ELIZABETH II



1963 CHAPTER XXV

An Act to make further provision for the regulation of navigation in the approaches to the River Medway; to confer further powers upon the Conservators of the River Medway; and for other purposes.

[31st July 1963]

HEREAS by the Medway Conservancy Act, 1881 (in this Act referred to as "the Act of 1881") the Conservators of the River Medway (in this Act referred to as "the Conservators") were incorporated and by the Medway Conservancy Acts, 1881 to 1939, the Conservators are authorised to exercise various powers for or connected with the conservancy, regulation, management and improvement of part of the river Medway:

And whereas the part of the river Medway within the jurisdiction of the Conservators is defined by the Act of 1881 and shown on the map or plan referred to in the fourth section of that Act:

And whereas the existing limits of the dockyard ports of Chatham and Sheerness are defined in pursuance of the Dockyard Ports Regulation Act, 1865, by an Order in Council dated the sixteenth day of June, nineteen hundred and fifteen:

And whereas the seaward limits of the dockyard port of Sheerness as so defined include the greater part of the approaches to the river Medway:

And whereas in the event of the greater part of the approaches to the river Medway ceasing to form part of the limits of a dockyard port it would be necessary to make further provision for the regulation of navigation in those approaches:

And whereas it is expedient that the jurisdiction of the Conservators should be extended as by this Act provided:

And whereas it is expedient that the other powers contained in this Act should be conferred upon the Conservators:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the objects of this Act cannot be attained 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, that is to say:—

Short and 1.—(1) collective titles. Act 1963.

- 1.—(1) This Act may be cited as the Medway Conservancy ct 1963.
- (2) The Medway Conservancy Acts, 1881 to 1939, and this Act may be cited together as the Medway Conservancy Acts 1881 to 1963.

Incorporation of Acts.

2. The following enactments (so far as the same are applicable for the purposes of this Act and not varied by or inconsistent with the Medway Conservancy Acts 1881 to 1963) shall be incorporated with this Act, that is to say:—

The provisions of the Commissioners Clauses Act, 1847, with respect to the following matters:—

The contracts to be entered into and the deeds to be executed by the commissioners;

The liabilities of the commissioners and legal proceedings by or against the commissioners;

The appointment and accountability of the officers of the commissioners;

The mortgages to be executed by the commissioners;

The accounts to be kept by the commissioners;

Giving notices and orders; and

Access to the special Act;

the provisions of that Act being construed as if the expression "the Conservators" had been inserted therein instead of the expression "the commissioners";

The following provisions of the Harbours, Docks and Piers Clauses Act, 1847, namely sections 77, 78, 99 and 100, the provisions of that Act being construed as if the expression "the Conservators" had been inserted therein instead of the expression "the undertakers", and as if the expression "within the limits of the Act of 1881 and the Medway approach area" had been inserted therein instead of the expression "within the limits of the harbour dock or pier" and the expression "the special Act" in the provisions of that Act incorporated with this Act shall mean and apply to this Act:

Provided that—

- (i) for the purposes of such incorporation the word "vessel" shall include a seaplane on the surface of the water and a hover vehicle;
- (ii) sections 77 and 78 of the said Act of 1847 shall ont apply within the limits of the Act of 1881.
- 3.—(1) In this Act, unless there be something in the subject or Interpretation. context repugnant to such construction, the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have (save as is otherwise expressly provided in this Act) the same respective meanings, and—
 - "the Act of 1881" means the Medway Conservancy Act, 1881;
 - "the Act of 1919" means the Medway Conservancy Act, 1919;
 - "the Act of 1920" means the Port of London (Consolidation) Act, 1920;
 - "the Act of 1926" means the Medway Conservancy Act, 1926;
 - "the Act of 1939" means the Medway Conservancy Act, 1939;
 - "the authority" means the Port of London Authority;
 - "the appointed day" means the date on which so much of the Medway approach area as lies within the limits of the dockyard port of Sheerness ceases to form part of the limits of any dockyard port by virtue of an Order in Council made under the Dockyard Ports Regulation Act, 1865;
 - "the Conservators" means the Conservators of the River Medway;
 - "enactment" means any provision of a public general Act, of a local, private or personal Act, of a Provisional Order confirmed by an Act or of any regulation or order made under an Act;
 - "hover vehicle" means a vehicle designed to be supported on a cushion of air;
 - "the level of high water" means the level of mean highwater springs;
 - "the Medway approach area" means the area described in the First Schedule to this Act;
 - "seaplane" includes a flying boat and any other aircraft designed to float on or manoeuvre on water but does not include a hover vehicle.
- (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.

