

ELIZABETH II



1972 CHAPTER xlv

An Act to empower the Greater London Council to provide and operate a flood barrier, with movable gates, across the river Thames in Woolwich Reach, and in connection therewith to execute subsidiary works and to acquire lands; to confer further powers on the Greater London Council, the Essex River Authority and the Kent River Authority and other authorities; to amend certain enactments relating to flood prevention; and for other purposes.

[9th August 1972]

WHEREAS—

(1) By the London Government Act, 1963, provision was made for the discharge by the Greater London Council (hereinafter referred to as "the Council") in Greater London and the adjoining areas of functions with respect to flood prevention and other land drainage functions under the enactments mentioned in Schedule 14 to the said Act of 1963:

(2) By reason of the sinking of the land in south-east England in relation to mean sea levels and the risk of tidal surges, there is

a present and increasing danger of serious flooding in areas adjoining the tidal reaches of the river Thames and the Thames estuary and in certain coastal areas:

(3) Accordingly, it is expedient that the Council should be empowered to construct, maintain and operate a flood barrier, with movable gates, across the river Thames in Woolwich Reach and that provision should be made for the regulation of navigation in connection therewith as in this Act provided:

(4) It is expedient that for the purposes of or in connection with the said flood barrier the Council should be empowered to execute the works, and to acquire the lands, described or referred to in Part II of this Act:

(5) It is expedient that further powers be conferred upon the Essex River Authority and the Kent River Authority, as in this Act provided, for and in connection with the protection of their respective areas against floods or inundations from the sea or other tidal water:

(6) It is expedient that the Thames River (Prevention of Floods) Acts, 1879 to 1962, should be modified as in this Act provided:

(7) It is expedient that the other provisions contained in this Act should be enacted:

(8) The purposes of this Act cannot be effected without the authority of Parliament:

(9) Estimates have been prepared of the cost of carrying out the works to be executed by the Council, and of the acquisition by the Council of lands in connection therewith, as provided for in Part II of this Act, and such estimates amount to thirty-nine million one hundred thousand pounds and two million two hundred thousand pounds respectively:

(10) A plan and section showing the lines or situations and levels of the works authorised to be executed by subsections (1) and (2) of section 18 (As to execution of works) of this Act and also showing the lands which may be acquired or used compulsorily by the Council for the purposes or under the powers of Part II of this Act, and also a book of reference to the said plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands and describing the same, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of

Commons, with the director-general and clerk to the Council and with the town clerks of the London boroughs of Greenwich and Newham, which plan, section and book of reference are in this Act referred to respectively as the deposited plan, the deposited section and the deposited book of reference:

(11) In relation to the promotion of the Bill for this Act the Council have complied with the requirements of section 254 of the Local Government Act, 1933:

1933 c. 51.

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:—

PART I

PRELIMINARY

1. This Act may be cited as the Thames Barrier and Flood Prevention Act 1972. Short title.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—The Thames barrier.

Part III.—Powers to River Authorities.

Part IV.—Miscellaneous and supplemental.

Division of
Act into
Parts.

3.—(1) In this Act, except as otherwise expressly provided or unless the context otherwise requires— Interpretation.

“ the Act of 1878 ” means the Telegraph Act, 1878; 1878 c. 76.

“ the Act of 1930 ” means the Land Drainage Act, 1930; 1930 c. 44.

“ the Act of 1933 ” means the Local Government Act, 1933;

“ the Act of 1950 ” means the Public Utilities Street Works Act, 1950; 1950 c. 39.

“ the Act of 1959 ” means the Highways Act, 1959; 1959 c. 25.

“ the Act of 1961 ” means the Land Compensation Act, 1961; 1961 c. 33.

“ the Act of 1963 ” means (except in Part III of this Act) the London Government Act, 1963; 1963 c. 33.

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

“ the Act of 1968 ” means the Port of London Act, 1968; 1968 c. xxxii.

“ the Act of 1969 ” means the Greater London Council (General Powers) Act, 1969; 1969 c. lii.

“ the Act of 1971 ” means the Town and Country Planning Act, 1971; 1971 c. 78.

PART I
—cont.

“ associated watercourse ” means any tributary or other watercourse or any basin, bay, channel, creek or dock the water from which ultimately flows into, or which is directly or indirectly connected with, the river, except that it does not include—

(a) the waters of any enclosed dock of the Port Authority; or

(b) the river Lee or any other watercourse in the Lee Catchment Area;

“ the barrier ” means the works authorised by or under section 18 (As to execution of works) of this Act or any of such works or any part thereof, and includes any other works, conveniences and other things provided under Part II of this Act and the delineated lands or any part thereof;

“ the barrier gates ” means the movable flood gates forming part of the works authorised by or under section 18 (As to execution of works) of this Act;

“ borough ” means a London borough, and “ borough council ” means the council of a London borough;

“ the Council ” means the Greater London Council;

“ the delineated lands ” means the lands delineated on the deposited plan and described in the deposited book of reference;

“ 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;

“ functions ” includes powers and duties;

“ highway ” has the same meaning as in the Act of 1959;

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

“ the Land Drainage Acts ” means the Act of 1930 and the Land Drainage Act, 1961;

“ the limits of deviation ” means the limits of deviation authorised by section 19 (Deviation from lines and levels) of this Act;

“ London excluded area ” has the same meaning as in Schedule 14 to the Act of 1963;

“ the Minister ” means the Minister of Agriculture, Fisheries and Food;

“ the Ministers ” means the Minister and the Secretary of State for Trade and Industry acting jointly;

“ on ” in relation to any lands includes over or under;

“ the Port Authority ” means the Port of London Authority;

“ reserved area ” means any area for the time being set apart for dividing lines of traffic on, or for separating the footway and carriageway of, a highway or, where no part of the highway has been laid out as footway, for separating the carriageway from the adjoining lands;

“ the river ” means the river Thames and the Thames estuary and includes—

(a) any associated watercourse within the flow and reflow of the tides of the river Thames and the Thames estuary; and

(b) the bed, banks and foreshore of the river Thames and the Thames estuary and of any such associated watercourse;

“ the River Authority ” means the Essex River Authority or the Kent River Authority, and any reference to the area of the River Authority shall be construed accordingly;

“ street ” has the same meaning as in the Act of 1959;

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

“ the tribunal ” means the Lands Tribunal;

“ vessel ” means every description of vessel, whether with or without means of propulsion of any kind, and includes anything constructed or used to carry persons, goods, plant or machinery, or to be propelled or moved, on or by water, a seaplane on or in the water and a hovercraft within the meaning of the Hovercraft Act, 1968;

1968 c. 59.

“ walkway ” has the same meaning as in Part III of the Act of 1969;

“ watercourse ” has the same meaning as in the Act of 1930;

and any reference to an enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any subsequent enactment including this Act.

(2) Where in this Act (except in section 19 (Deviation from lines and levels) thereof) any distance or length is stated, or any reference point is referred to, in any description of works or functions, the reference to that distance, length or reference point shall be construed as if the words “ or thereabouts ” were inserted after such distance, length or reference point (as the case may be).

PART I
—cont.

(3) 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 or under section 18 (As to execution of works) of this Act.

(4) Any reference in this Act to a work shall, unless the context otherwise requires, be construed as a reference to that work both during the execution and after the completion thereof.

(5) References in this Act to the closing of the barrier gates shall be construed (except as otherwise expressly provided) as references to the raising or lowering (as the case may be) of all or any of those gates from the positions in which they are normally housed so as to form a barrier across the whole or (as the case may be) any part of the river, and references therein to the re-opening of the barrier gates shall be construed accordingly.

