



Port of Tyne (North Shields Fish Harbour) Act 1974

CHAPTER xxxvi

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ELIZABETH II



1974 CHAPTER xxxvi

An Act to authorise the Port of Tyne Authority to acquire land and to construct works; and for other purposes. [19th December 1974]

WHEREAS—

(1) The Port of Tyne Authority (hereinafter called “the Authority”) were constituted under the Port of Tyne Reorganisation Scheme 1967 as the authority responsible for the conservancy, maintenance and improvement of the Port of Tyne, which port includes quays and associated works, known as and hereinafter called “the Fish Quay”, at North Shields in the metropolitan borough of North Tyneside:

(2) The Fish Quay was progressively constructed over many years as an undertaking of the Tynemouth Corporation and has been used for the reception and marketing of fish, but is now inadequate in size and condition for the needs of the fishing industry:

(3) It is expedient that the Authority should be empowered to construct new facilities comprising a fish harbour to the east of the Fish Quay by means of certain breakwaters, the reclamation of land, and the construction of quays, and to demolish that part of the Fish Quay known as Government Jetty, two groynes to the east of the Fish Quay known as Nos. 1 and 2 Groynes, and a lifeboat station situated between those groynes:

(4) It is expedient that in connection with the foregoing the Authority should be empowered to acquire lands, and that the other provisions of this Act should be enacted:

(5) It is expedient that the metropolitan borough of North Tyneside should be empowered to enter into and carry into effect agreements for the purpose of affording financial assistance in connection with the facilities aforesaid:

(6) The objects of this Act cannot be attained without the authority of Parliament:

(7) A plan and sections showing the situations, lines and levels of the works to be constructed under the powers of this Act, and the lands authorised to be acquired or used by this Act, and a book of reference to such plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited in the Office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons, and with the proper officer of the metropolitan borough of North Tyneside, which plan, sections and book of reference are respectively referred to in this Act as the deposited plan, the deposited sections and the deposited book of reference:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the Port of Tyne (North Shields Fish Harbour) Act 1974.

Interpretation. 2.—(1) In this Act, except where the context otherwise requires—

1965 c. 56. “ the Act of 1965 ” means the Compulsory Purchase Act 1965;

“ the Authority ” means the Port of Tyne Authority;

“ land ” includes land covered by water, and any interest in, or right over land;

“ 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;

“ the new harbour ” means the harbour formed by means of the works;

“ tidal work ” means so much of any work authorised by this Act as is on, under or over tidal waters or tidal lands below the level of high water;

“ the tribunal ” means the Lands Tribunal;

“ the works ” means the works and reclamation authorised by section 10 (Power to construct works) of this Act or, as the case may require, any part of such works.

(2) Any reference in this Act to a work identified by its number shall be construed as a reference to the work of that number authorised by the said section 10.

(3) Any reference in this Act to a distance or length in any description of works, powers or land shall be construed as if the words “ or thereabouts ” were inserted after that reference.

3.—(1) Part I of the Act of 1965 (except sections 4, 24 (5) and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 applies and as if this Act were a compulsory purchase order under the said Act of 1946. Application of Part I of Act of 1965.

(2) Subsection (1) of section 11 of the Act of 1965, as so applied, shall have effect as if for the words “ fourteen days ” there were substituted the words “ six weeks ”.

(3) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act. 1845 c. 18.

4.—(1) Subject to the provisions of this Act the Authority may enter upon, take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as they may require for or in connection with the new harbour. Power to acquire lands.

(2) Any notice to treat given under section 5 of the Act of 1965 as applied to the compulsory acquisition of land under this section shall be given not later than the 31st December 1977.

5.—(1) If the deposited plan or the deposited book of reference is inaccurate in its description of any land, or in its statement or description of the ownership or occupation of any land, Correction of errors in deposited plan and book of reference.

the Authority, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the metropolitan borough of North Tyneside for the correction thereof.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, they shall certify accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the Office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office House of Commons and in the office of the proper officer of the metropolitan borough of North Tyneside and thereupon the deposited plan and deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Authority to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

Acquisition
of part only
of certain
properties.

6.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965 as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of section 8 (1) (Parties not to be required to sell part of a house, &c.) of that Act.

(2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house together with any park or garden belonging thereto, then, if the person on whom the notice is served, within twenty-one days after the day on which the notice is served on him, serves on the Authority a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereinafter in this section referred to as "the land subject to the counter-notice"), the question whether he shall be required to sell the part shall, unless the Authority agree to take the land subject to the counter-notice, be referred to the tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within twenty-one days after the day on which the notice to treat is served on him or if on such a reference to the tribunal the tribunal determines that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.

