
STATUTORY INSTRUMENTS

2013 No. 648

The Hinkley Point C (Nuclear Generating Station) Order 2013

PART 2

Provisions relating to temporary jetty works

Preliminary

Interpretation of Part 2

49. In this Part—

“the 1845 Act” means the Bridgwater Navigation and Quays Act 1845(1);

“the 1847 Act” means the Harbours, Docks and Piers Clauses Act 1847(2);

“area of seaward construction activity” means the area of the sea within the Order limits shown on the works plan;

“Bridgwater Harbour Authority” means Sedgemoor District Council in its capacity under the 1845 Act as the harbour authority for the Port of Bridgwater;

“general direction” means a direction given by the undertaker under article 72 (general directions to vessels);

“harbour” means the harbour as comprised within the harbour limits to be constructed by the undertaker in pursuance of the powers conferred on it by this Order, and all other works, land, buildings, ancillary works, plant, property and conveniences connected with it, as from time to time existing within the harbour limits;

“harbour limits” means the limits of the harbour as specified in article 58;

“harbour master” means the person appointed as such by the undertaker and includes that person’s deputies and assistants and any other person for the time being authorised by the undertaker to act, either generally or for a specific purpose, in the capacity of harbour master;

“Harbour Master for the Port of Bridgwater” means the person appointed by Bridgwater Harbour Authority to carry out the functions of a water bailiff under section 50 of the 1845 Act and known as the Harbour Master for the Port of Bridgwater;

“the harbour undertaking” means the harbour undertaking of the undertaker as authorised from time to time;

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

“level of low water” means the level of mean low water neaps;

(1) 1845 c.1xxxix.

(2) 1847 c. 27. Sections 24, 94 and 95 were repealed by the Statute Law (Repeals) Act 1993 (c. 50); section 26 was repealed by section 56(4) of, and Schedule II to, the Courts Act 1971 (c. 23); section 28 was amended by section 141of and Schedule 11 to, the Post Office Act 1969 (c. 48); sections 54, 67 and 98 were amended by section 46 of the Criminal Justice Act 1982 (c. 48); section 71 was amended by S.I 1987/37; section 91 was repealed by the Statute Law Revision Act 1894 (c. 56); section 93 was repealed by the Statute Law Revision Act 1875 (c. 66); and section 96 was repealed by the Perjury Act 1911 (c. 6), section 17. There are other amendments to the 1847 Act which are not relevant to this Order.

“master” in relation to a vessel means any person for the time being having or taking the command, charge or management of the vessel;

“ordnance datum” means the datum line or mean sea level to which all heights are referred in the Ordnance Survey;

“Port of Bridgwater” means the port known as the Port of Bridgwater comprised within the area defined as the Navigation in section 101 of the 1845 Act;

“special direction” means a direction given by the harbour master under article 73 (special directions to vessels);

“temporary jetty” means Work Nos. TJ1, TJ2 and TJ3;

“temporary jetty harbour empowerment order” means the Hinkley Point Harbour Empowerment Order 2012(3);

“tidal work” means so much of any work authorised by this Order 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; and

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water.

Commencement of Part 2

50.—(1) Subject to paragraph (4), this Part, except for this article and article 49, shall not have effect until—

- (a) the date on which a notice is served under this article by the undertaker on West Somerset District Council and the Marine Management Organisation; or
- (b) one year from the relevant date,

whichever is earlier.

(2) In paragraph (1) “the relevant date” means—

- (a) the date on which this Order comes into force; or
- (b) where the making of this Order becomes the subject of any statutory challenge proceedings or judicial review proceedings, the date on which any such proceedings have been finally determined,

whichever is later.

(3) For the purposes of this article—

- (a) statutory challenge proceedings are finally determined—
 - (i) when the court has given judgement in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
 - (ii) when any appeal is finally determined; and
- (b) proceedings by way of judicial review are finally determined—
 - (i) when permission to bring a claim for judicial review has been refused and no further application can be made;
 - (ii) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or

(iii) when any appeal is finally determined.

(4) In the event that the temporary jetty harbour empowerment order is quashed, this Part shall have immediate effect.

Duration of temporary jetty powers

51.—(1) After the closure date determined in accordance with article 82 (closure of the jetty and reinstatement) and the completion of the works required by that article, the undertaker shall appoint by resolution a date on which this Part shall cease to have effect.