Power to regulate navigation, etc., in Medway approach area.

- 4.—(1) As from the appointed day, the provisions of section 114 (Powers of harbour-master) of the Act of 1881 shall extend to authorise the harbour-master to give directions within the Medway approach area for regulating the time and manner in which any vessel shall enter into, go out of or lie in that area, and the position, mooring or unmooring, placing or removing of any vessel within that area.
- (2) The provisions of the following sections of the Act of 1881, that is to say:—
 - Section 115 (Penalty on not complying with the directions of the harbour-master);
 - Section 116 (Power of harbour-masters to remove vessels); Section 117 (Penalty on master for obstructing harbour-master);

Section 118 (Harbour-master may slacken ropes); shall extend and apply to any directions given under subsection (1) of this section as if the same were herein re-enacted.

- (3) The Conservators may as from the appointed day exercise the powers of section 122 (Buoys and beacons) of the Act of 1881 within the Medway approach area.
- (4) In the construction of the provisions of the Act of 1881 referred to in subsections (2) and (3) of this section, the expressions "the river" and "the limits of this Act" shall be deemed as from the appointed day to include the Medway approach area.
- (5) The Conservators on the one hand and the Admiralty or the Corporation of Trinity House of Deptford Strond on the other hand may by agreement provide for the taking over and acquisition by the Conservators of any navigational aids maintained by the Admiralty or the Corporation of Trinity House of Deptford Strond, as the case may be, within the Medway approach area.
- (6) As from the appointed day, all byelaws made by the Conservators from time to time under section 108 (Conservators may make byelaws for the regulation of the river) of the Act of 1881 for the regulation of the river (as therein defined) and the navigation thereof, and for compelling vessels, at anchor or otherwise, to carry or exhibit lights from sunset to sunrise shall extend and apply within the Medway approach area.
- (7) As from the appointed day, the following provisions of the Act of 1920, namely, section 112 (Power to make and maintain bridges roads quays locks etc.) in relation to the maintenance and laying down or placing of buoys, section 267 (Power of harbour-masters) and section 279 (Power to make byelaws for the river) in relation to the regulation of the river Thames and the navigation thereof and the lights to be exhibited by vessels shall cease to apply to the Medway approach area.

- (8) Notwithstanding anything in any other enactment the Conservators may within the limits of the Act of 1881 and, as from the appointed day, the Medway approach area require the owner or occupier of any structure below the level of high water to exhibit on or near that structure and keep burning every night from sunset to sunrise such lights and take such other steps for the prevention of danger to navigation as they shall from time to time direct.
- (9) For the avoidance of doubt it is hereby declared that, as from the appointed day, it shall be lawful for the Conservators to carry out such surveys of the bed of the river Thames within the Medway approach area as they shall consider necessary or desirable.
 - 5.—(1) If any dispute or difference shall arise between the For mutual Conservators and the authority in connection with
 - protection of Conservators
 - (a) a refusal by the authority to grant to the Conservators and on reasonable terms a licence to dredge within the authority. Medway approach area under section 220 (Prohibition against dredging without licence of Port Authority) of the Act of 1920;
 - (b) the exercise by the authority of their powers with respect to vessels sunk or stranded within the Medway approach area under section 431 (As to obstructions) of the Act of 1920; or
 - (c) the exercise by the authority in the Medway approach area of their powers under section 112 (Power to make and maintain bridges roads quays locks etc.) or section 215 (Power as to dredging, ballasting etc.) of the Act of 1920 or the granting by the authority to any other person of permission within the Medway approach area—
 - (i) to dredge or raise gravel, sand, ballast and other substances from the bed of the river Thames under the said section 220;
 - (ii) to construct works under section 243 (Port authority may license docks piers embankments etc.) of the Act of 1920; or
 - (iii) to erect, establish or use any stages, cranes, apparatus and other machinery under section 247 (Power to license stages cranes etc. in Thames for discharging vessels) of the Act of 1920;
 - (d) the exercise by the Conservators of any of the powers conferred upon them by section 4 (Power to regulate navigation, etc., in Medway approach area) of this Act;

