

ELIZABETH II



1974 CHAPTER xxii

An Act to empower the British Transport Docks Board to construct works and to acquire lands; to extend the time for the compulsory purchase of certain lands; to confer further powers on the Board; and for other purposes. [31st July 1974]

WHEREAS by the Transport Act 1962 the British Transport 1962 c. 46
Docks Board (in this Act referred to as "the Board")
were established:

And whereas it is the duty of the Board under the Transport Act 1962 (inter alia) to provide, to such extent as they may think expedient, port facilities at the harbours (as defined by the said Act) owned or managed by the Board and to have due regard to efficiency, economy and safety of operation as respects the services and facilities provided by them and the Board are empowered to operate the harbours owned or managed by them:

And whereas it is expedient that the Board should be empowered to construct the works authorised by this Act and to acquire the lands referred to in this Act:

And whereas it is expedient that the period now limited for the compulsory purchase of certain lands should be extended as provided by this Act:

And whereas it is expedient that the other powers in this Act contained should be conferred upon the Board and that the other provisions in this Act contained should be enacted:

And whereas a plan and sections showing the lines or situations and levels of the works to be constructed under the powers of this Act, and a plan of 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 have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the clerk of the county council of the county within which the said works will be constructed or the said lands are situated, 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:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

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:—

PART I

PRELIMINARY

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|-----------------------------|---|
| Short title. | 1. This Act may be cited as the British Transport Docks Act 1974. |
| Division of Act into Parts. | 2. This Act is divided into Parts as follows:—
Part I.—Preliminary.
Part II.—Lands.
Part III.—Works, etc.
Part IV.—Protective provisions.
Part V.—Miscellaneous and general. |
| Interpretation. | 3.—(1) In this Act, unless there be something in the subject or context repugnant to such construction, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the relative subject-matter the same respective meanings and—
“the Act of 1847” means the Harbours, Docks and Piers
Clauses Act 1847; |
| 1847 c. 27. | |

- “the Act of 1964” means the British Transport Docks Act 1964; PART I
—*cont.*
- “the Act of 1966” means the British Transport Docks Act 1966; 1964 c. xxxviii.
1966 c. xxxi.
- “the Act of 1967” means the British Transport Docks Act 1967; 1967 c. xxxi.
- “the Act of 1969” means the British Transport Docks Act 1969; 1969 c. xxiii.
- “the Act of 1971” means the British Transport Docks Act 1971; 1971 c. lix.
- “the Act of 1973” means the British Transport Docks Act 1973; 1973 c. xiii.
- “the Board” means the British Transport Docks Board;
- “enactment” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;
- “land” includes any estate or interest in land and land covered by water;
- “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 Act as is on, under or over tidal waters or tidal lands below the level of high water;
- “the undertaking” means the undertaking of the Board as authorised from time to time;
- “vessel” has the meaning assigned to it in section 3 (Interpretation) of the Act of 1966;
- “the works” means the works authorised by Part III (Works, etc.) of this Act.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

(3) All areas, bearings, directions, distances, lengths and widths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such area, bearing, direction, distance, length and width.

PART I
—*cont.*

(4) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

**Incorporation
of Acts.**

4.—(1) The following enactments, so far as the same are applicable to the purposes and are not inconsistent with the provisions of this Act, are hereby incorporated with this Act:—

1845 c. 20.

(a) the provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to mines lying under or near the railway:

Provided that—

(i) for the purposes of the said incorporated provisions with respect to the temporary occupation of lands near the railway during the construction thereof, the works shall be deemed to be the railway and the centre line of each work as shown on the deposited plan shall be deemed to be the centre of the railway and for the words “the period by the special Act limited for the completion of the railway” there shall be substituted the words “the period of five years from the commencement of the construction of any of the works authorised by the special Act”;

1923 c. 20.

(ii) for the purposes of the said incorporated provisions with respect to mines lying under or near the railway, the works shall be deemed to be the railway and, for the purposes of section 78 of the said Act of 1845 (as amended by the Mines (Working Facilities and Support) Act 1923) in so far as it relates to the works, the area of protection shall, as regards mines and minerals lying within 172·21 metres of the surface of the ground or the bed of the river Wyre, be 121·92 metres and, as regards mines and minerals lying at a greater depth than 172·21 metres below the said surface, the area of protection shall be increased by 18·3 metres for every 30·48 metres or part thereof by which the mines and minerals lie deeper below the said surface than 172·21 metres;

(b) the provisions of the Act of 1847 (except sections 6 to 9, 11 to 13, 16 to 23, 25, 26, 33, 49, 50, 79, 80, 84 to 90, 94, 95, 97 and 98):

Provided that—

(i) the expression “the harbour, dock, or pier” where used in the said incorporated provisions means, in relation to Works Nos. 1 and 2, those works;

(ii) the expression "the harbour master" where used in the said incorporated provisions means, in relation to Works Nos. 1 and 2, the Board's dock and harbour master at Fleetwood;

PART I
—cont.