(2) Except as provided in article 83 (saving for termination of Part 2) this Part shall cease to have effect on that date.

(3) Before appointing a date under paragraph (1), and not less than 28 days before the date proposed to be appointed, the undertaker must publish in Lloyd's List newspaper and in at least one local newspaper circulating in the district of West Somerset a notice containing a copy of the resolution proposed to be passed by the undertaker appointing that date.

Effect of Order on temporary jetty harbour empowerment order

52.—(1) The undertaker shall continue to exercise jurisdiction as the harbour authority, and the powers of the harbour master shall continue to be exercisable, only in respect of so much of the harbour constituted by the temporary jetty harbour empowerment order as lies within the harbour limits.

(2) The provisions of this Part shall apply instead of the provisions of the temporary jetty harbour empowerment order.

(3) The temporary jetty harbour empowerment order shall cease to have effect and, in particular—

(a) the undertaker shall cease to exercise any of the powers conferred by article 4 (power to construct works) or 7 (subsidiary works) of the temporary jetty harbour empowerment order; and

(b) all conditions imposed by the temporary jetty harbour empowerment order shall cease to be enforceable.

(4) Any development carried out under any of the powers conferred by article 4 or 7 of the temporary jetty harbour empowerment order which does not comply with the requirements may be subject to enforcement action as if it had been carried out under this Order.

(5) Any byelaw made, direction given or other thing done under, or for the purposes of, a provision of the temporary jetty harbour empowerment order shall continue to have effect as if it had been made, given or done under, or for the purposes of, the corresponding provision of this Order.

(6) In the event that the temporary jetty harbour empowerment order is quashed—

(a) paragraphs (1) to (5) shall cease to have effect; and

(b) paragraph 46 of the First Schedule of the agreement between NNB Generation Company Limited and West Somerset District Council dated 2nd December 2011 and known as the HEO bilateral agreement shall be abrogated in its entirety.

Incorporation of the Harbours, Docks and Piers Clauses Act 1847

53.—(1) With the exception of sections 4, 6 to 23, 25, 27, 31, 32, 33, 36, 40 to 50, 52, 53, 59, 60 to 63, 66 to 71, 79 to 90, 92 and 97 to 102, the 1847 Act is incorporated in this Order subject to the modifications stated in paragraphs (2) and (3).

(2) Section 34 (collector may enter vessels to ascertain rates payable) shall have effect subject to the insertion after the word “may” of the words “(on production if so required, of a duly authenticated document showing his authority)”.

(3) 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 49(1)(interpretation of Part 2); and
- (g) the definition of “vessel” in article 49(1) shall be substituted for the definition in section 3 of the 1847 Act (interpretation).

(4) All fines and forfeitures recoverable under the provisions of the 1847 Act as incorporated within this Order may be recovered summarily.

Principal powers

Development consent etc. for temporary jetty works

54.—(1) Subject to the requirements and the other provisions of this Order, the undertaker is granted development consent for so much of the temporary jetty works as are development within the meaning of section 32 of the 2008 Act.

(2) Subject to article 55 (power to deviate), Work Nos. TJ1, TJ2 and TJ3 shall be carried out in the lines and situations shown on sheet nos. 7, 8 and 9, and in accordance with the levels shown on sheet no. 10.

(3) The undertaker may, for the purposes of the temporary jetty works authorised by paragraph (1), remove any vegetation or other objects or materials lying within the limits of deviation for Work Nos. TJ1, TJ2 and TJ3 shown on the works plans.

Power to deviate

55.—(1) In carrying out Work Nos. TJ1, TJ2 and TJ3, the undertaker may deviate vertically from the levels of the works as shown on the sections shown on the works plans to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

(2) In carrying out Work Nos. TJ1 and TJ2, the undertaker may deviate laterally from the lines or situations shown on the works plan to any extent not exceeding 5 metres in any direction.

(3) In carrying out Work No. TJ3, the undertaker may—

- (a) as respects so much of the work as lies between the commencement of the work and the line showing mean high water on sheet no. 9, deviate laterally from the lines or situations shown on the works plan to any extent not exceeding the limits of deviation shown on sheet no. 9; and
- (b) as respects so much of the work as lies between the line showing mean high water on sheet no. 9 and the termination of the work, deviate laterally from the lines or situations shown on sheet no. 9 to any extent not exceeding 5 metres in any direction.