(6) References in this Act to reference points shall be construed as references to National Grid reference points.

Application
of Part I of
Act of 1965.

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

1946 c. 49.

1845 c. 18.

(2) The Lands Clauses Consolidation Act, 1845, shall not apply to the acquisition of land under Part II of this Act.

PART II

THE THAMES BARRIER

Lands

Power to
acquire
lands.

5.—(1) Subject to the provisions of this Act, the Council may enter upon, take and use such of the delineated lands as they may require—

- (a) for the purposes of constructing, maintaining or operating the barrier or of obtaining or improving access thereto;
- (b) for the purposes of obtaining materials or depositing spoil or other material excavated during the construction of the barrier;
- (c) for securing the improvement or development of the delineated lands, including the provision of amenities for the public;

(d) for the purposes of recoupment, reinstatement or exchange; or

PART II
—cont.

(e) otherwise for the purposes of this Part of this Act or other purposes connected therewith:

Provided that no spoil or other material shall by virtue of the powers of this section be deposited in any place below the level of mean high-water springs otherwise than in such a position and subject to such conditions and restrictions as may be fixed by the Secretary of State for Trade and Industry.

(2) The powers of the Council for the acquisition of land by agreement shall be deemed to extend to, and to authorise, the acquisition by the Council by agreement of any other lands which they may think it desirable to acquire in order to provide substituted sites or facilities for any persons whose lands may be acquired by the Council under the foregoing subsection.

(3) (a) The powers of the Council for the compulsory acquisition of land under this section shall not be exercised after 31st December, 1975.

(b) The power to acquire compulsorily any land shall for the purposes of this subsection be deemed to have been exercised if, on or before 31st December, 1975, notice to treat has been served in respect of that land.

6.—(1) If the deposited plan or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Council, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices or a metropolitan stipendiary magistrate having jurisdiction in the place where the land is situated for the correction thereof. Correction of errors in deposited plan and book of reference.

(2) If on any such application it appears to the justices or the magistrate, as the case may be, that the misstatement or wrong description arose from mistake or inadvertence, they or he shall certify the fact accordingly and shall in their or his 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 of the House of Commons, with the director-general and clerk to the Council and with the town clerk of the borough in which the land is situate, and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Council to take the land and execute the works authorised by or under this Part of this Act in accordance with the certificate.

PART II
—cont.

(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.

7.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under Part I of the Act of 1965 as applied for the purposes of this Part of this Act, the following provisions of this section shall apply to the land subject to the notice instead of subsection (1) of section 8 of the Act of 1965.

(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 Council a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereafter 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 Council 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 it 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 it 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 it 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 Council are authorised to acquire compulsorily under this Part of this Act.

PART II
—cont.

(6) If the Council 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 Council are authorised to acquire compulsorily under this Part of 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 Council 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 Council shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

8.—(1) The Council may, instead of acquiring any land which they are authorised to acquire compulsorily under this Part of this Act, acquire compulsorily such easements and rights in, to or over the land as they may require for the purposes of or in connection with the exercise of any of their functions under this Part of this Act.

Power to
acquire
easements
only.

(2) Accordingly the Council may give notice to treat in respect of any such easement or right describing the nature thereof; and the provisions of Part I of the Act of 1965 as applied for the purposes of this Part of this Act shall apply in relation to the acquisition of such easements and rights as if they were lands within the meaning of the Act of 1965.

PART II
—cont.

(3) Where the Council have acquired an easement or right only in, to or over any land under this section—

- (a) they shall not be required or, except by agreement or during the construction of the barrier, entitled to fence off or sever that land from the adjoining land;
- (b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this section had not been enacted.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Council to acquire the land, the Council shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the Council may acquire the land compulsorily notwithstanding that the period mentioned in subsection (3) of section 5 (Power to acquire lands) of this Act has expired, but not later than one year after the determination of the tribunal:

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

Grant of easements by persons under disability.

9.—(1) Any person empowered by the Act of 1965, as applied for the purposes of this Part of 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 Council any easement or right required for the purposes of this Part of this Act in, to or over 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.

Power to appropriate lands.

10.—(1) The Council may, for the purposes for which they may enter upon, take and use lands under section 5 (Power to acquire lands) of this Act, appropriate and use or deal with or dispose of in accordance with the provisions of this Part of this Act any lands belonging to them and not required by them for any other purpose (not being land which is or forms part of a common or open space (as defined respectively in the Act of 1971)), and the provisions of this Part of this Act relating to

lands acquired by the Council thereunder shall apply to any lands appropriated by the Council under the powers of this section as if such lands had been so acquired on the date on which they were so appropriated.

PART II
—cont.

(2) The Council shall make any necessary adjustments in their accounts required in consequence of any such appropriation as aforesaid.

(3) An amount equivalent to the ascertained value of any lands appropriated by the Council under the powers of this section shall be added to and be deemed to form part of the expenditure incurred by the Council in acquiring lands under this Part of this Act.

(4) The said ascertained value shall be such a sum as may be agreed between the Secretary of State for the Environment and the Council or in the event of difference between them as may be settled by arbitration:

Provided that for the purposes of this subsection section 73 (Arbitration) of this Act shall have effect as if in that section the words "the President of the Royal Institution of Chartered Surveyors" were substituted for the words "the President of the Institution of Civil Engineers".

11.—(1) The Council may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired or to be acquired under this Part of this Act with respect to his reinstatement elsewhere.

Power to
reinstale
owner or
occupier of
property.

(2) Any such agreement may provide for the exchange of land, and for that purpose the Council may pay or receive money for equality of exchange.

12.—(1) The Council may enter into and carry into effect agreements with any person being the owner of, or interested in, any land abutting on any portion of land which may be acquired under this Part of this Act, with respect to the sale by the Council to him of any land acquired by or any part of a street or highway vested in the Council under this Part of this Act and not required by them for the purposes of or in connection with the exercise of their functions under this Part of this Act.

Agreements
with
adjoining
owners.

(2) The Council may accept as satisfaction of the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Council for the purposes of this Part of this Act or any easement or right so required.

13. Subject to the provisions of this Part of this Act, the Council may enter upon, take, use and appropriate so much of the subsoil and under-surface of any public street on the delineated lands as

Power to use
subsoil of
streets.

PART II
—cont.

may be necessary for the purposes of or in connection with the exercise of their functions under this Part of this Act without being required to purchase the same or any easement therein or thereunder.

Extinction of
private rights
of way.

14.—(1) All private rights of way over any land which may be acquired compulsorily under this Part of this Act shall be extinguished on the acquisition of the land whether compulsorily or by agreement or on the entry on the land in pursuance of subsection (1) of section 11 of the Act of 1965 as applied for the purposes of this Part of this Act, whichever first occurs.

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

Extinction of
rights in
respect of
existing
landing
places.

15.—(1) All public and private rights of way over, or user of, any existing landing place shall be extinguished as from the passing of this Act, and the Council may alter, replace or remove any existing landing place or any structure comprised therein or forming part thereof.

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

(3) In this section “existing landing place” means a landing place to which, immediately before the passing of this Act, the public had a right of access being a pier, jetty, causeway, hard, footway or other landing place in or beside the river which is situated on the delineated lands at the date of the passing of this Act and includes any approach (not being a street or part of a street) from the landward side to such a landing place.

Compensation
to certain
occupiers.