the dispute or difference may be referred to the Minister of Transport by either party after notice in writing to the other of them and the decision of the said Minister shall be final and binding on both parties:

Provided that where a dispute or difference in respect of any matter mentioned in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (c) of this subsection is referred to the said Minister, the licensee or the applicant for a licence, as the case may be, under the said section 243 or the said section 247 shall be given an opportunity of being heard and in such a case section 248 (Appeal to Minister of Transport against revocation or refusal of licence) of the Act of 1920 shall not apply.

(2) Where the authority propose to execute works in the Medway approach area in the exercise of their powers under the said section 112 in respect of which approval is required under section 244 (Certain works to be approved by the Board of Trade) of the Act of 1920, they shall before making application for such approval give notice in writing to the Conservators of their intention to do so and where the authority propose to direct or give their licence, consent or permission to the execution by any other person of works in that area in respect of which approval is required under the said section 244, they shall before giving such direction, licence, consent or permission give the like notice to the Conservators.

Priority for Her Majesty's vessels.

6.—(1) In this section—

- "Her Majesty's vessels" includes vessels for the time being in the charge of Her Majesty's officers;
- "the Queen's harbour-master" means the person for the time being appointed to be Queen's harbour-master of the dockyard port of Chatham under the Dockyard Ports Regulation Act, 1865.
- (2) As from the appointed day, the Queen's harbour-master may within the limits of the Act of 1881 and the Medway approach area, require priority for the movement of any of Her Majesty's vessels.
- (3) When one of Her Majesty's vessels is to be afforded priority by virtue of a requirement under the last foregoing subsection, the Queen's harbour-master shall inform the harbour-master of such requirement as soon as is reasonably practicable and the harbour-master shall take such steps as are open to him to ensure that other vessels are kept out of the way of the vessel to which the requirement relates.
 - (4) (a) When one of Her Majesty's vessels is exhibiting—
 - (i) in the case of a submarine, on the bridge superstructure; or
- (ii) in the case of any other vessel, at the foremast head; such light by night or such signal by day as may be respectively prescribed for the time being for the purposes of this section by the Queen's harbour-master, all other vessels under way within the limits of the Act of 1881 and the Medway approach area shall keep out of the way of that vessel and of any tug which may be in attendance upon her.

- (b) Where the Queen's harbour-master prescribes any light or signal for the purposes of this subsection he shall give written notice thereof to the Conservators accordingly and the Conservators shall take such steps as they may deem expedient for causing the contents of such notice to be made known to parties affected thereby.
- (c) If the master of any vessel acts in contravention of the provisions of paragraph (a) of this subsection, he shall be liable to a fine not exceeding twenty-five pounds.
- 7. Not later than the appointed day, the Conservators shall Publication of give notice of the extension of their powers effected by subsection (1) of section 4 (Power to regulate navigation, etc., in Medway approach area) of this Act by advertisement in the London Gazette and in such other manner (if any) as they may deem expedient for causing such extension to be made known to parties affected thereby.

extended powers.

