STATUTORY INSTRUMENTS

1973 No. 252

HARBOURS, DOCKS, PIERS AND FERRIES

The British Steel Corporation (Porton Wharf) Empowerment Order 1972

Made - - -	*5th December* 1972
Laid before Parliament	19*th December* 1972
Coming into Operation	13*th February* 1973

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The Secretary of State for the Environment in exercise of the powers conferred by section 16 of the Harbours Act 1964(a) and now vested in him(b) and of all other powers enabling him in that behalf and on the application of the British Steel Corporation hereby makes the following Order:—

(a) 1964 c. 40. (b) S.I. 1970/1681 (1970 III, p. 5551).

Citation and commencement

1. This Order may be cited as the British Steel Corporation (Porton Wharf) Empowerment Order 1972 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(**a**).

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:—

"the Act of 1847" means the Harbours, Docks and Piers Clauses Act 1847(**b**);

"the Corporation" means the British Steel Corporation;

"the deposited plan" and "the deposited sections" mean respectively the plan and sections prepared in triplicate, signed by an Assistant Secretary in the Department of the Environment and marked respectively "Plan (and "Sections") referred to in the British Steel Corporation (Porton Wharf) Empowerment Order 1972", one copy of which is deposited and available for inspection at the offices of the Corporation, and copies of which have been deposited at the offices of the Secretary of State for the Environment and the Secretary of State for Trade and Industry;

"hovercraft" has the same meaning as in the Hovercraft Act 1968(**c**);

"hydrofoil vessel" means a vessel, however propelled, designed to be supported on foils;

"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;

"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;

"vessel" means every description of vessel, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water, and a seaplane on or in the water, a hovercraft and a hydrofoil vessel;

"the wharf" means the works authorised by article 4 (Power to construct etc. works) of this Order;

"the works" means the works authorised by this Order, and includes any part of those works.

(2) The Interpretation Act 1889(**d**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) In this Order, all distances and other dimensions, and points, stated in any description of works, powers or land shall be construed as if the words "or thereabouts" were inserted after the reference to each such distance, dimension or point.

(4) Except where the context otherwise requires, any reference in this Order to an enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by any subsequent enactment, including this Order.

(**a**) 9 & 10 Geo. 6. c. 18; 1965 c. 43.
(**b**) 1847 c. 27.
(**c**) 1968 c. 59.
(**d**) 1889 c. 63.

Incorporation of enactments

3. The provisions of the Act of 1847 (except sections 6 to 20, 22, 23, 25, 26, 33, 49, 50, 67, 79 to 82, 97 and 98) so far as applicable for the purposes of and not inconsistent with or varied by the provisions of this Order, are hereby incorporated with and form part of this Order:

Provided that—

(i) the expression "the harbour dock or pier" where used in the provisions so incorporated means the wharf;

(ii) the expression "the harbour master" where so used means the person for the time being authorised by the Corporation to manage the wharf;

(iii) the expression "the prescribed limits" where so used means a distance of 500 yards from any part of the wharf over tidal waters;

(iv) the expression "the Special Act" where so used means this Order;

(v) section 52 of the Act shall extend to empower the harbour master to give directions prohibiting the mooring of vessels within the prescribed limits and in construing the said Act as so incorporated the expression "vessel" shall have the meaning assigned to it by article 2 (Interpretation) of this Order;

(vi) section 53 of the Act shall not be construed to require the harbour master to serve notice in writing of his directions upon the master of a vessel and such directions may be given orally or otherwise communicated where it is not reasonably practicable to serve written notice on the master;

(vii) section 63 of the Act shall have effect as if the words "and a further sum of twenty shillings for every hour that such vessel shall remain within the limits aforesaid, after a reasonable time for removing the same has expired after such requisition" were omitted therefrom;

(viii) section 69 of the Act shall have effect as if the words "for every hour such combustible thing shall remain in any such place as aforesaid after the expiration of two hours from the service of the said notice" were omitted therefrom;

(ix) the powers of the harbour master shall be exercised with respect to vessels going to, moored at or departing from the wharf and shall not be exercised so as to affect other vessels navigating or at anchor unless such vessels shall obstruct the access to the wharf;

Power to construct etc. works

4.—(1) Subject to the provisions of this Order the Corporation may within the limits of deviation, in the lines and situations shown on the deposited plan and on the levels shown on the deposited sections, construct and maintain the works authorised by this article.

(2) The works authorised by this article are the following works in the Severn Estuary and on the bed, banks and shores thereof, adjacent to Field No. 5100 shown on the Ordnance Survey Sheet of Monmouthshire (Sheet Number ST 3982) that is to say:—

A wharf of solid construction connected to an existing access road belonging to the Corporation, the said wharf being 25 feet wide at its commencement widening to 40 feet, having a base width varying between 70 feet and 100 feet, commencing at a point (Grid reference ST 3963

8288) in the sea wall in the parish of Goldcliff in the rural district of Magor and St. Mellons in the county of Monmouthshire 810 yards north-east of Porton House and extending 630 feet in a southerly direction, curving south-westerly and terminating 390 feet south of the south-western boundary of the said Field No. 5100.

Subsidiary works

5. Subject to the provisions of this Order the Corporation may from time to time erect, construct and maintain all such works and conveniences as they may from time to time deem necessary or convenient for the purposes of or in connection with the construction, maintenance and use of the wharf.

Power to deviate

6. Subject to the provisions of this Order, in constructing the works the Corporation may deviate laterally from the lines or situations thereof shown on the deposited plan 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 20 feet upwards and to such extent downwards as may be found necessary or convenient.