(4) If on such a reference to the tribunal the tribunal determines that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

(5) If on such a reference to the tribunal the tribunal determines that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Authority are authorised to acquire compulsorily under this Act.

(6) If the Authority agree to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Authority are authorised to acquire compulsorily under this Act.

(7) In any case where by virtue of a determination by the tribunal under subsection (4), (5) or (6) of this section a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the Authority may, within six weeks after the tribunal makes its determination, withdraw the notice to treat, and if they do so shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.

(8) Where a person is under this section required to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, the Authority shall pay to him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

Disregard of recent improvements and interests.

7. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the tribunal shall not take into account any interest in land or any enhancement of the value of any interest in land, by reason of any building erected, works executed or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was at the time of the erection, executing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works, or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Grant of easements by persons under disability.

8.—(1) Any person empowered by the Act of 1965 as applied by this Act to sell and convey or release lands may if he thinks fit, subject to the provisions of the Act of 1965, grant to the Authority any easement or right required for the purposes of this Act over or in the lands not being an easement or right of water in which some person other than the grantor has an interest.

(2) The provisions of the Act of 1965 with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

Extinction of rights of way.

9.—(1) All rights of way over any land which, or an interest in which, may be acquired compulsorily under this Act shall as from the acquisition of the land whether compulsorily or by agreement be extinguished.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the Authority compensation to be determined in case of dispute under and in accordance with the Land Compensation Act 1961.

1961 c. 33.

Power to construct works.

10.—(1) Subject to the provisions of this Act the Authority may in the lines and situations shown on the deposited plan, and within the limits of deviation, make and maintain the following works in the metropolitan borough of North Tyneside, that is to say:—

Work No. 1 A breakwater commencing at a point 900 metres north-east of the Low Lighthouse, extending in a southerly direction for a distance of 400 metres and terminating at a point 630 metres east-north-east of that lighthouse.

Work No. 2 A breakwater commencing at the termination of Work No. 1, extending in a west-south-westerly

direction for a distance of 315 metres continuing as a piled groyne for a distance of 105 metres, and terminating at a point 220 metres eastward of the Low Lighthouse.

Work No. 3 A quay commencing at point "A" on the deposited plan, on the Fish Quay, extending in a generally north-easterly direction for a distance of 553 metres and terminating at point "B", 555 metres in a north-easterly direction from the Low Lighthouse.

Work No. 4 A breakwater commencing at the termination of Work No. 3, extending in a south-easterly direction for a distance of 227 metres and terminating at a point 560 metres east-north-east of the Low Lighthouse.

Work No. 5 A quay commencing at the termination of Work No. 4, extending in a south-westerly direction for a distance of 265 metres and terminating at a point 314 metres east of the Low Lighthouse.

(2) The Authority may within the limits of deviation extend, enlarge, alter, replace or relay the works.

(3) The Authority may demolish and remove that part of the Fish Quay known as Government Jetty together with the buildings thereon, two groynes to the east thereof known as Nos. 1 and 2 Groynes (including a navigation light and a sewer outfall on No. 1 Groyne) and the lifeboat station situated between those groynes.

(4) Subject to the provisions of this Act the Authority may by means of Works Nos. 1 to 5 enclose and reclaim from the foreshore and bed of the river Tyne, and may hold and use as part of the undertaking of the Authority, so much of the foreshore and bed of the river as is included within the land hatched on the deposited plan.

(5) The works shall, for all purposes, be deemed to be within the metropolitan county of Tyne and Wear and the metropolitan borough of North Tyneside.

11. Subject to the provisions of this Act, in constructing the works the Authority 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 2 metres upwards and to such extent downwards as may be found necessary or convenient. Power to deviate.

12.—(1) Subject to the provisions of this Act the Authority for the purposes of or in connection with the new harbour may within the lands referred to in section 4 (Power to acquire lands) of this Act construct or place, and maintain and use, all such piles, piers, quays, wharves, jetties, embankments, slipways, berthing sheds, Subsidiary works.

strong points, mooring dolphins, roads, ways, works, pipeways, cranes, landing places, mains, pipes, cables and conveniences subsidiary or ancillary to the works or any of them and all such buildings, appliances, machinery and apparatus as they may from time to time deem necessary or convenient for any purpose of or in connection with the new harbour and the activities carried on thereat.

1878 c. 76.

