) only authorise the carrying out or maintenance of works within the limits of deviation.

(7) Section 9 of the Salmon and Freshwater Fisheries Act 1975(1) does not apply to the construction of the authorised works or to their alteration.

Commencement Information

I1 Art. 3 in force at 7.8.2012, see [art. 1](#)

Power to deviate

4.—(1) Subject to paragraph (2), in constructing or maintaining any of the scheduled works the Agency may modify the design, as shown on the works plans and sections, of the scheduled works and deviate—

- (a) laterally from the lines or situations shown on the works plans to any extent within the limits of deviation; and
- (b) vertically from the levels shown on the sections to any extent upwards or downwards.

(2) The scheduled works must be so constructed that the unobstructed opening between the walls of the barrier, as shown on the works plans and sections, is not less than 20 metres wide.

(3) Nothing in paragraph (3) or paragraph (4) of article 3 (power to construct and maintain works) authorises the Agency to execute any works in contravention of the restrictions imposed by paragraph (2) of this article.

Commencement Information

I2 Art. 4 in force at 7.8.2012, see [art. 1](#)

Streets and rights of way

Power to execute street works

5.—(1) The Agency may, for purposes ancillary to the authorised works, enter upon so much of any existing path or street as is within the limits of deviation and may—

- (a) break up or open the path or street, or any sewer, drain, or tunnel under it, or tunnel or bore under the path or street;
- (b) place apparatus in the path or street;
- (c) maintain apparatus in the path or street or change its position; and
- (d) execute works required for or incidental to any works referred to in sub-paragraph (a), (b) or (c).

(2) In this article, “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Commencement Information

I3 Art. 5 in force at 7.8.2012, see [art. 1](#)

Extinguishment and diversion of rights of way

6.—(1) On the completion and coming into operation of the barrier, whichever is the later, any existing or alleged path or street within the limits of deviation is stopped up and all rights of way then existing within the limits of deviation, including unless otherwise agreed to by the Agency any private right of way but excluding any right of navigation along the river or through the Wet Dock Lock, are extinguished.

(2) Paragraph (1) does not apply to so much of Ship Launch Road as is a public highway.

(3) Paragraph (1) does not apply to the proposed public footpath 40, to the restricted byway 36, proposed restricted byway 37 or to byway 38 shown between the points marked K and N on the rights of way maps but the Agency may—

- (a) stop up that part of byway 38 hatched blue on the rights of way maps; and
- (b) divert byway 38 as shown on the rights of way maps through the proposed flood gate as built (and shown between the points marked D1 and D2 on those maps), in consequence of which the restricted byway will be narrower than otherwise provided for between those points.

(4) Paragraph (1) does not apply to any alleged right of way which is both shown on the rights of way maps and referred to in column 1 of Part 1 of Schedule 2 if the alleged right of way has been dedicated, prior to the completion and coming into operation of the barrier, whichever is the later, as a right of way but the Agency may then stop up and divert it as described in column 2 of Part 1 of Schedule 2 and shown on the rights of way maps.

(5) Any stopping up or diversion authorised by paragraph (3) or (4) has no effect until the highway authority is satisfied that the diversion has been completed in accordance with its reasonable requirements and is open for public use or, in the case of any difference between the Agency and the highway authority as to whether the highway authority's requirements are reasonable, until the matter in dispute has been determined by arbitration.

(6) If byway 38 or any other right of way is diverted through the flood gate as shown on the rights of way maps, the Agency may from time to time close the floodgate across such rights of way.

(7) Where a path or street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) the Agency may appropriate and use for the purposes of the authorised works so much of the site of the path or street as is bounded on both sides by land owned by the Agency.

(8) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Commencement Information

I4 Art. 6 in force at 7.8.2012, see [art. 1](#)

Temporary stopping up of streets

7.—(1) The Agency, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any existing or alleged path or street and may for any reasonable time—

- (a) divert the traffic from the path or street;
- (b) subject to paragraph (2), prevent all persons from passing along the path or street; and
- (c) use the stopped up parts of the path or street as a temporary working site.

(2) The Agency must provide—

- (a) reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access; and
- (b) such reasonable access for A.B. Ports as may be required for the purposes of its dock undertaking as may be agreed with the Agency, such agreement not to be unreasonably withheld.

(3) Without limitation on the scope of paragraph (1), the Agency may exercise the powers conferred by this article in relation to the existing or alleged paths or streets specified in columns (1) and (2) of Part 2 of Schedule 2 (diversion of possible rights of way) to the extent specified, by reference to the letters and numbers shown on the rights of way maps.

(4) The Agency must not exercise the powers conferred by this article—

- (a) in relation to byway 38 without providing for the duration of the temporary stopping up and to the reasonable satisfaction of the highway authority a 3 metre wide path between the point marked K on the rights of way maps and Bath Street;
- (b) in relation to any other path or street specified as mentioned in paragraph (3) without first consulting the highway authority and where a temporary diversion is specified in column (3) of Part 2 of Schedule 2, without the diversion being first completed to the reasonable satisfaction of the highway authority and opened for use; and
- (c) in relation to any other path or street without the consent of the street authority (within the meaning given in Part 3 of the 1991 Act) which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Commencement Information

I5 Art. 7 in force at 7.8.2012, see [art. 1](#)

Supplementary powers and provisions

Power to dredge etc.