(iii) the meaning of the word "vessel" as defined in this Act shall be substituted for the meaning assigned to it by section 3 of the Act of 1847;

(iv) section 52 of the Act of 1847 shall extend to empower the harbour master to give directions prohibiting the mooring of vessels within a distance of 600 metres of Work No. 1 or within a distance of 300 metres of Work No. 2;

(v) section 53 of the Act of 1847 shall not be construed as requiring the harbour master to serve upon the master of a vessel a notice in writing of his directions but such directions may be given orally or otherwise communicated to such master:

Provided that a notice which is not in writing shall not be deemed to be sufficient unless in the opinion of the court before which any case may be heard it was not reasonably practicable to serve a written notice on the master of the vessel.

(2) In the construction of the enactments so incorporated with this Act, the expression "special Act" shall be read as a reference to this Act and the expression "company" shall mean the Board.

5.—(1) Part I of the Compulsory Purchase Act 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 Compulsory Purchase Act 1965. 1965 c. 56. 1946 c. 49.

(2) In section 11 (1) of the Compulsory Purchase Act 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) as so applied, for the words "fourteen days" there shall be substituted the words "three months".

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

PART II

LANDS

Power to
acquire lands.

6.—(1) Subject to the provisions of this Act, the Board 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 the purposes of the works or for any purpose connected with or ancillary to the undertaking.

(2) The powers of the Board for the compulsory acquisition of land under this section shall cease after the expiration of three years from 31st December 1974.

Incorporation
of provisions
of Acts of
1964, 1967
and 1969
relating to
lands.

7. The following provisions of the undermentioned Acts are incorporated with, and form part of this Part of, this Act:—

The Act of 1964—

Section 6 (Correction of errors in deposited plans and book of reference);

The Act of 1967—

Section 8 (Power to acquire easements only):

The Act of 1969—

Section 8 (Disregard of recent improvements and interests); and

Section 9 (Extinction of private rights of way):

Provided that the provisions of the said section 8 of the Act of 1967, as so incorporated, shall have effect as if for the words “section 6 (Power to acquire lands) of this Act” there were substituted the words “section 6 (Power to acquire lands) of the British Transport Docks Act 1974”.

PART III

WORKS, ETC.

Power to
make works.

8.—(1) Subject to the provisions of this Act, the Board may, in the lines and situations and upon the lands delineated on the deposited plan and described in the deposited book of reference and according to the levels shown on the deposited sections, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith:—

In the county of Lancashire—

In the district of Wyre—

(formerly in the borough of Fleetwood in the county of Lancaster)—

(Terminal at
Fleetwood).

Work No. 1 A terminal providing three berths for vessels and comprising three parallel bridge ramps (each ramp being 75 metres in length and the central ramp

being 35 metres from the ramp on either side), the ramps commencing at Work No. 2 at distances measured along that work of 110 metres, 145 metres and 180 metres respectively from the termination of that work hereinafter described and extending, with two rows of dolphins and connecting catwalks, into the river Wyre in a north-easterly direction for a distance of 220 metres.

PART III
—cont.

Work No. 2 A bund or embankment commencing by a (Bund at junction with the river wall on the west bank of the river Wyre at a point 1,025 metres south of the root of the East Jetty of the entrance to Wyre Dock, extending from the said river wall in an easterly direction for a distance of 125 metres, thence proceeding in a north-north-easterly direction for a distance of 1,100 metres, thence curving to and proceeding in a north-easterly direction for a distance of 140 metres, thence curving to and proceeding in a westerly direction for a distance of 10 metres, thence proceeding in a south-westerly direction for a distance of 315 metres, thence curving to and proceeding in a north-westerly direction for a distance of 130 metres and thence curving to and proceeding in a generally south-westerly direction for a distance of 95 metres and there terminating by a junction with the said river wall at a point 15 metres south-east of the root of the East Jetty of the entrance to Wyre Dock.

(2) Subject to the provisions of this Act, the Board may within the limits of deviation from time to time extend, enlarge, alter, replace or relay temporarily or permanently the works.

(3) The Board may fill in and reclaim from the foreshore and bed of the river Wyre and may hold and use as part of their undertaking so much of the foreshore and bed of the said river as is situated within the limits of deviation and is landward of Work No. 2.