(2) Any electrical works or equipment constructed, placed, maintained or used pursuant to the powers conferred by this section shall be so constructed or placed and so maintained and used that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction or otherwise) with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Post Office or with telecommunication by means of any such line.

Period for
completion
of works.

13. If the works are not completed within ten years from the coming into operation of this Act or such extended time as the Secretary of State may on the application of the Authority allow, then on the expiration of that period or such extended time (as the case may be) the powers by this Act granted to the Authority for making and maintaining the works shall cease except as to so much thereof as shall then be completed.

Dredging.

14.—(1) The Authority may, from time to time, deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river adjoining or near the works (including the basin of the new harbour) for the purpose of affording means of access to the works.

1894 c. 60.

(2) The Authority may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) from time to time dredged by them in exercise of the powers of this section:

Provided that no such materials shall be deposited below the level of high water except in such places and in accordance with such restrictions or regulations as may be approved or prescribed by the Secretary of State.

(3) The powers of the Authority under this section shall be exercisable subject to section 27 (Crown rights) of this Act, and in particular and without prejudice to that limitation any consent given to the exercise of such powers by the Crown Estate Commissioners on behalf of Her Majesty may be given subject to such restrictions and conditions including the payment by the Authority to the Crown Estate Commissioners of royalties, rents or sums of money in respect of materials raised from any place below the level of high water and sold by the Authority under this section

or in respect of any place below the level of high water upon which materials may be deposited as may be fixed by the Crown Estate Commissioners.

15.—(1) The Authority may construct, lay down, maintain and operate in and over the Port such works and equipment as are required for or in connection with the exercise by them of any of their functions. Works in Port.

(2) In this section “the Port” has the meaning assigned to that expression in the Port of Tyne Reorganisation Scheme 1967.

16. Any person who wilfully obstructs any person acting under the authority of the Authority in setting out the lines of the works, or who interferes with, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall for every such offence be liable on summary conviction to a fine not exceeding five pounds. Obstruction of works.

17.—(1) A tidal work shall not be constructed, extended, enlarged, altered, replaced or relaid except in accordance with plans and sections approved by the Secretary of State and subject to any conditions or restrictions imposed by him before the work is begun. Tidal works not to be executed without approval of Secretary of State.

(2) If a tidal work is constructed, extended, enlarged, altered, replaced or relaid in contravention of this section or of any condition or restriction imposed under this section—

(a) the Secretary of State may by notice in writing require the Authority 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 on which the notice was served upon the Authority they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice;

(b) if it appears to the Secretary of State 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 recoverable from the Authority as a simple contract debt.

18.—(1) The Authority shall at or near a tidal work during the whole time of the construction, extension, enlargement, 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 shall from time to time direct. Lights on tidal works during construction.

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

Other provisions as to tidal works.

19. The following articles of the Port of Tyne Reorganisation Scheme 1967 shall apply in respect of so much of the works as are tidal works, as they apply in respect of the works referred to in those articles:—

Article 45 Provision against danger to navigation;

Article 46 Abatement of existing works abandoned or decayed;

Article 47 Survey of existing tidal works;

Article 48 Permanent lights on existing tidal works.

Works to form part of undertaking.

20. The works and the new harbour shall for all purposes form part of the undertaking of the Authority as from time to time authorised.

Financial arrangements in respect of new fish harbour

21.—(1) In this section—

“the Council” means the council of the metropolitan borough of North Tyneside;

“the harbour” means a new harbour to be constructed by the Authority by means of the works, and “the harbour undertaking” means the undertaking of the Authority in respect of the harbour and so much of the Fish Quay as is used for the purposes of or in connection with the harbour or the activities carried on thereat;

“loan charges”, as used in subsection (2) (b) of this section, means the amounts for the redemption of loans and the payment of interest thereon (including debt management expenses) which fall to be debited in the accounts of the Authority in respect of the harbour undertaking;

“the relevant period” means the period of ten years, or such longer period as may be agreed in writing between the Authority and the Council, from the first day of January next after the Authority shall give written notice to the Council that the harbour or any part thereof is open for commercial use;

“the works” includes any work or thing constructed by the Authority in exercise of the powers conferred by section 12 (Subsidiary works) of this Act.

(2) The Council may enter into and carry into effect any agreement with the Authority—

(a) providing that during the relevant period the obligation of the Authority under article 14 (which relates to the

repayment of loan charges) of the Port of Tyne Reorganisation Scheme 1967 to make payments to the Council shall be deemed to be discharged notwithstanding that no such payments are made by the Authority;

(b) requiring the Council, during the relevant period, to guarantee and secure the Authority, by means of repayable advances, against loss in each financial year as shown in the Authority's revenue account of the harbour undertaking after charging in that account the loan charges to the extent of one-third of such loss, or one-third of the loan charges, whichever is the lesser amount.