8. Nothing in the Medway Conservancy Acts 1881 to 1963 Restriction as shall in any circumstances require or authorise the harbour-master to seaplanes. or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

9. For the purpose of paying the costs, charges and expenses Power to apply of this Act as hereinafter defined and for the purpose of defraying funds and to the expenses of carrying this Act into execution, the Conservators borrow. may apply any of their funds and any moneys raised or hereafter to be raised by them by borrowing under the powers conferred by the Act of 1881 and the Act of 1919 and the Conservators may. for the said purposes and for the purposes of defraying the expenses of carrying the Medway Conservancy Acts, 1881 to 1939, into execution, borrow and take up at interest, in addition to the moneys which they are authorised by the Act of 1881 and the Act of 1919 to borrow, any sum or sums not exceeding in the whole eight hundred and twenty-five thousand pounds on the credit of their undertaking and property and the tolls, fines and profits by this Act and the said Acts of 1881 to 1939 given to, vested in or authorised to be received by the Conservators, and in the event of all or any part of such moneys being repaid by the Conservators to reborrow the same and so toties quoties, but so nevertheless that there shall not be owing on the security aforesaid under the authority of this Act any more than the said sum of eight hundred and twenty-five thousand pounds in the whole at any one time, and for securing the repayment of the moneys so to be borrowed with interest the Conservators may assign over the said undertaking, property and tolls, fines and profits or any of them or any part thereof respectively to the person who shall lend or advance such money or his trustees as a security for the repayment of the money so to be borrowed together with interest for the same.

Application of provisions of Act of 1881 as to borrowing.

10. The provisions of the following sections of the Act of 1881, that is to say:—

Section 144 (Arrears may be enforced by appointment of a receiver);

Section 145 (Sinking fund to be provided Application of sinking fund);

Section 146 (Annual return to Board of Trade with respect to sinking fund); and

Section 147 (Application of money borrowed);

shall apply to and with respect to the borrowing of money and moneys borrowed and other moneys received on capital account under this Act as if the same were herein re-enacted:

Provided that the said section 145 shall for the purposes of such application be construed as if sixty years were therein substituted for sixty-five years.

Temporary borrowing powers.

- 11.—(1) The Conservators may borrow temporarily by way of overdraft or otherwise such sums as they may require—
 - (a) for the purpose of defraying expenses pending the receipt of revenues receivable by them in respect of the period of account to which those expenses are chargeable and taken into account in their estimates made by them for that period;
 - (b) for the purpose of defraying, pending the raising of money by a mortgage which they have been authorised to raise, expenses intended to be defrayed by means of that money.
- (2) Where money is borrowed in pursuance of paragraph (b) of subsection (1) of this section and subsequently money is raised by such a mortgage as is mentioned in that paragraph, then, for the purposes of the provisions of the Act of 1881, the Act of 1919 or this Act regulating the repayment of the money raised by that mortgage, the money shall to the extent of the sum borrowed in pursuance of the said paragraph be deemed to have been raised at the time when the said borrowing took place.

Amendment of enactments.

- 12. As from the appointed day—
 - (a) the provisions of the Medway Conservancy Acts, 1881 to 1939, relating to penalties referred to in columns (1), (2) and (3) of Part I of the Second Schedule to this Act; and
 - (b) the other provisions of the said Acts referred to in columns (1), (2) and (3) of Part II of the said Second Schedule;

shall have effect subject to the amendments specified in column (4) of that schedule.

- 13. As from the appointed day the Acts specified in the Third Repeals. Schedule to this Act shall be repealed to the extent specified in that schedule.
- 14. Nothing in this Act shall prejudice or derogate from any Saving for of the rights or privileges, or the jurisdiction or authority, of the Trinity House. Corporation of Trinity House of Deptford Strond.
- 15. It shall not be lawful to exercise the powers of borrowing Saving for conferred by this Act otherwise than in compliance with the powers of provisions of any order for the time being in force under section Treasury. 1 of the Borrowing (Control and Guarantees) Act, 1946.
- 16. All costs, charges and expenses of and incidental to the Costs of Act. preparing, applying for, obtaining and passing of this Act, shall be defrayed by the Conservators out of the Conservancy revenue fund established under the Act of 1881 or out of moneys borrowed or to be borrowed under the powers of the Act of 1881, the Act of 1919 or this Act.

SCHEDULES

FIRST SCHEDULE

DESCRIPTION OF THE MEDWAY APPROACH AREA

Section 3.