16.—(1) Section 10 of the Act of 1965 (which relates to compensation for lands injuriously affected) as applied for the purposes of this Part of this Act shall extend and apply to any person (not being the Port Authority) who, on 1st August, 1972, is carrying on a trade or business on lands occupied by him—

- (a) which have a frontage on to that part of the river lying between the two lines described in subsection (2) of section 25 (Provisions as to dredging, etc.) of this Act; or
- (b) which do not come within the lands described in the foregoing paragraph but which are situated wholly or partly within the delineated lands or which abut on the delineated lands;

so as to require the Council (except in a case to which subsection (3) of the said section 25 applies) to make compensation to him for such injury (if any) to his trade or business as is occasioned by any obstruction of, or interference with, his private right of access to such lands by reason of the construction of the barrier, or any part thereof, and during the period of such construction, notwithstanding that no part of his said lands is taken by the Council and notwithstanding that the value of his interest in the said lands is not depreciated by reason of such construction or is depreciated by an amount which is less than the amount of the loss suffered by him by reason of such injury as aforesaid:

Provided that—

- (i) such person shall take all reasonable steps to reduce such injury; and
- (ii) in the assessment of compensation regard shall be had to any facilities which are or may be reasonably available to such person for the mitigation of any such injury.

(2) The provisions of the foregoing subsection shall extend and apply in relation to any works which may be executed under this Part of this Act for the alteration, extension, enlargement, replacement, repair, renewal or removal of the barrier as if they were works for the construction of the barrier, and the reference therein to “the period of such construction” shall be construed accordingly.

17. In determining a question with respect to compensation claimed under or by virtue of this Part of 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 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.

Disregard of recent improvements and interests.

Works

18.—(1) Subject to the provisions of this Part of this Act, the Council may, in the lines or situations and within the limits of deviation shown on the deposited plan and according to the levels shown on the deposited section, execute the works described

As to execution of works.

PART II
—cont.

in subsection (2) of this section, together with all necessary and proper works and conveniences connected therewith or incidental thereto.

(2) The works referred to in subsection (1) of this section are the following works:—

In the borough of Newham—

Work No. 1 A flood barrier, incorporating piers, movable flood gates, sills and an access bridge, with a centre line commencing on the north side of the river at reference point TQ4142879845 and terminating in the river at reference point TQ4144979673.

In the boroughs of Newham and Greenwich—

Work No. 2 A flood barrier with a centre line commencing by a junction with Work No. 1, at reference point TQ4146279675, and terminating, by a junction with Work No. 3, at reference point TQ4151779380; being a flood barrier so constructed, with piers interspace with movable flood gates housed in sills in the bed of the river, as to provide, when those movable flood gates are so housed, four openings each 200 feet in width with unrestricted headroom for the passage of vessels in the river.

In the borough of Greenwich—

Work No. 3 A flood barrier, incorporating piers, movable flood gates, sills and an access bridge, with a centre line commencing, by a junction with Work No. 2, at reference point TQ4151079379, and terminating on the south side of the river at reference point TQ4152279281.

(3) Notwithstanding anything to the contrary in this Part of this Act or shown on the deposited plan or the deposited section but without prejudice to the provisions of the next following section, the Council may, if they think fit, subject to the approval of the Minister which may be given only after consultation with the Port Authority, the Council and such other bodies and persons as he thinks fit, execute the whole or any part of Works Nos. 1 and 2 within the limits of deviation in accordance with dimensions and descriptions other than the dimensions and descriptions shown on the deposited plan and the deposited section or set out in the last foregoing subsection.

(4) Without prejudice to the provisions of the last foregoing subsection, the Council may maintain and may from time to time alter, extend, enlarge, replace, repair or renew—

(a) Works Nos. 1 to 3, or any part thereof, within the limits of deviation; or

(b) any other works, conveniences or other things provided by or belonging to them on the delineated lands;

PART II
—cont.

or may remove the barrier or any part thereof:

Provided that the Council shall not under the powers of this subsection carry out any tidal work which constitutes an alteration, extension, enlargement, replacement or removal of Works Nos. 1 to 3, or any part thereof, or of any other tidal work which has been provided by them under this Part of this Act, where any such tidal work may affect materially the flow or regime of the river, except with the consent of the Minister which may be given only after consultation with the Port Authority, the Council and such other bodies and persons as he thinks fit.

(5) (a) The construction of all tidal works shall when commenced be proceeded with and completed as soon as practicable.

(b) When Works Nos. 1 to 3 are completed and all the barrier gates are capable of being closed, a certificate thereof shall be issued under the seal of the Council, and any duly authenticated copy of such certificate shall, in all proceedings and for all purposes, be admissible and received as evidence that such certificate has been duly made, that Works Nos. 1 to 3 are completed and that all the barrier gates are capable of being closed.

(c) When any tidal work for which the consent of the Minister was required under the last foregoing subsection is completed, a certificate thereof shall be issued under the seal of the Council, and any duly authenticated copy of such certificate shall, in all proceedings and for all purposes, be admissible and received as evidence that such certificate has been duly made and that the tidal work to which it relates is completed.

19. In the execution of Works Nos. 1 to 3, or any part thereof, the Council may deviate from the lines or situations thereof shown on the deposited plan to any extent within the limits of deviation shown on that plan, and may deviate vertically from the levels shown on the deposited section to any extent not exceeding 10 feet upwards or 10 feet downwards or to such further extent as may be found necessary or convenient and as may be sanctioned by the Minister: Deviation from lines and levels.

Provided that notwithstanding anything in this section—

- (i) none of the four openings referred to in the description of Work No. 2 in the last foregoing section shall be less than 200 feet in width;
- (ii) the top of the sills referred to in the said description shall not be less than 30 feet or more than 33 feet below the level of Ordnance Datum (Newlyn); and

PART II
—cont.

- (iii) the top of the sills referred to in the description of Works Nos. 1 and 3 in the last foregoing section shall not be less than 15 feet below the level of Ordnance Datum (Newlyn) in the case of the two sills which adjoin Work No. 2 and shall not be above the level of Ordnance Datum (Newlyn) in the case of any other sills forming part of Works Nos. 1 and 3.

Power to
make
subsidiary
works, etc.

20.—(1) Subject to the provisions of this Part of this Act, the Council, for or in connection with the purposes of this Part of this Act (in addition to the works described in any other provision thereof), may from time to time on the delineated lands execute or do any of the following works or things, that is to say:—

- (a) construct or place and maintain and use the following works and conveniences, that is to say, all such cuts, channels, means of ingress and egress, boundary, river and other walls and embankments, gates, fences, dams, basins, trenches, pounds, slipways, lay-bys, sluices, culverts, syphons, by-passes, arches, vaults, ducts, pipe-ways, sewers, drains, cableways, towers, pylons, mains, pipes, cables, wires, tanks, valves and valve chambers, banks, piers, landing places, piles, fenders, booms, pontoons, caissons, staging, cofferdams, mooring dolphins, moorings, buoys, beacons, lights, signals, wharves, pavings, hardstandings, engines, pumps, cranes, hoists, winches, capstans, gantries, bridges (including footbridges), sidings, level-crossings, tunnels, subways, roundabouts, carriageways, footways, reserved areas, parking places for vehicles, lifts, stairs, elevators, ramps, passages, approaches, landscaping works, recreational and viewing areas and facilities, transit facilities in connection with vessels providing river bus or similar services, ways or places laid out or rendered suitable for walkways, radio and radar stations, telecommunication installations, control rooms, offices, workshops, power houses, stores, canteens, staff housing accommodation and other buildings and structures, installations for the abstraction of water from and the return of water to the river, mechanical, electrical and other apparatus and appliances, plant and machinery as may be necessary or convenient;
- (b) make junctions and communications (for use by pedestrians or vehicles) with Work No. 1 and Work No. 3 or with any existing streets (whether or not they are dedicated to the public use or maintainable at public expense), and divert or widen or alter the line or alter the level of any such existing street for or in connection with the purposes of this Part of this Act;

- (c) raise, sink or otherwise alter the level of any land or the position of any of the steps, areas, cellars, cellar-flaps, pavement lights, gratings, boundary walls, gateways, railings, passages, fencings, windows, sewers, drains, watercourses, pipes, spouts or wires belonging to any house or building and remove all other obstructions so as to cause in so doing as little delay and inconvenience to the inhabitants thereof as the circumstances of the case will admit, and the Council shall make compensation to any person who suffers damage by any such alterations, such compensation to be determined in case of dispute by the tribunal;
- (d) execute any works for the protection or improvement of any adjoining land or buildings;
- (e) execute any works and do any things necessary for the strengthening and supporting of any walls of adjoining buildings.