(3) Any agreement such as is referred to in subsection (2) of this section, which may have been made before the coming into operation of this Act, shall be carried into effect.

22. For the protection of the corporation the following provisions shall, unless otherwise agreed in writing between the Authority and the corporation, apply and have effect:—

For protection of British Gas Corporation.

(1) In this section, unless the subject or context otherwise requires—

“adequate alternative apparatus” means alternative apparatus adequate to enable the corporation to fulfil their statutory functions in a manner not less efficient than previously;

“apparatus” means mains, pipes or other apparatus belonging to or maintained by the corporation and in respect of which the corporation have given to the Authority written particulars of its location and such further information as the Authority may reasonably require and includes any works constructed for the lodging therein of apparatus;

“authorised work” means any work carried out or thing done under the powers of section 10 (Power to construct works) or section 12 (Subsidiary works) of this Act;

“the corporation” means the British Gas Corporation;

“in” in a context referring to apparatus includes under, over, across, along or upon:

- (2) Notwithstanding anything in this Act or shown on the deposited plan, the Authority shall not, under the powers of this Act, acquire any apparatus otherwise than by agreement:
- (3) If the Authority in the exercise of the powers of this Act acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed nor shall any right of the corporation to use, maintain, repair, renew or inspect any apparatus in that land be extinguished until adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the corporation:
- (4) (a) If the Authority, for the purpose of or in connection with the execution of any authorised work, require the removal of any apparatus, they shall give to the corporation written notice of that requirement with a plan and description and, where applicable, a section, of the proposed work and if it is agreed between the Authority and the corporation or, in default of agreement, determined by arbitration, that the removal of the apparatus is reasonably required and that it should be removed the following provisions of this paragraph shall have effect;
(b) If it is agreed or determined by arbitration in accordance with sub-paragraph (a) of this paragraph that any apparatus should be removed or if in consequence of the execution of any authorised work the corporation shall reasonably require to remove any apparatus, the Authority shall, if practicable, afford to the corporation the necessary facilities and rights for the laying or construction of adequate alternative apparatus in other lands of the Authority and thereafter for the maintenance, repair, renewal and inspection of such apparatus:
Provided that if the alternative apparatus or any part thereof is to be constructed elsewhere than in other lands of the Authority and the Authority are unable to afford such facilities and rights as aforesaid the corporation shall, on receipt of a written notice to that effect from the Authority, forthwith use their best endeavours to obtain the necessary facilities and rights:
- (5) (a) Any alternative apparatus to be laid or constructed in lands of the Authority in pursuance of paragraph (4) of this section shall be laid or constructed in such manner and in such line or situation as may subject to any terms and conditions affecting the facilities and rights obtained for the laying or construction thereof be agreed between the corporation and the Authority or, in default of agreement, settled by arbitration;

(b) The corporation shall, after the manner of laying or construction and the line and situation of any alternative apparatus have been agreed or settled by arbitration as aforesaid, and after the grant to the corporation of any such facilities and rights as are referred to in paragraph (4) of this section, proceed with all reasonable dispatch to lay or construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required to be removed under the provisions of this section and, in default, the Authority may remove the apparatus:

(6) Notwithstanding anything in paragraph (5) of this section, if the Authority give notice in writing to the corporation that they desire themselves to execute any part of so much of the work necessary in connection with the laying or construction of the alternative apparatus or the removal of the apparatus required to be removed as will be situate in any lands of the Authority, such work, in lieu of being executed by the corporation, shall be executed by the Authority with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the corporation:

Provided that nothing in this paragraph shall authorise the Authority to execute the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around the apparatus (where the apparatus is laid in a trench) within 12 inches above the apparatus:

(7) Where in accordance with the provisions of this section the Authority afford to the corporation facilities and rights for the laying or construction, maintenance, repair, renewal and inspection in lands of the Authority of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Authority and the corporation or, in default of agreement, determined by arbitration:

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be laid or constructed across or through an authorised work the arbitrator shall—

(i) give effect to all reasonable requirements of the Authority for ensuring the safety and efficient operation of the authorised work and for securing

any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such work; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to any terms and conditions applicable to the apparatus constructed through the lands of the Authority for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the Authority in respect of any alternative apparatus, and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the corporation than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the Authority by or to the corporation in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