Further powers as to works and extinguishment of rights

56.—(1) The undertaker may, in connection with the construction of the temporary jetty works—

- (a) enclose or reclaim from the foreshore and bed of the sea; and
- (b) hold and use as part of Work No. TJ1,

so much of the foreshore and bed of the sea as is situated within the limits of deviation and is required for, or in connection with, the construction of those 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 shall be extinguished.

Period for completion of works and termination of works powers

57.—(1) If the temporary jetty works are not completed within ten years from the coming into force of this Order or such extended period as the Secretary of State may on the application of the undertaker allow, then on the expiration of that period or such extended time (as the case may be) the rights granted to the undertaker by this Order for constructing and operating the works shall cease to have effect except in relation to so much of the works as have by then been commenced by the carrying out of a material operation within the meaning of section 56(4) of the 1990 Act.

(2) Nothing in paragraph (1) shall apply to any works carried out under article 59 (maintenance of temporary jetty works) or article 60 (subsidiary works).

(3) Notwithstanding paragraphs (1) and (2), on the closure date determined in accordance with article 82 any powers conferred on the undertaker still existing for constructing, maintaining and operating the temporary jetty shall cease to have effect, except in so far as required for the implementation of that article and the application of the requirements relating to that article.

Limits of harbour

58.—(1) The limits of the harbour within which the undertaker shall exercise jurisdiction as the harbour authority and within which the powers of the harbour master shall be exercisable shall be the seaward and the landward areas described in Schedule 16 (limits of harbour), the seaward area of which is shown, for the purpose of identification only, edged by a green broken line referred to as the temporary jetty seaward harbour limits on sheet no. 6.

(2) In the event that there is any discrepancy between the description of the seaward area in Schedule 16 and the area shown on sheet no. 6, the description shall prevail.

Maintenance of temporary jetty works

59. The undertaker may at any time maintain the temporary jetty works and from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently a work described in Part 2 of Schedule 1 (temporary jetty works) within the limits of deviation provided for that work under article 55 and may maintain and operate that work as altered, enlarged, replaced, relayed, extended or reconstructed, except to the extent that this Order provides otherwise.

Subsidiary works

60.—(1) Subject to paragraph (3), the undertaker may from time to time within the limits of deviation for Work Nos. TJ1, TJ2 and TJ3 shown on sheet nos. 7 to 9 provide and operate such harbour facilities, together with works ancillary to those facilities, as may be necessary or convenient for the construction or maintenance of or the operation of the temporary jetty, and for this purpose the undertaker may construct, maintain and operate roads, buildings, sheds, offices, workshops, depots, walls, foundations, fences, gates, tanks, pumps, conduits, pipes, drains, wires,

mains, cables, electrical substations, signals, conveyors, cranes, container handling equipment, lifts, hoists, lighting columns, weighbridges, stairs, ladders, stages, platforms, catwalks, equipment, machinery and appliances and such other works and conveniences (including levelling, raising and lowering of surfaces) as may be necessary or expedient.

(2) Subject to paragraph (3), the undertaker may within the limits of deviation for Work Nos. TJ1, TJ2 and TJ3 shown on sheet nos. 7 to 9 carry out, maintain and operate such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance or use of the temporary jetty works including—

- (a) works for the accommodation or convenience of vessels (including dolphins, mooring posts, buoys and pontoons) or for the loading and unloading of goods and the embarking and landing of personnel; and
- (b) works to alter the position of apparatus, including mains, sewers, drains, pipes, conduits, cables, electrical substations and electrical lines.

(3) Electrical works, mechanical works or equipment constructed, maintained or used pursuant to the powers conferred by this article, shall be so constructed, maintained or used, that any electricity generated, conveyed or used by, in or in connection with them does not cause interference (whether by induction or otherwise) with any telecommunications apparatus or with telecommunication by means of such apparatus.