(2) The Council may, on any lands abutting on the delineated lands, execute or do, by agreement with the owners and occupiers of such lands, any of the works or things referred to in paragraphs (c), (d) and (e) of the foregoing subsection and any works necessary or convenient for the purpose of providing or facilitating access to or from the said lands or for preserving the amenities thereof.

(3) Subject to the provisions of this Part of this Act, the Council may, in the exercise of their powers under this section for or in connection with the provision or improvement of any means of ingress to or egress from the delineated lands, construct or place and maintain, whether temporarily or permanently, all such works and conveniences, and do such other things, as they may deem necessary or expedient over, across or under any part of a railway which is on the delineated lands and as will not prevent the safe use of such railway or interfere to any greater extent than is reasonably necessary with the traffic thereon.

(4) In executing or doing works or things authorised by this section, and in addition to and not in derogation of any of the functions conferred by this Part of this Act, but subject to the provisions thereof, the Council may exercise any of the powers conferred upon any authority by Part III (Creation of highways) and Part V (Improvement of highways) of the Act of 1959, and for the avoidance of doubt the Council may similarly exercise the powers conferred upon them by any other enactment relating to highways.

(5) Without prejudice to the provisions of section 19 (Deviation from lines and levels) of this Act, the Council may within the delineated lands, for the purposes of or in connection with the construction, operation, maintenance, alteration, extension, enlargement, replacement, repair, renewal or removal of the

PART II
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barrier, alter or interfere with the river and use so much of the bed, banks and foreshore thereof as they may require for such purposes, and may, within the delineated lands, construct, place, maintain, alter or remove all such works and conveniences and remove all such obstructions and do such other things as they may deem necessary or expedient in, under, over or adjacent to the river.

(6) The Council may, with the consent of the Port Authority (which consent shall not be unreasonably withheld) and subject to such reasonable conditions as the Port Authority may specify for any of the purposes referred to in the last foregoing subsection, the next following section or section 25 (Provisions as to dredging etc.) of this Act moor or anchor vessels, or cause vessels to be moored or anchored, in the river.

(7) Any difference arising between the Council and the Port Authority under the last foregoing subsection may be referred by either of the parties (after giving notice in writing to the other of them) for determination by the Secretary of State for Trade and Industry whose decision shall be final.

Provision of
tugs.

21. The Council may, and shall if and to the extent that the Secretary of State for Trade and Industry so directs, make arrangements for a tug or tugs to be in attendance in the vicinity of Works Nos. 1 to 3, or otherwise to be made available at the Council's expense, for the purpose of rendering any necessary assistance to vessels navigating the river in the vicinity of those works.

Vesting of
reclaimed
lands.

22. Where the Council, in the exercise of their powers under section 18 (As to execution of works) or section 20 (Power to make subsidiary works, etc.) of this Act, reclaim any land from the river by embankment, the land so reclaimed shall vest in the owner of the land in front of which the embankment has been made (hereafter in this section referred to as "the adjoining land") for the like estate or interest as that upon which the adjoining land is held at the time of the completion of the embankment and subject to, and with the benefit of, the like estates, interests, exceptions, reservations, incumbrances, covenants and conditions as then attach to the adjoining land.

Cables, pipes
or wires under
or over tidal
waters or
tidal lands.

23. Notwithstanding anything in this Part of this Act, any cables, pipes or wires to be laid or placed under the powers contained in this Part of this Act by the Council under or over any tidal waters or tidal lands below the level of mean high-water springs shall be laid or placed at such depth under, or such height

ver, tidal waters or tidal lands as the Secretary of State for Trade and Industry, after consultation with the Port Authority, may require.

PART II
—cont.

24.—(1) Where the Council, for the purposes of or in connection with the exercise of their functions under this Part of this Act, require the removal of any mooring chain or other mooring situated in the river on the delineated lands the Council may by notice in writing require the Port Authority to remove or secure the removal of such mooring chain or other mooring, and the Port Authority shall by such date as may be specified in such notice, not being less than twenty-eight days from the receipt by them of such notice, take whatever action may be available to them to remove or secure the removal of the mooring chain or other mooring specified in such notice.

Removal of
moorings.

(2) If in the opinion of the Port Authority it is reasonably necessary for or in connection with the construction or alteration of a tidal work to carry out any work of removing, altering or resiting any moorings situated in that part of the river lying between the two lines described in subsection (2) of section 25 (Provisions as to dredging, etc.) of this Act, or of providing new moorings to enable vessels navigating the river to be adequately secured whilst awaiting passage through the barrier owing to a closure of the barrier gates, they shall give notice in writing to the Council of their intention so to do, and shall before carrying out such work take into consideration any observations made by the Council by such date as may be specified in the notice, not being less than twenty-eight days from the receipt by the Council of such notice.

(3) Where the Port Authority carry out or secure the carrying out of any work for the purpose of removing, altering or resiting moorings or of providing new moorings, pursuant to the foregoing provisions of this section, the Council shall repay to the Port Authority the costs reasonably incurred by the Port Authority or to which they may be liable in respect thereof including the cost of any dredging reasonably required for that purpose and any compensation paid by the Port Authority which may, with the Council's prior approval in writing, be agreed by the Port Authority with the owner under section 63 of the Act of 1968 or which, failing such prior approval and agreement, shall be assessed by an arbitrator as provided in subsection (2) of that section.

(4) Any difference arising between the Council and the Port Authority as to the reasonableness of any work carried out or costs incurred under the foregoing provisions of this section may be referred by either of the parties (after giving notice in writing to the other) for determination by the Minister and the Secretary of State for the Environment acting jointly, and their decision shall be final.

PART II
—cont.Provisions
as to
dredging, etc.

25.—(1) Subject to the provisions of this Part of this Act, the Council may from time to time dredge or deepen or deposit material in the bed of the river for the purposes of or in connection with—

- (i) the construction, operation, maintenance, alteration, extension, enlargement, replacement, repair, renewal or removal of the barrier; or
- (ii) the exercise of their functions under subsection (3) of this section;

and may for such purposes alter or interfere with the bed, banks, soil or foreshore of the river and may use, appropriate or dispose of any materials dredged by them:

Provided that no materials which have been dredged by the Council under this subsection shall be deposited in any place below the level of mean high-water springs otherwise than in such a position and subject to such conditions and restrictions as may be fixed by the Secretary of State for Trade and Industry.

(2) The powers of the Council to dredge or deepen the bed of the river for the purposes specified in paragraph (i) of the foregoing subsection may be exercised only within that part of the river lying between two lines drawn across the river, one from reference point TQ4080179692 on the north side of the river to reference point TQ4080079157 on the south side of the river and the other from reference point TQ4247079819 on the north side of the river to reference point TQ4235079329 on the south side of the river, or within such other parts of the river in the London excluded area as may for the time being be approved by the Port Authority for the purposes of that paragraph.