8.—(1) The Agency may deepen, dredge and remove obstructions from the bed, foreshore and banks of, the river—

- (a) for the purposes of the construction, operation or maintenance, of the scheduled works; or
- (b) for the purpose of facilitating the navigation of vessels.

(2) The powers conferred by this article are only exercisable with the prior written consent of A.B. Ports, such consent not to be unreasonably withheld.

(3) The Agency must pay compensation to all persons for any damage sustained by them by reason of the exercise by the Agency of its powers under paragraph (1) and the amount of the compensation to be paid, where not agreed, is to be determined by the tribunal.

(4) The Agency may use, appropriate or sell or otherwise dispose of anything (other than wreck within the meaning of Part 9 of the Merchant Shipping Act 1995⁽²⁾) removed in exercise of the power conferred in paragraph (1).

(2) 1995 c. 21.

Commencement Information

I6 Art. 8 in force at 7.8.2012, see [art. 1](#)

River not to be a reservoir

9. Regardless of the provisions of subsection (2) of section 1 of the Reservoirs Act 1975(3), no part of the river as is impounded by the scheduled works is, by virtue of the retention of water by means of the scheduled works, to be taken to be a reservoir for the purposes of that Act.

Commencement Information

I7 Art. 9 in force at 7.8.2012, see [art. 1](#)

Agreements with owners of land and others for construction of works

10.—(1) The Agency may enter into and carry into effect agreements or arrangements with A.B. Ports and the owners of, or other persons interested in, any land in or through which any of the authorised works are or may be constructed, or the drainage of which may be affected by the construction of any of the authorised works, for or with respect to the doing of anything which may be necessary in order to carry out, or in consequence of, the authorised works.

- (2) Without limitation on the scope of paragraph (1), any such agreement may provide for—
- (a) the payment by the Agency of, or the making of contributions by it towards, the cost incurred, or to be incurred, by A.B. Ports and any such owners or other persons in or in connection with the doing of any such thing; or
 - (b) the payment by the Agency of compensation for any injury suffered or loss incurred by A.B. Ports and any such owners or other persons by reason or in consequence of the execution by the Agency of the authorised works, or entry upon land.

Commencement Information

I8 Art. 10 in force at 7.8.2012, see [art. 1](#)

Temporary closing of river in connection with works

11.—(1) Regardless of anything in any other enactment or in any rule of law, the Agency may temporarily close the river or any part of it within the limits of deviation, to navigation during or for the purposes of executing any works or doing anything authorised by or under this Order.

(2) In exercising the powers conferred by this article, the Agency must seek to minimise interference with navigation on the river so far as is reasonably practicable and consistent with the efficient and economical execution of the works.

(3) The Agency must not exercise the powers conferred by paragraph (1) so as to preclude access from the river to the Wet Dock without the consent of A.B. Ports (such consent not to be unreasonably withheld).

(4) Subject to paragraph 10 of Schedule 7 (protection of A.B. Ports) neither the Agency nor A.B. Ports is to be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of any closure of the river under paragraph (1).

Commencement Information

I9 Art. 11 in force at 7.8.2012, see [art. 1](#)

Diversion of flow of water

12. The Agency may by means of the authorised works divert, intercept, stop up or otherwise interfere with the waters of, or the flow of water in, the river.

Commencement Information

I10 Art. 12 in force at 7.8.2012, see [art. 1](#)

Power to take, pump, impound and discharge water

13.—(1) The Agency may take, impound and use water from, and discharge water into, the river, and may pump any water required by it from or into the river or pump any water found by it into the river or into any watercourse, public sewer, or drain in connection with the construction or maintenance of the authorised works and for those purposes may lay down, take up and alter conduits, pipes and other works and conveniences and may, on any land within the limits of deviation, make openings into, and connections with, the river, or any watercourse, public sewer or drain.

(2) Any dispute arising from the exercise of the powers conferred by paragraph (1) to connect to or use a public sewer or drain is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(4).

(3) The Agency must not, in exercise of the powers conferred by this article—

- (a) discharge any water into any public sewer or drain except with the consent (which is not to be unreasonably withheld) of the person to whom it belongs and subject to such terms and conditions as that person may reasonably impose; and
- (b) make any opening into any public sewer or drain except in accordance with plans reasonably approved by and under the superintendence (if provided) of the person to whom the sewer or drain belongs.

(4) Nothing in this articles obviates the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(5).

(5) The Agency must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain in exercise of the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(6) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Agency, a harbour authority within the meaning of the Harbours Act 1964(6), an internal drainage board, a local authority, or a joint planning board; and

(4) 1991 c. 56.

(5) S.I. 2010/675.

(6) 1964 c. 40.

- (b) other expressions except “watercourse” used both in this article and in the Water Resources Act 1991(7) have the same meaning as in that Act.

Commencement Information

I11 Art. 13 in force at 7.8.2012, see [art. 1](#)

Application of docks legislation

14. Section 32 of the Ipswich Dock Act 1852(8) (obligations in respect of works authorised by the Ipswich Dock Act 1837) has effect subject to the provisions of this Part.

Commencement Information

I12 Art. 14 in force at 7.8.2012, see [art. 1](#)

(7) 1991 c. 57.
(8) 1852 c. cxvi.

Changes to legislation:

There are currently no known outstanding effects for the The Ipswich Barrier Order 2012, PART 2.