- (8) (a) Not less than twenty-eight days before commencing to execute any authorised work which is near to, or is likely to affect any apparatus the removal of which has not been required by the Authority under paragraph (4) of this section, the Authority shall submit to the corporation a plan and description, and, where applicable, a section of the work to be executed;
- (b) Such work shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the corporation for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the corporation shall be entitled by their officer to watch and inspect the execution of such work:

Provided that—

(i) if the corporation within fourteen days after the submission to them of any such plan, section and description shall, in consequence of the work proposed by the Authority, reasonably require the removal of any apparatus and give written notice to the Authority of that requirement the foregoing provisions of this section shall apply and have effect as if the removal of that apparatus had been required by the Authority under paragraph (4) thereof; and

(ii) nothing in this sub-paragraph shall preclude the Authority from submitting at any time, or from time to time, but in no case less than twenty-eight days before commencing the execution of any such work, a new plan, section and description in lieu of the plan, section and description previously submitted and thereupon the provisions of this paragraph shall apply to and in respect of that new plan, section and description;

(c) The Authority shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but, in such a case, they shall give to the corporation notice as soon as reasonably practicable and a plan, section and description of the work as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:

(9) If in consequence of the exercise of the powers of this Act the access to any apparatus the removal of which is not required under this section is materially obstructed the Authority shall provide an alternative means of access to that apparatus:

(10) The Authority shall repay to the corporation the reasonable expenses incurred by the corporation in or in connection with—

(a) the removal and relaying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this section;

(b) the cutting off of any apparatus from any other apparatus under any of the provisions of this section; and

(c) any other work or thing rendered reasonably necessary in consequence of the exercise by the Authority of any of the powers of this Act:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 shall, so far 1950 c. 39. as applicable, extend and apply to any payment to be made by the Authority under this paragraph as if the Authority were the promoting authority, as if the works hereinbefore in this paragraph mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there

were substituted the words “agreed or settled by arbitration under section 22 (For protection of British Gas Corporation) of the Port of Tyne (North Shields Fish Harbour) Act 1974”:

- (11) If by reason or in consequence of the execution or failure of any of the authorised works or any subsidence resulting from any of those works any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the corporation or any interruption in the supply of gas by the corporation shall be caused, the Authority shall bear and pay the cost reasonably incurred by the corporation in making good such damage, or restoring the supply, and shall—

(a) make reasonable compensation to the corporation for any loss sustained by them; and

(b) indemnify the corporation against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the corporation;

by reason or in consequence of any such damage or interruption:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Authority with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the corporation, their officers, servants, contractors or other agents;

(ii) the corporation shall give to the Authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Authority:

- (12) In the exercise of the powers of section 15 (Works in Port) of this Act the Authority shall not damage or injuriously affect any apparatus or, without the consent of the corporation, interfere with or adversely affect the operation of any apparatus and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any apparatus:
- (13) If there shall be any inconsistency between any plans or sections approved by the Authority and by the corporation or settled by arbitration under this section and the plans and sections approved by the Secretary of State under section 17 (Tidal works not to be executed without

approval of Secretary of State) of this Act, the works shall be executed in accordance with the plans and sections so approved by the Secretary of State:

- (14) (a) Any difference which may arise between the Authority and the corporation under this section shall be determined by a single arbitrator to be appointed by agreement between the Authority and the corporation or, in default of agreement, to be appointed by the President, for the time being, of The Law Society on the application of either party after giving notice in writing to the other party;
- (b) In settling any difference under this section the arbitrator may, if he thinks fit, require the Authority to execute any temporary or other works so as to avoid, so far as may be reasonably possible interference with the use of any apparatus.

23. Nothing in this Act shall exempt the Authority from the provisions of Part I of the Coast Protection Act 1949.

Saving for
Coast
Protection
Act 1949.
1949 c. 74.

24. Nothing in this Act shall affect the operation of the Dumping at Sea Act 1974.

Saving for
Dumping at
Sea Act 1974.
1974 c. 20.

25. Nothing in this Act shall exempt the Authority or any other person from the provisions of sections 9 and 10 of the Harbours Act 1964.

Saving for
Harbours Act
1964.
1964 c. 40.

26. The provisions of the Town and Country Planning Act 1971 and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act.

Saving for
town and
country
planning.
1971 c. 78.

27. Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing herein contained shall authorise the Authority to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bed or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose.

Crown rights.

28. The costs, charges and expenses of and incidental to preparing, applying for and obtaining this Act, and otherwise in relation thereto, shall be paid by the Authority.

Costs of Act.

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