(3) (a) The Council may take such steps as appear to them to be reasonably practicable in all the circumstances to secure that the measure of access by vessels from the main navigation channel of the river to land having a frontage on to that part of the river to which this subsection applies, and the use of any wharf, berth, dock, pier, jetty, slipway or any apparatus, equipment or other work or facility (all of which are hereafter in this subsection referred to as “facilities”) forming part of or attached to that land, shall not be materially diminished by siltation, or interfered with to a material extent by scouring, caused by any tidal work or to remedy any such siltation or scouring which may have been so caused.

(b) Where the owner or occupier of any such land as is referred to in the foregoing paragraph gives to the Council a notice in writing stating that in his opinion circumstances exist which justify the exercise by the Council of their powers under that paragraph for the benefit of that land or of the facilities forming part thereof or attached thereto, and requesting the Council to

exercise the said powers, the Council shall, within twenty-eight days from the receipt of such notice, notify in writing to the person giving such notice their decision as to whether or not they are prepared to exercise such powers and, if they are prepared to exercise such powers, informing him of their proposals for so doing.

(c) The owner or occupier of any such land as is referred to in paragraph (a) of this subsection who has given a notice to the Council under the last foregoing paragraph shall as soon as is reasonably practicable supply a copy of that notice, and of the terms of any notification received by him from the Council in reply thereto, to any other person who would have been entitled to give such a notice in respect of that land.

(d) Where, following on the giving of a notice to the Council under paragraph (b) of this subsection, it shall be shown by the owner or occupier of the land in respect of which that notice was given that by reason of siltation or scouring caused by any tidal work there has been, or will be upon the Council ceasing to exercise their powers under paragraph (a) of this subsection, a material diminution in the measure of access for vessels from the main navigation channel of the river to that land or to facilities forming part of or attached to that land, or a material interference with the use of such facilities, then the Council shall make compensation to such owner or occupier for such injury (if any) as is or will be occasioned to him by such diminution or interference (including any expenditure reasonably either incurred or to be incurred by him in remedying such siltation or scouring as is referred to in paragraph (a) of this subsection after the expiry of the period of twenty-eight days referred to in paragraph (b) of this subsection).

(e) Any difference arising under the last foregoing paragraph between the Council and the owner or occupier of any such land as is referred to in paragraph (a) of this subsection shall be referred to and determined by arbitration except that a difference as to the amount of any compensation payable thereunder shall be referred to and determined by the tribunal.

(f) This subsection applies to that part of the river lying between two lines drawn across the river, one from reference point TQ3981080310 on the north side of the river to reference point TQ3938680130 on the south side of the river and the other from reference point TQ4339579770 on the north side of the river to reference point TQ4370979369 on the south side of the river.

(g) As respects any land which has a frontage on to the river and which is situated within or abuts on the delineated lands, or any facilities forming part of or attached to such land, the provisions of this subsection shall extend and apply to any

PART II
—cont

material diminution in such measure of access as aforesaid which is caused after the period of the construction of, and by reason of the existence of, any tidal work (but not by the exercise by the Council of their powers to close the barrier gates under section 35 (As to operation of barrier) of this Act) as they apply to a material diminution arising from siltation caused by a tidal work.

(h) For the purposes of this subsection the powers to dredge or deepen the bed of the river for the purposes specified in paragraph (ii) of subsection (1) of this section shall include a power to dredge or deepen the bed of the river in order to provide an alternative means of access to any such land as is referred to in paragraph (a) of this subsection or to facilities forming part of or attached to such land.

(i) The foregoing provisions of this subsection, and subsection (5) of this section, shall apply and have effect—

- (a) in relation to Works Nos. 1 to 3 and any other tidal work executed in connection therewith or incidentally thereto (not being such a tidal work as is referred to in subparagraph (b) of this paragraph), during the period of the execution of those works and thereafter for a period of ten years from the date on which it is certified under paragraph (b) of subsection (5) of section 18 (As to execution of works) of this Act that Works Nos. 1 to 3 are completed and all the barrier gates are capable of being closed; and
- (b) in relation to any tidal work for which the consent of the Minister is required under subsection (4) of the said section 18, during the period of the carrying out of that tidal work and thereafter for a period of ten years from the date on which it is certified under paragraph (c) of subsection (5) of the said section 18 that the tidal work is completed;

and shall then cease to have effect in relation to the tidal work in question:

Provided that in assessing the amount of any compensation which may be payable in pursuance of paragraph (d) of this subsection, following on a notice given to the Council under paragraph (b) of this subsection before the foregoing provisions of this subsection cease to have effect in relation to the tidal work in question, no account shall be taken of any limitation of time contained in this paragraph.

(4) (a) The Council shall make compensation to any person whose property or works are damaged by, or in consequence of, any operations executed by the Council under the powers to dredge or deepen the bed of the river conferred by the foregoing

provisions of this section in any case where that person would have been entitled to damages if the operation had been executed otherwise than in pursuance of statutory powers.

(b) Before exercising the said powers within 50 yards of—

- (i) a tunnel under the river;
- (ii) a submarine cable placed or maintained by the Post Office; or
- (iii) an electric line, main or pipe (including cooling water intake and outfall works) in or under the river vested in any undertakers within the meaning of section 51 (For protection of certain statutory undertakers) of this Act;

the Council shall give to the person in whom the tunnel is vested, the Post Office or the undertakers concerned (as the case may be) not less than fourteen days' notice in writing of their intention so to do stating the position and depth of the proposed dredging:

Provided that this paragraph shall not apply in relation to any electric line, main or pipe (including cooling water intake and outfall works) unless the undertakers concerned have supplied the Council with a plan showing the position in which the electric line, main or pipe is laid in or under the river.

(c) No materials dredged in the exercise of the said powers shall, without the consent of the Post Office or the undertakers concerned (as the case may be), be deposited so as to obstruct or impede any work of, or connected with the inspection or repair of, any such Post Office cable, electric line, main or pipe (including cooling water intake and outfall works) or so as to affect the efficient operation thereof.

(5) (a) Before they commence for the first time to execute any works in the river (other than works of investigation) under the powers conferred by this Part of this Act, the Council shall, in connection with the exercise of their functions under subsection (3) of this section, carry out a survey of or in the vicinity of that part of the river to which that subsection applies, and shall from time to time thereafter carry out further surveys thereof in accordance with the requirements of a scheme which shall be in such form as may from time to time be agreed between the Council's director of public health engineering and an engineer nominated for the purpose by the committee referred to in the next following paragraph or, failing such agreement, as may be determined by the Minister and the Secretary of State for the Environment acting jointly to be appropriate on the application of either of the parties after giving notice in writing to the other of them.

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—cont.

(b) The Council shall supply a copy of the results of every survey carried out under the foregoing paragraph to a committee nominated for that purpose by, and representing, the majority in number of the owners and occupiers of land having a frontage on to that part of the river to which subsection (3) of this section applies.

(c) Any such owner or occupier as aforesaid shall supply the Council with a copy of the results of every survey carried out by him or on his behalf of the river in the vicinity of his frontage, together with details of any dredging carried out by him or on his behalf in the vicinity of his frontage after 4th December, 1971.

(d) Any person acting on behalf of the Council and duly authorised in that behalf may, on producing if so required some duly authenticated document showing his authority, at all reasonable times enter on any such land as aforesaid for the purpose of carrying out a survey under the provisions of paragraph (a) of this subsection.

Power to
pump and
discharge
water.