An area bounded by an imaginary line drawn straight from the London Stone on the east side of Yantlet Creek on a bearing eighty-six degrees reckoned clockwise from the true north point of the compass until Warden Point in the Isle of Sheppey bears one hundred and sixty-six degrees reckoned as aforesaid, thence on a bearing one hundred and sixty-six degrees reckoned as aforesaid to the level of high water on the Kent bank of the river Thames, thence in a north-westerly direction along the level of high water to Garrison Point, thence straight across the river Medway on a bearing three hundred and five degrees reckoned as aforesaid to Dolly Bank, and thence in a north-westerly direction along the level of high water to the London Stone hereinbefore described.

SECOND SCHEDULE

Section 12.

AMENDMENT OF ENACTMENTS

PART I

Act (1)	Section (2)	Marginal note (3)	Amendment (4)
The Act of 1881	101	Toll collectors to put up their Christian and surnames painted on boards in	For the words "not exceeding ten pounds" there shall be substituted the words "not exceed-
	102	front of tollhouses Penalty for counter- feiting toll tickets	ing fifty pounds ". For the words "not exceeding five pounds" there shall be substituted the words "not exceeding twenty-five pounds".
	106	Penalty for assaulting collectors, &c.	For the words "not ex- ceeding five pounds" there shall be substituted the words "not exceed- ing twenty-five pounds".
	109	Penalties may be imposed by byelaws	For the words "not exceeding in any case five pounds" there shall be substituted the words "not exceeding in any case twenty-five pounds".
	115	Penalty on not comply- ing with the direc- tions of the harbour- master	For the words "not exceeding five pounds" there shall be substituted the words "not exceeding twenty-five pounds".

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Act (1)	Section (2)	Marginal note (3)	Amendment (4)
The Act of 1881 (cont.)	117	Penalty on master for obstructing harbour-master	For the words "not exceeding five pounds" there shall be substituted the words "not exceed-
	133	Penalty on throwing ballast out of vessels into the river	For the words "not exceeding twenty pounds" there shall be substituted the words "not exceeding one hundred pounds".
	134	Penalty on throwing rubbish, &c., into the river	For the words "not exceeding twenty pounds" there shall be substituted the words "not exceeding one hundred pounds".
•	146	Annual return to Board of Trade with respect to sinking fund	For the words "not exceeding twenty pounds" there shall be substituted the words "not exceeding one hundred pounds".
The Act of 1919	14	Discharging of cargo and ballast from vessels	In subsection (2), for the words "not exceeding five pounds" there shall be substituted the words "not exceeding twenty-five pounds".

PART II

Act (1)	Section (2)	Marginal note (3)	Amendment (4)
The Act of 1881	2	Incorporation of Acts	After the words "apply to this Act" there shall be inserted the words "Provided that for the purposes of such incorporation the word 'vessel' shall include a hover vehicle".
,	3	Interpretation of terms	In the definition of "vessel", after the word "otherwise" there shall be inserted the words "and (except in section 160 (Conservators not to levy tolls in respect of Sheerness Pier, except those specified in Third Schedule)

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2ND SCH. —cont.	Act (1)	Section (2)	Marginal note (3)	Amendment (4)
	The Act of 1881 (cont.)			of this Act) includes a hover vehicle" and at the end of that definition there shall be inserted the words "the words hover vehicle mean a vehicle designed to be supported on a cushion of air".
		122	Buoys and beacons	After the word "river" there shall be inserted the words "and to provide such radar and radio equipment as they may consider expedient for the purpose of facilitating or improving the navigation of the river" and after the word "dockyards" there shall be inserted the words— "Provided also that the Conservators shall not— (a) establish or use any station for wireless
				telegraphy, as defined by section 19 of the Wireless Telegraphy Act, 1949, or instal or use any apparatus for wireless telegraphy as so defined, except un- der the authority of
				and in accordance with a licence in that behalf granted by the Postmaster General pursuant to that Act and otherwise in accordance with the provisions of that Act; (b) use any station, apparatus or system of communication provided under the powers of this section in contravention of the exclusive privilege conferred upon the Postmaster General by the Tele-
	The Act of 1919	2	Incorporation of Acts	After the word "incorporation" there shall be inserted the words "the word 'vessel' shall include a hover vehicle and".