9. The Board may, from time to time, for the purpose of affording uninterrupted means of access for vessels going to and from Work No. 1, deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river Wyre within the limits of deviation and may as they think fit use, appropriate or dispose of the materials from time to time taken up or collected by them from the river Wyre, in the course of any such operations:

Power to
dredge in
river Wyre.

Provided that—

- (a) 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 for Trade;

PART III
—*cont.*
1894 c. 60.

Limits of jurisdiction of Board's dock and harbour master at Fleetwood.

Works to form part of undertaking.

Application of byelaws of Board.

Incorporation of provisions of Acts of 1964, 1966, 1969 and 1971 relating to works.

(b) the power to use, appropriate or dispose of materials shall not extend to wreck (within the meaning of Part IX of the Merchant Shipping Act 1894) found by the Board.

10. The limits within which the powers of the Board's dock and harbour master at Fleetwood in relation to Works Nos. 1 and 2 may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Act, shall extend to a distance of 600 metres in every direction from those works except that any land within the said distance which is owned or occupied by the Central Electricity Generating Board shall be excluded from such limits.

11. The works shall for all purposes form part of the undertaking.

12. All byelaws, rules and regulations of the Board in force at Fleetwood Docks immediately before the passing of this Act shall, unless the Board shall otherwise determine be deemed to apply to the works and may be enforced by the Board accordingly until such time as new byelaws, rules or regulations relating to the works shall be made by the Board and come into operation.

13.—(1) The following provisions of the undermentioned Acts are incorporated with, and form part of this Part of, this Act:—

The Act of 1964—

Section 30 (Fine for obstructing works):

The Act of 1966—

Section 9 (Subsidiary works);

Section 10 (Power to deviate);

Section 21 (Tidal works not to be executed without approval of Board of Trade);

Section 23 (Abatement of works abandoned or decayed);

Section 24 (Survey of tidal works); and

Section 26 (Lights on tidal works during construction):

The Act of 1969—

Section 17 (Provision against danger to navigation):

The Act of 1971—

Section 16 (Permanent lights on works):

Provided that the provisions of the said section 9, as so incorporated, shall have effect as if in the proviso to subsection (1) the words after “ those works ” were omitted.

(2) Any reference in the said incorporated provisions to “ the works ” or to a “ tidal work ” shall be construed as a reference to “ the works ” or to a “ tidal work ” as defined in section 3 (Interpretation) of this Act.

(3) Notwithstanding anything in the said section 9 of the Act of 1966, as so incorporated, the Board shall not— PART III
—cont.

(a) use any telegraphic line belonging to or used by the Post Office; or

(b) alter any such line except in accordance with and subject to the provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act 1878.

1878 c. 76.

(4) In this section “alter” and “telegraphic line” have the same meanings as in the Telegraph Act 1878.

PART IV

PROTECTIVE PROVISIONS

14. The following provisions of the undermentioned Acts are incorporated with, and form part of this Part of, this Act:— Incorporation
of protective
provisions
of Acts of 1966
and 1973.

The Act of 1966—

Section 30 (Crown rights):

The Act of 1973—

Section 18 (Saving for Duchy of Lancaster).

PART V

MISCELLANEOUS AND GENERAL

15.—(1) The period now limited by the Act of 1971 for the compulsory purchase of the lands authorised to be acquired by section 6 (Power to acquire lands) of the Act of 1971 is hereby extended until 31st December 1977. Extension of
time.

(2) The powers for the compulsory purchase of the said lands shall cease on the said date except in so far as any such powers shall by then have been exercised.

16.—(1) In this section—

“the enabling Act” means the Act of 1971;

“the land” means any land which is for the time being authorised to be acquired compulsorily by the enabling Act; Powers to
owners and
lessees to
give notice
as to purchase
of land.

“lessee” means a lessee under a lease having a period of not less than twenty-one years to run at the date of his notice under subsection (2) of this section.

(2) If any owner or lessee of any of the land shall give notice in writing to the Board of his desire for the acquisition as soon as

PART V
—*cont.*

may be by the Board of his interest in any part of the land specified in the notice the Board shall within a period of three months after the receipt of such notice—

- (a) enter into a contract with him for the acquisition of his interest in the land or such part thereof as may be specified in the contract; or
- (b) serve on him a notice to treat for the compulsory acquisition of his interest in the land specified in his notice, or in such part thereof as may be required by the Board; or
- (c) serve on him notice in writing of the Board's intention not to proceed with the purchase of his interest in the land specified in his notice.