26.—(1) Notwithstanding anything contained in any other enactment, the Council may, for the purposes of or in connection with the exercise of their functions under this Part of this Act, pump any water required by them for cooling purposes from or into the river or pump any water found by them into the river or into any sewer or drain, and for any of those purposes may, on the delineated lands, lay down, take up and alter conduits, pipes and other works and conveniences and make any convenient connections with the river or (as the case may be) with the sewer or drain.

(2) The Council shall not under the powers of this section discharge water into the river except with the consent of the Port Authority (which consent shall not be unreasonably withheld) and subject to such terms and conditions (including, in the case of water found by them, the taking of steps to remove, so far as may be reasonably practicable, from the water so discharged any gravel, soil or other solid substance or matter in suspension) as the Port Authority may reasonably impose.

(3) Any difference arising between the Council and the Port Authority under the last foregoing subsection may be referred by either of the parties (after giving notice in writing to the other of them) for determination by the Secretary of State for the Environment whose decision shall be final.

Temporary
closing of
river in
connection
with works.

27.—(1) Notwithstanding anything to the contrary in any other enactment or in any rule of law, but without prejudice to any requirement imposed on the Council by or under section 35 (As to operation of barrier) of this Act, the Council may, in executing

or doing in, on, under or over the river any works or things authorised by or under the foregoing provisions of this Part of this Act, close the river or any part thereof to navigation:

Provided that the Council shall so execute or do such works or things as to ensure that at any time no more of the river is so closed than is reasonably necessary in all the circumstances, and if it becomes necessary to close the river completely to navigation the Council shall use their best endeavours to secure that the minimum obstruction, delay or interference is caused to vessels which may be using or intending to use the river and that the minimum interference is caused to persons who may be using or intending to use the river for the purposes of trade or business (including the use of river water for cooling purposes).

(2) Without prejudice to the provisions of section 4 (Application of Part I of Act of 1965), section 16 (Compensation to certain occupiers) or section 49 (For protection of Port Authority and river users) of this Act, neither the Council nor the Port Authority shall be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of any closure of the river under the foregoing subsection.

28. Subject to the provisions of this Part of this Act, the Council shall cause to be removed or filled up all such sewers, drains or watercourses or parts thereof as shall be situated on the delineated lands and as shall become unnecessary by reason of the exercise by the Council of any of their functions under this Part of this Act. Sewers, etc.,
to be removed
or filled up.

29. Subject to the provisions of this Part of this Act, the Council may, for the purposes of or in connection with the exercise of their functions under this Part of this Act, stop up the whole or such part or parts as they may from time to time think fit of the streets mentioned in the Schedule to this Act in so far as they are situated on the delineated lands: Power to
stop up
streets.

Provided that the Council shall not stop up a street or any part of a street under the powers of this section unless they are in possession of all buildings and lands (other than lands forming part of any street or of the river) on both sides of the street or part of the street (as the case may be) to be stopped up, or unless, in the case of buildings or lands abutting on and having access to the street which or part of which (as the case may be) is to be stopped up, the Council have maintained or provided reasonable access thereto and therefrom, except so far as the owners, lessees and occupiers of such buildings and lands may otherwise agree.

PART II
—cont.

Vesting of
sites of
streets
stopped up.

30. On the stopping up of a street or any part of a street under the powers of the last foregoing section all rights of way over the same and other rights in respect thereof shall be extinguished and the site and soil thereof shall vest in the Council so far as such site and soil shall not be already vested in the Council, subject to the payment of compensation, if any, by the Council to any person in respect of the value, if any, of his interest in the site and soil of any part of a street vested in the Council by virtue of this section, such compensation to be determined in case of dispute under and in accordance with the provisions of the Act of 1961, but in assessing such compensation no regard shall be had to any enhancement in the value of any interest in such part due to such stopping up.

Power to
stop up
streets
temporarily.

31.—(1) Subject to the provisions of this Part of this Act, the Council may for the purposes of or in connection with the exercise of their functions under this Part of this Act stop up, open, break up, interfere with, alter or divert temporarily all or any part of the carriageway or footway of any street or part of a street on the delineated lands and may execute and do all necessary works and things for or in connection with such stopping up, opening, breaking up, interference, alteration or diversion, and for keeping such carriageway or footway open for traffic, and may remove or alter any lamp-posts, street refuges, lavatories, posts and other erections upon the lands so affected.

(2) The Council shall provide reasonable access for all persons bona fide going to or returning from any premises in any street of which the carriageway or footway is stopped up, interfered with, altered or diverted under the powers of this section.

Vesting and
disposal of
materials.

32. There shall by virtue of this Part of this Act be vested in the Council—

- (a) all materials and apparatus on any lands acquired by them under the powers of this Part of this Act;
- (b) all lamp-posts, paving, metalling and other materials on lands comprising any street or part of a street stopped up, altered or diverted under the powers of this Part of this Act; and
- (c) all materials obtained in the alteration of or interference with any street, sewer or drain in connection with the construction of the barrier;

and the Council may appropriate and use or sell or dispose of the same or any of them:

Provided that as regards any materials or apparatus referred to in this section, where a person, not being a person from whom the Council have acquired any interest in the said land, within

three months from the date of the vesting as aforesaid proves to the reasonable satisfaction of the Council that immediately before the vesting as aforesaid he was the owner thereof, he shall be entitled to resume ownership thereof and shall comply, in such manner and within such period as may be specified, with any direction of the Council concerning the removal of the said materials or apparatus, and if he fails so to comply the Council may appropriate and use or sell or dispose of the said materials or apparatus in like manner as if they were the owner thereof.

33. Subject to the provisions of this Part of this Act, the provisions of Part II of, and the Fourth Schedule to, the Act of 1950 shall apply in relation to any works executed or things done on the delineated lands under section 18 (As to execution of works) or section 20 (Power to make subsidiary works, etc.) of this Act (hereafter in this section referred to as "the works") as if the works were executed for road purposes within the meaning of section 21 (1) (a), of the Act of 1950 and were of the kind referred to in that section, as if the Council were a promoting authority for the purposes of the operation of the said provisions, and as if any undertakers' apparatus affected thereby were in a street:

Provided that for the purposes of such application the provisions of the Act of 1950 shall have effect—

- (a) so as to impose on the Council an obligation before commencing any of the works to give notice to the undertakers concerned under paragraph 2 of the Fourth Schedule to the Act of 1950 together with plans, sections and particulars of any of the works to be commenced; and
- (b) as if the words in parentheses in paragraph 3 of the said schedule relating to a road alteration were omitted from that paragraph.

34.—(1) Before commencing to exercise their functions under this Part of this Act so as to involve the temporary closing to vehicular traffic of any street either absolutely or to the extent of one-third or more of the width of the carriageway the Council shall give to the commissioner of police of the metropolis, and to the borough council of the borough in which the street is situated, not less than twenty-one days' notice in writing of their intention so to do and such notice shall specify the works to which the notice relates and the street which will be closed in the course of the execution of the works.

Notices as to temporary closing of streets.

(2) The Council shall make such arrangements with the said commissioner and borough council as shall be reasonably necessary so as to cause as little interference with vehicular traffic as may be reasonably practicable during the execution of the works.

PART II
—cont.*Operation of barrier*

As to
operation of
barrier.