Obstruction of work

61. Any person who—

- (a) intentionally obstructs any person acting under the authority of the undertaker in setting out the lines of, or in constructing, the temporary jetty works; or
- (b) without reasonable excuse interferes with, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out,

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

Supplemental powers

Right to dredge

62.—(1) The undertaker may, for the purposes of constructing, maintaining and operating the temporary jetty works and of affording access to the temporary jetty works by vessels, from time to time deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of Bridgwater Bay as lie within the harbour limits and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part 9 of the Merchant Shipping Act 1995⁽⁴⁾ (salvage and wreck)) from time to time dredged by them.

(2) No such materials shall be laid down or deposited—

- (a) in contravention of the provisions of any enactment as respects the disposal of waste; or
- (b) in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Marine Management Organisation.

(4) 1995 c. 21. Section 232(2) was amended by section 29(1) of, and paragraph 14 of Schedule 6 to, the Merchant Shipping and Maritime Security Act 1997 (c. 28); section 233 was amended by section 21, and section 240 by section 22, of the 1997 Act.

Abatement of works abandoned or decayed

63.—(1) Where a tidal 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 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 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 shall be recoverable from the undertaker.

Survey of tidal works

64. If the Secretary of State considers it expedient to do so, the Secretary of State may order a survey and examination of a tidal 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 shall be recoverable from the undertaker.

Lights on tidal works etc. during construction

65. The undertaker shall at or near—

- (a) any tidal work, including any temporary work; or
- (b) any plant, equipment or other obstruction placed, in connection with any authorised development or any work authorised by article 60 (subsidiary works), 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

66. In case of damage to, or destruction or decay of, a tidal work or any part of it, the undertaker shall as soon as reasonably practicable notify Trinity House and Bridgwater Harbour Authority and shall 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 tidal works

67. After the completion of a tidal work the undertaker shall 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.

68.—(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).

(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 Part 17 of Schedule 2 (development by statutory undertakers) to, the 1995 Order,

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

Harbour Regulations

Byelaws

69.—(1) The undertaker may from time to time make byelaws for the efficient management and regulation of 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) 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.
- (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) relate to the whole of the harbour or to any part of the harbour;
 - (c) make different provision for different parts of the harbour or in relation to different classes of vessels or vehicles.
- (4) Before making any byelaw to regulate vessels using the harbour, the undertaker shall first obtain approval from the Secretary of State for Defence.

Confirmation of byelaws

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

(2) At least one month 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 shall be open to inspection shall be published as follows—

- (a) once in the London Gazette; and
- (b) once in each of two successive weeks in a local newspaper circulating in the district of West Somerset.

(3) Not later than the first date on which the notice under paragraph (2) is published, the undertaker shall send a copy of the notice to the Chief Executive Officer of West Somerset District Council, to the Harbour Master for the Port of Bridgwater and to the Secretary of State.

(4) During a period of at least one month before application is made for confirmation of the byelaws, a copy of the byelaws shall be kept by the undertaker at the office of the harbour master and shall at reasonable hours be open to public inspection without payment.

(5) The undertaker shall 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 one month 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 shall 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 shall 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 shall be printed and deposited by the undertaker at the office of the harbour master and shall at all reasonable hours be open to public inspection without payment, and a copy of the byelaws shall on application be furnished to any person on payment of such reasonable sum as the undertaker may determine.

General directions to vessels

71.—(1) Subject to paragraph (4), the undertaker may give directions, or revoke or amend directions that it has previously given, for the purpose of—

- (a) designating areas, routes or channels in the harbour and the approaches to the harbour 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.

(2) Directions given 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 times designated in the direction,

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

(3) Any direction given by the undertaker under this article shall not apply in relation to any part of the Port of Bridgwater.

(4) Before giving a direction, or revoking or amending a direction previously given, under paragraph (1), the undertaker shall consult the Secretary of State for Defence, Bridgwater Harbour Authority, the Royal Yachting Association and the Chamber of Shipping (that is, the trade association for the United Kingdom shipping industry incorporated under that name as a company limited by guarantee).

Publication of general directions

72.—(1) Notice of the giving of a general direction or of any amendment or revocation of a general direction shall, except in case of emergency, be published by the undertaker as soon as practicable once in Lloyd's List newspaper or some other newspaper specialising in shipping news; and, if the notice relates to the giving or amendment of a direction, the notice shall 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.

Special directions to vessels

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

- (a) requiring any vessel anywhere within the harbour or the approaches to 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 shall 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) Any special direction given by the harbour master under this article shall not apply in relation to any part of the Port of Bridgwater.