Fine for obstructing works

7.—(1) Any person who wilfully obstructs any person acting under the authority of the Corporation in setting out the lines of the works or who damages, 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 for every such offence be liable to a fine not exceeding five pounds and shall in addition be liable to repay to the Corporation as a liquidated debt any expenses incurred by them in making good such damage.

(2) Proceedings for any offence under this article or for the recovery of any fine thereunder may be brought in any court of summary jurisdiction.

Removal of works

8. The Corporation shall remove the works not later than the 30th June 1976 and level the site to the contours of the adjoining foreshore.

Power to dredge

9. The Corporation may from time to time deepen, dredge, scour, cleanse, alter and improve the bed and foreshore within the limits of deviation and the channel of the Severn Estuary adjoining or near the wharf for the purpose of affording means of access thereto, and any material taken up or collected in the course of such operations shall be the property of the Corporation and may be used, sold, removed, deposited or otherwise disposed of as the Corporation may think fit:

Provided that no such material shall be laid down or deposited in any place below the level of high water except in such position as the Secretary of State for Trade and Industry may approve and subject to such conditions or restrictions as he may impose.

Tidal works not to be executed without approval of Secretary of State for Trade and Industry

10.—(1) A tidal work shall not be constructed, renewed, enlarged, altered, widened, restored, improved or rebuilt except in accordance with plans and

sections approved by the Secretary of State for Trade and Industry and subject to any conditions and restrictions imposed by him before the work is begun.

(2) If a tidal work is constructed, renewed, enlarged or altered in contravention of this article or of any condition or restriction imposed under this article—

(*a*) the Secretary of State for Trade and Industry may by notice in writing require the Corporation at their own expense to remove the work or any part thereof and to restore the site thereof to its former condition; and if on the expiration of thirty days from the date when the notice is served upon the Corporation they have failed to comply with the requirements of the notice, the Secretary of State for Trade and Industry may execute the works specified in the notice; or

(*b*) if it appears to the Secretary of State for Trade and Industry urgently necessary so to do, he may himself remove the work or part of it and restore the site to its former condition;

and any expenditure incurred by him in so doing shall be a debt due from the Corporation to the Crown and shall be recoverable as a simple contract debt.

Survey of tidal works

11. The Secretary of State for Trade and Industry may at any time if he deems it expedient order a survey and examination of a tidal work constructed by the Corporation or of the site upon which it is proposed to construct the work and any expenditure incurred by him in such a survey and examination shall be a debt due from the Corporation to the Crown and shall be recoverable as a simple contract debt.

Provision against danger to navigation

12.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Corporation shall forthwith notify the Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

(2) If the Corporation fail to notify the Trinity House as required by this article or to comply in any respect with a direction given under this article, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

13.—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State for Trade and Industry may by notice in writing require the Corporation at their own expense either to repair and restore the work or 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 for Trade and Industry thinks proper.

(2) Where a work authorised by this Order and 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 for Trade and Industry may include that part of the work, or any portion thereof, in any notice under this article.

(3) If, on the expiration of thirty days from the date when a notice under this article is served upon the Corporation, they have failed to comply with the requirements of the notice, the Secretary of State for Trade and Industry may execute the works specified in the notice and any expenditure incurred by him in so doing shall be a debt due from the Corporation to the Crown and shall be recoverable as a simple contract debt.

Lights on tidal works during construction

14.—(1) The Corporation shall at or near a tidal work during the whole time of the construction, maintenance, extension, enlargement, alteration or replacement 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 for Trade and Industry shall from time to time direct.

(2) If the Corporation fail to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds, and on conviction on indictment to a fine.

Permanent lights on tidal works

15.—(1) After the completion of a tidal work the Corporation 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 the Trinity House shall from time to time direct.

(2) If the Corporation fail to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds, and on conviction on indictment to a fine.

Byelaws

16.—(1) In addition to the byelaws which may be made by them under section 83 of the Act of 1847 the Corporation may from time to time make, alter or revoke such byelaws as they think fit with reference to all or any of the following purposes—

(*a*) the management, control and regulation of the works and of goods and vehicles using or passing over or frequenting or resorting to the works;

(*b*) the control and regulation of vessels within a distance of 500 yards from any part of the works;

(*c*) the conduct of persons using or being at or on the works;

(*d*) safety precautions to be observed by persons on vessels within the distance mentioned above or persons using or being at or on the works.

(2) The byelaws which may be made by the Corporation in exercise of their powers in relation to the works may provide for imposing a fine not exceeding fifty pounds for the breach or non-observance of any such byelaw.

(3) The provisions of section 250(2) to (7) and 252 of the Local Government Act 1933(a) shall apply to all byelaws to be made by the Corporation pursuant to the provisions of this Order, and all fines imposed for the breach of any such byelaws shall be recoverable in the manner provided by that Act for the recovery of penalties, and the said sections 250 and 252 shall for the purposes of this article be construed as if the Corporation were a local authority within the meaning of those sections, and the secretary of the Corporation were the clerk of the local authority.

(a) 1933 c. 51

(4) In the application of such last-mentioned provisions the Secretary of State shall be the confirming authority.

Wharf to be within petty sessional division of Magor and St. Mellons

17. So much of the wharf and of the area within a radius of 500 yards of any part thereof—

(*a*) as is outside the area of the petty sessional division of Magor and St. Mellons shall be deemed to be within that area;

(*b*) as is not within any parish shall be deemed to be within the parish to which it is nearest.

Signed by authority of the Secretary of State
5th December 1972.

John Peyton,
Minister for Transport Industries,
Department of the Environment.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order authorises the British Steel Corporation to construct and maintain a wharf in the Severn Estuary extending from a point on the seawall in Goldcliff, Magor and St. Mellons Rural District some 810 yards north east of Porton House and connecting with an existing access road belonging to the Corporation. The Order provides for these works to be removed not later than the 30th June 1976.