35.—(1) Notwithstanding anything to the contrary in any other enactment or in any rule of law, the Council may use and operate the barrier, and, in particular, the barrier gates may be closed by the Council for such periods as they consider necessary or desirable—

- (a) at any time when it appears to the Council that there is reason to believe that unless the barrier gates are closed floods or inundations may be caused by the overflow of the river upstream of the barrier, or in any other case of emergency;
- (b) for the purpose of enabling experiments to be carried out for or in connection with the development of the most effective use of the barrier for defence against floods or inundations;
- (c) for the purpose of testing the barrier;
- (d) for the purpose of exercising and instructing staff in the operation and control of the barrier;
- (e) for the purpose of maintaining, extending, enlarging, altering, replacing, repairing or renewing Works Nos. 1 to 3, or any part thereof, on such occasions as may be reasonably necessary, or for the purpose of removing those works;

and for no other purpose and may be so closed notwithstanding that the river or any part thereof will thereby be closed to navigation and that the passage of vessels in the river may thereby be obstructed, delayed or interfered with, and neither the Council nor the Port Authority shall, as a result of such closure, be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of such obstruction, delay or interference:

Provided that, in and for the purpose of determining in any case when or at what state of the tide, and for how long, the barrier gates are to be closed, and when or at what state of the tide they are to be re-opened after any such closure, the Council shall—

- (i) have proper regard to the need to minimise any risk of danger to life or damage to property arising from floods or inundations caused by the overflow of the river downstream of the barrier;
- (ii) subject to the provisions of the foregoing paragraph, use their best endeavours to secure that the minimum obstruction, delay or interference is caused to vessels which may be using or intending to use the river and

that the minimum interference is caused to persons who may be using or intending to use the river for the purposes of trade or business (including the use of river water for cooling purposes);

- (iii) comply with any directions for that purpose which may be given to them by the Minister from time to time;

and if there is any conflict between the considerations arising under paragraphs (i) or (ii) of this proviso and any directions given by the Minister under paragraph (iii) thereof, the said directions shall prevail.

(2) The Council shall give to the Port Authority as much notice as is reasonably practicable in the circumstances of their intention to close the barrier gates under the foregoing subsection and of their intention to re-open the barrier gates after any such closure; and the Port Authority shall be under a duty to take such steps to regulate the movement of vessels using the river as they may consider necessary or desirable in the light of such notice.

(3) The Council shall give to the River Authority, the Conservators of the River Thames, the Lee Conservancy Catchment Board and the Central Electricity Generating Board as much notice as is reasonably practicable in the circumstances of their intention to close any two or more of the barrier gates forming part of Work No. 2 under subsection (1) of this section and of their intention to re-open the barrier gates after any such closure.

(4) The Council shall not in the exercise of their powers under paragraphs (d) or (e) of subsection (1) of this section close the river completely to navigation at any time.

(5) (a) The powers of the Council to close the barrier gates for any of the purposes mentioned in paragraphs (b) to (e) of subsection (1) of this section shall, in addition to any requirement imposed by or under the foregoing provisions of this section, be exercised in accordance with the provisions of a scheme—

- (i) made by the Council after consultation with the Port Authority, the River Authority, the Conservators of the River Thames, the Lee Conservancy Catchment Board, the Central Electricity Generating Board and such other persons representative of interests likely to be substantially affected by the scheme as the Ministers may direct (which authorities, conservators, boards and other persons are hereafter in this subsection referred to as “the river users”); and
- (ii) approved by the Ministers, with or without modification, after considering any representations which may be made

PART II
—cont.

to them in writing by any of the river users within a period of one month from the date on which the scheme is submitted to the Ministers by the Council for approval:

Provided that if a river user in submitting such representations so requests, the Ministers shall afford to him, to the Council and to any other river user whose interests appear to the Ministers to be affected by such representations, an opportunity of appearing before and being heard by a person appointed by the Ministers for the purpose.

(b) A scheme made under this subsection may—

- (i) include provisions as to the circumstances and manner in which the barrier gates may be closed for all or any of the purposes referred to in the foregoing paragraph and as to the timing, periods and frequency of such closures;
- (ii) provide for the giving of appropriate notices to, and the holding of appropriate consultations with, the river users or any of them in connection with such closures;
- (iii) make different provision as respects the closure of the barrier gates in differing circumstances or manner or for different purposes.

(c) Before submitting a scheme to the Ministers for approval under this subsection the Council shall supply a copy of the scheme to each of the river users and shall notify them of the date on which it is proposed to submit the scheme for such approval.

(d) After the Ministers have approved a scheme under this subsection, the Council shall supply a copy thereof on demand and at a reasonable charge to any river user.

(e) A scheme made under this subsection may be confirmed, varied, replaced or revoked by a subsequent scheme so made, and the Council shall, by a date not later than three years after the date on which the last preceding scheme made under this subsection was approved by the Ministers, submit to the Ministers a scheme for confirming, varying, replacing or revoking the scheme then in force under this subsection.

Navigation, etc.

Marking of
tidal works
in river.

36.—(1) The Council shall—

- (a) at or near every tidal work exhibit such lights and lay down such buoys and take such other steps for preventing danger to navigation as the Port Authority may from time to time reasonably direct;

(b) in the case of injury to, or destruction or decay of, a tidal work or any part thereof immediately notify the Port Authority and the Port Authority may thereupon give to the Council reasonable directions as to the steps to be taken for preventing danger to navigation.

PART II
—cont.

(2) If the Council fail to comply with any provision of or direction given under this section they shall be liable on summary conviction to a fine not exceeding four hundred pounds and on conviction on indictment to a fine.

37.—(1) Where any vessel is sunk, stranded or abandoned in any part of the river within the delineated lands or without lawful authority left or moored therein, the Council, after consultation with the Port Authority and unless the Port Authority inform the Council that they will proceed forthwith to take all reasonable steps to secure the prompt removal of the vessel in pursuance of the provisions of section 120 (Power to raise and remove vessels sunk, etc.) of the Act of 1968, may take all such action as may be necessary to remove the vessel. Removal of vessels.

(2) The Council may recover from the owner of any vessel removed by them under the foregoing subsection all expenses reasonably incurred by them in respect of the removal and storage of the vessel and of any furniture, tackle and apparel thereof or any cargo, goods, chattels and effects removed therefrom.

(3) If any such vessel be not within six weeks of its removal by the Council proved to their satisfaction to belong to any claimant it shall together with any furniture, tackle, apparel, cargo, goods, chattels and effects thereupon vest in the Council:

Provided that if within six months of its removal by the Council a claim is made to the vessel by a person who subsequently proves to the satisfaction of the Council that he is the owner thereof then they shall, if the vessel is unsold, permit the owner to retake it with any furniture, tackle, apparel, cargo, goods, chattels and effects thereupon upon payment of the expenses referred to in subsection (2) of this section or, if the vessel, furniture, tackle, apparel, cargo, goods, chattels and effects thereupon have been sold, the Council shall pay to such owner the amount of the proceeds of such sale after deducting the said expenses, and in case such proceeds shall be insufficient to reimburse the Council such expenses the deficiency may be recovered by the Council as a simple contract debt.

PART II
—cont.

(4) (a) Except where there is, in the Council's opinion, an emergency, subsection (1) of this section shall not authorise the removal of any vessel by the Council unless the Council have given to the owner of the vessel not less than forty-eight hours notice of their intention to remove the vessel; and if before the notice expires the Council receive from the owner a counter-notice in writing that he desires to remove the vessel himself he shall be at liberty to do so and the Council shall not take any action to remove the vessel themselves until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the removal thereof with a reasonable diligence and in compliance with any directions given to him by the Council for the protection of the barrier or by the Port Authority for the prevention of interference with navigation.

(b) If the owner of a vessel to whom notice is to be given under this section is not known to the Council or if his place of business or abode is not known to the Council or is outside the United Kingdom, the notice may be given by displaying it at the head office of the Port Authority for its duration, and the Port Authority shall provide the necessary facilities for such display.