2ND SCH.

-cont.

Act (1)	Section (2)	Marginal note (3)	Amendment (4)
The Act of 1919 (cont.)	3	Interpretation	After the word "motorboat" there shall be inserted the words "and a hover vehicle the words 'hover vehicle' mean a vehicle designed to be supported on a cushion of air and".
	4	Tolls	At the end of subsection (1) there shall be inserted the words "Provided that the tolls specified in Parts I, II, III and IV of the said schedule shall not apply in respect of hover vehicles and the Conservators may demand, levy, collect and receive from the owner, agent, manager or other person having charge thereof on and in respect of hover vehicles using the river such dues as may be prescribed by the Conservators and approved by the Minister of Transport."
	17	Power for Conservators and other bodies to make agreements	For the words "county council local or road authority commissioners of sewers railway company or dock or port authority or company "there shall be substituted the words "company, body or person".
	Schedule		In paragraph 1 of heading (C) for the words "to the Land's End at Warden Point in the Isle of Sheppey in the county of Kent" there shall be inserted the words "on a bearing one hundred and sixty-six degrees reckoned clockwise from the true north point of the compass to the point at which i intersects the level of high water on the Kent bank of
			water on the Kent bank of the river Thames" and in paragraph 3 of heading (Construction of the words "line drawn from Havengore Creek to Warden Point" there shall be substituted the word "imaginary straight line referred to in paragraph 1 of this heading".

2ND SCH. —cont.

Act (1)	Section (2)	Marginal note (3)	Amendment (4)
The Act of 1939	2 .	Incorporation of Acts	After the word "water" there shall be inserted the words "and a hover vehicle".
	3	Interpretation	In the definition of "seaplane" for the words "manoeuvre on the water" there shall be substituted the words "float on or manoeuvre on water but does not include a hover vehicle" and at the end of that definition there shall be inserted the words "hover vehicle means a vehicle designed to be supported on a cushion of air".

THIRD SCHEDULE

Section 13.

REPEALS

Act	Section	Marginal note Extent of repea	
The Act of 1881	71	No resolution of the Conservators to be revoked at a subsequent meeting	The whole section.
	75	unless under certain circumstances On payment of 65,000l by Conservators to corporation, estate, &c., of corporation to vest in Conservators	The second proviso.
	111	Penalties imposed by county	The whole section.
	151	justices Compensation to officers,	The whole section.
The Act of 1919	4	&c., of corporation Tolls	Subsection (3).
	5	Ascertainment of tonnage of vessels	Paragraph (4).
	24	Costs of Act	The whole section.
The Act of 1926	4	Costs of Act	The whole section.
The Act of 1939	5 27 28 29	Existing conservators Restriction as to seaplanes Repeal Costs of Act	The whole section. The whole section. The whole section. The whole section.

Table of Statutes referred to in this Act.

Short title	Session and chapter
Commissioners Clauses Act, 1847 Harbours, Docks and Piers Clauses Act, 1847 Dockyard Ports Regulation Act, 1865 Telegraph Act, 1869 Medway Conservancy Act, 1881 Medway Conservancy Act, 1919 Port of London (Consolidation) Act, 1920 Medway Conservancy Act, 1926 Medway Conservancy Act, 1939 Medway Conservancy Act, 1939 Borrowing (Control and Guarantees) Act, 1946 Wireless Telegraphy Act, 1949	

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Medway Conservancy Act 1963

CHAPTER xxv

ARRANGEMENT OF SECTIONS

Section

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- 3. Interpretation.
- 4. Power to regulate navigation, etc., in Medway approach area.
- 5. For mutual protection of Conservators and authority.
- 6. Priority for Her Majesty's vessels.
- 7. Publication of notice of extended powers.
- 8. Restriction as to seaplanes.
- 9. Power to apply funds and to borrow.
- 10. Application of provisions of Act of 1881 as to borrowing.
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