(4) The harbour master may revoke or amend a special direction.

Master's responsibility to be unaffected

74. The giving of a general direction or a special direction shall 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

75. The master of a vessel who fails without reasonable excuse to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Enforcement of special directions

76.—(1) Without prejudice to any other remedy available to the undertaker, if a special direction is not complied with within a reasonable time the harbour master may, where practicable, put persons on board the vessel to carry out the direction or may 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 shall not do so unless, after reasonable inquiry has been made, the master of the vessel cannot be found.

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

Charges

77.—(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.

Miscellaneous and general

Use of temporary jetty

78. The undertaker shall only use the temporary jetty for the purposes of, or in connection with, the construction of nuclear energy related facilities at Hinkley Point C, Somerset.

Saving for Trinity House

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

Application and termination of permitted development rights

80.—(1) Article 3 of, and Class B of Part 17 of Schedule 2 to, the 1995 Order (which permit certain development carried out by harbour authorities) shall not permit the undertaker to carry out any of the kinds of development specified in Class B.1 of Part 17, even if they are wholly within the limits of a dock, pier or harbour.

(2) Article 3 of the 1995 Order shall not permit the undertaker to carry out the development described in Class D of Part 17 of Schedule 2 to the 1995 Order (use of land by statutory undertakers for the spreading of dredged material).

(3) In their application to development which is not authorised under this Order and is carried out on land which falls to be treated as operational land of the undertaker in respect of its undertaking by virtue of this Order and is within the harbour limits, article 3 of, and Part 17 of Schedule 2 to, the 1995 Order shall have effect as if the planning permission granted by the 1995 Order were subject to the requirements.

(4) Notwithstanding paragraph (3), on the closure date determined under article 82, any planning permission granted by the 1995 Order still existing shall cease to have effect in respect of the development mentioned in paragraph (3), except in so far as required for the implementation of that article and the application of the requirements relating to that article.

For the Protection of the Environment Agency (Part 2)

81.—(1) Paragraph (2) shall have effect unless otherwise agreed in writing between the undertaker and the Environment Agency.

(2) Notwithstanding article 55 no part of any works falling within the descriptions set out in the following sub-paragraphs shall be constructed, carried out or installed (as the case may be) below the corresponding level above ordnance datum specified in each sub-paragraph—

- (a) any soffits of the temporary jetty head comprised within, or associated with, Work No. TJ1, 10.1 metres above ordnance datum;
- (b) the surface level of the temporary jetty head at the termination of Work No. TJ1, 11.6 metres above ordnance datum; and
- (c) the temporary jetty surface elevation of the bankseat and the commencement of Work No. TJ1, 19.0 metres above ordnance datum.

Closure of jetty

82.—(1) In this article the closure date is—

- (a) 31st December 2025;
- (b) such later date as the Secretary of State may on the application of the undertaker appoint; or
- (c) such other date as is appointed under paragraph (3).

(2) On or before the closure date, the undertaker shall cease all operations in respect of the temporary jetty except to comply with this article, and after that date shall, as soon as reasonably practicable, dismantle, demolish and remove (so far as constructed) the whole of the temporary jetty and all of the temporary jetty works or works authorised by article 3 of, and Part 17 of Schedule 2 to, the 1995 Order and associated with the temporary jetty that are in, on, under or over tidal water or tidal lands below the level of high water except for—

- (a) those parts of the temporary jetty and works on the ground lying at the level of, or under the ground;
- (b) those parts of the temporary jetty or works in the sea below the level of low water lying at the level of, or under, the bed of the sea; or
- (c) any hardstanding on which any part of the temporary jetty may be constructed.

(3) If the temporary jetty is no longer required by the undertaker for the construction of Work No. 1A, the undertaker shall as soon as practicable by resolution appoint a closure date.

(4) Not less than 28 days before a closure date proposed to be appointed by resolution of the undertaker under paragraph (3), the undertaker shall publish in Lloyd’s List newspaper and in at least one local newspaper circulating in the district of West Somerset a notice containing a copy of the resolution proposed to be passed by the undertaker appointing that date.

Saving for termination of Part 2

83.—(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 51 (duration of temporary jetty powers), so far as relating to the harbour or any part of the harbour (whether or not relating also to a part of the Port of Bridgwater), 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.