(3) Where notice is given under the last foregoing subsection by an owner or lessee of land specified in the notice, then—

(a) if the Board—

- (i) fail to comply with that subsection; or
 - (ii) withdraw in pursuance of any statutory provision a notice to treat served on him in compliance with paragraph (b) of that subsection; or
 - (iii) serve notice on him in compliance with paragraph (c) of that subsection;
- the powers conferred by the enabling Act for the compulsory purchase of his interest in the land so specified shall cease; or

- (b) if his interest in part only of the land so specified is acquired in pursuance of a contract or notice to treat under paragraphs (a) or (b) of that subsection the powers conferred by the enabling Act for the compulsory purchase of his interest in the remainder of the land so specified shall cease.

Power to
abandon and
close
St. Andrew's
Dock and
St. Andrew's
Dock
Extension at
Kingston-
upon-Hull.
1861 c. lxxix.
1866 c. lxxvii.
1867 c. xxv.

17.—(1) The Board may abandon, discontinue, close and fill in the docks and works in connection therewith belonging to the Board at Kingston-upon-Hull and known as St. Andrew's Dock and St. Andrew's Dock Extension and upon such closing all the duties and obligations imposed upon the Board by the Hull Docks Act 1861 (except section 73 (Admiralty may order local Survey at Expense of Company) and section 74 (Works affecting tidal Waters abandoned may be removed, at Expense of Company)), the Hull Docks Act 1866, the Hull Docks Act 1867 or any other enactment with respect to or in connection with the said docks and works shall cease.

(2) (a) On and after the date on which the docks and works described in subsection (1) of this section are closed the British Gas Corporation may exercise the same rights of access to any

apparatus and the same rights to inspect, repair, maintain, renew, remove and use any apparatus as they enjoyed immediately before that date.

PART V
—*cont.*

(b) In this subsection “apparatus” means mains, pipes or other apparatus belonging to or maintained by the British Gas Corporation and includes any works for the lodging therein of apparatus.

18.—(1) Sub-paragraph (a) of paragraph (2) of article 11 (Members of the Local Board) of the Humber Harbour Reorganisation Scheme 1966 as confirmed by the Humber Harbour Reorganisation Scheme 1966 Confirmation Order 1967 and sub-paragraph (a) of paragraph (2) of article 11 (Members of the Local Board) of the Southampton Harbour Reorganisation Scheme 1967 as confirmed by the Southampton Harbour Reorganisation Scheme 1967 Confirmation Order 1968 shall each have effect as if, after the word “member” therein, there were inserted the words “or officer”.

Amendment
of enactments.

(2) Proviso (ii) of paragraph (a) of subsection (1) of section 4 (Incorporation of Acts) of the Act of 1973 shall have effect as if, after the word “Humber”, there were inserted the words “or of the river Wyre (as the case may be)”.

19. In its application to the Board pursuant to the provisions of Part III of the Second Schedule to the Transport Act 1962, subsection (3) of section 54 (Powers of police as to search and arrest) of the British Transport Commission Act 1949, as amended by section 25 (Powers of police as to search and arrest) of the Act of 1969, shall have effect as if the words “first day of January one thousand nine hundred and seventy-seven” were substituted for the words “first day of August one thousand nine hundred and seventy-four”.

Powers of
police as to
search and
arrest.
1962 c. 46.
1949 c. xxix.

20.—(1) Section 289 of the Town and Country Planning Act 1971 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the Session 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that session; and accordingly the Town and Country Planning Acts 1971 and 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

Saving for
Town and
Country
Planning
Acts 1971
and 1972.
1971 c. 78.

(2) Any development authorised by this Act shall for the purposes of the Town and Country Planning General Development

PART V
—cont.

Order 1973 be deemed not to be development authorised by an Act which designates specifically both the nature of the development and the land upon which it may be carried out.

Saving for
Harbours
Act 1964.
1964 c. 40.

21. Nothing in this Act shall be taken as exempting the Board from the provisions of sections 9 and 10 of the Harbours Act 1964 in relation to the works.

Saving for
Wireless
Telegraphy
Act 1949.
1949 c. 54.

22. Nothing in this Act shall entitle or oblige the Board to install or use apparatus for wireless telegraphy as defined in the Wireless Telegraphy Act 1949 in contravention of the provisions of that Act.

Saving for
Merchant
Shipping
Act 1894.
1894 c. 60.

23. Nothing in this Act shall be taken as exempting any person or body from the provisions of Part XI of the Merchant Shipping Act 1894.

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

24. Nothing in this Act shall affect the restrictions imposed by the Dumping at Sea Act 1974.

Arbitration.
1965 c. 56.

25. Where under this Act any difference (other than a difference to which the provisions of the Compulsory Purchase Act 1965, as applied by this Act, apply) is to be referred to or settled by arbitration, then, unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

Costs of Act.

26. All costs, charges and expenses of, and incidental to, the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Board and may in whole or in part be defrayed out of revenue.

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