(5) In this section "owner" in relation to any vessel sunk, stranded, abandoned, left or moored as aforesaid means the owner of the vessel at the time of the sinking, stranding, abandonment, leaving or mooring thereof.

Survey of
tidal works,
etc.

38. The Secretary of State for Trade and Industry may at any time if he deems it expedient order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work or of any existing landing place within the meaning of section 15 (Extinction of rights in respect of existing landing places) of this Act, and any expenditure incurred by the said Secretary of State in any such survey and examination shall be recoverable from the Council as a simple contract debt.

General and financial

Admission of
public to
barrier site,
etc.

39. The Council may—

(a) at such times and on such terms and conditions as they think fit, admit members of the public to such parts of the lands, works, conveniences and other things comprising the barrier as the Council may specify for that purpose;

(b) provide, maintain and operate—

(i) restaurants for the sale to members of the public who are so admitted of meals and refreshments of all kinds; and

(ii) any other facilities and services ancillary to, or necessary or convenient for, the purposes of such admission;

(c) make such charges as they think fit for such admission or for or in connection with such facilities and services:

PART II
—cont.

Provided that the Council shall not themselves exercise the powers conferred by this section to provide meals or refreshments unless they have first taken all reasonable steps to secure the provision of such meals or refreshments by some other person.

40. Any person who without lawful authority or excuse—

(a) closes or opens, or attempts to close or open, the barrier gates or any of them; or

(b) in any other way interferes, or attempts to interfere, with the barrier or the operation thereof;

Misuse of
barrier, etc.

shall be guilty of an offence and shall for every such offence be liable on summary conviction to a term of imprisonment not exceeding six months or to a fine not exceeding four hundred pounds, or both, or on indictment to a term of imprisonment not exceeding fourteen years or to a fine, or both.

41.—(1) Without prejudice to the foregoing provisions of this Act or to the provisions of any other enactment the Council may, after consultation with the Port Authority and the Corporation of Trinity House of Deptford Strond, make and thereafter enforce byelaws for or in connection with the operation, regulation, control and protection of the barrier. Byelaws.

(2) The powers of the Port Authority under section 162 (Thames byelaws) of the Act of 1968 shall be deemed to include a power to make byelaws, after consultation with the Council and the Corporation of Trinity House of Deptford Strond, for or in connection with the management, regulation, direction and control of vessels passing or waiting to pass through any of the works authorised by or under section 18 (As to execution of works) of this Act:

Provided that for the purposes of byelaws made by virtue of this subsection the confirming authority under the said section 162 shall be the Secretary of State for Trade and Industry.

PART II
—cont.

(3) For the purposes of section 250 of the Act of 1933 the Minister shall be the confirming authority as respects byelaws made under subsection (1) of this section.

(4) The said section 250, in its application to byelaws made under subsection (1) of this section, shall have effect as if in subsection (6) of that section, after the word “confirm” in the first place where it occurs, there were inserted the words “with or without modification”:

Provided that where the Minister proposes to make a modification which appears to him to be substantial, he shall inform the Council and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification and shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Council and by other persons who have been informed of it.

(5) Any person who contravenes or fails to comply with any byelaw made under subsection (1) of this section shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Exchequer
grants towards
expenditure of
the Council.
1937 c. 70.

42. For the purposes of section 15 of the Agriculture Act, 1937 (which authorises the Minister to make grants to drainage authorities), any expenditure incurred or to be incurred by the Council—

- (a) under this Part of this Act, but not including expenditure on or in connection with the maintenance of any works; or
- (b) on or in connection with any work (whether carried out by the Council or by the Kent River Authority) in or adjacent to Dartford Creek or Crayford Creek pursuant to an order under section 56 (Orders for carrying out certain defence works) of this Act, or in the exercise of any functions conferred on the Council by such an order; or
- (c) on or in connection with any work (whether carried out by the Council or by the Kent River Authority) pursuant to an order under section 57 (Orders where highways are affected) of this Act, or in the exercise of any functions conferred on the Council by such an order;

shall be treated as expenditure incurred or to be incurred by the Council as drainage authority in carrying out a drainage scheme

43.—(1) (a) In this section—

PART II
—cont.

“defence work” means any work of any kind (including an extension, improvement, alteration or removal of an existing work or a reconstruction thereof involving an extension, improvement, alteration or removal) which was commenced on or after 1st August, 1971, by the River Authority for or in connection with the protection of any part of their area against floods or inundations from the overflow of the river, being a work which was approved by the Minister having regard to the provisions of this Act, or included in a programme of works so approved, before the date on which it is certified under paragraph (b) of subsection (5) of section 18 (As to execution of works) of this Act that Works Nos. 1 to 3 are completed and all the barrier gates are capable of being closed;

“special defence” means such provision as it is reasonably necessary to make for or in connection with the protection of any part of the River Authority’s area against floods or inundations from the overflow of the river downstream of the barrier by reason or in consequence of the exercise, or prospective exercise, of the functions of the Council of and in connection with the closing of the barrier gates in accordance with the provisions of subsection (1) of section 35 (As to operation of barrier) of this Act.

(b) For the purposes of this section—

(i) the expenditure incurred in constructing a defence work shall include any expenditure incurred in or in connection with—

(A) the acquisition of land for the purposes of the work;

(B) the construction or execution of any permanent or temporary works and conveniences for the purposes of or in connection with the work or for preventing or reducing injury to land or interference with its use and enjoyment by or in consequence of the work;

(C) the settlement of claims for, and the payment of, compensation for any injury caused by the construction of the work;

(D) the carrying out of any survey or investigation for the purposes of the work;

(E) the payment of the costs of and incidental to the applying for and obtaining of power, authority and permission to construct the work and to acquire land for the purpose of such construction; and

PART II
—cont.

(F) the payment of fees of engineers and other technical consultants for the purposes of the work;

but the expenditure referred to in this sub-paragraph shall not include any expenditure incurred by the River Authority in respect of their overhead costs;

- (ii) in calculating the expenditure incurred in constructing a defence work there shall be added to the expenditure referred to in the foregoing sub-paragraph an additional sum in respect of the overhead costs of the River Authority, being such sum not exceeding one per cent. of the expenditure so referred to as may be agreed between the Council and the River Authority to be reasonable in the circumstances or, in default of agreement, as may be determined by the Minister under subsection (3) of this section.

(2) Where expenditure has been reasonably incurred by the River Authority in constructing a defence work which has been approved by the Minister and which is required wholly or partly for the purpose of special defence, the Council shall pay to the River Authority—

- (a) if the work was constructed wholly for the purpose of special defence, the total amount of that expenditure;
- (b) if the work was constructed partly for the purpose of special defence and partly for some other purpose, such proportion of the total amount of that expenditure as may be agreed between the Council and the River Authority or, in default of agreement, as may be determined by the Minister under the next following subsection to be equitable in all the circumstances of the case as being attributable to special defence having regard to, amongst other relevant considerations, the proportion which the increase in the effective height of defence which is attributable to special defence bears to the total increase in the effective height of defence which is provided by the work:

Provided that this subsection shall not apply in relation to expenditure which has been incurred in constructing a defence work unless the work is designed to give effective protection against floods or inundations up to such height of defence as may be agreed between the Council and the River Authority to be appropriate in all the circumstances or, in default of agreement, as may be determined by the Minister under the next following subsection.

(3) Any difference arising between the River Authority and the Council under the foregoing provisions of this section may be

referred by either of the parties (after giving notice in writing to the other of them) for determination by the Minister whose decision shall be final.

PART II
—cont.

(4) Any of the foregoing provisions of this section may, with the approval of the Minister, be modified or excluded by agreement in writing between the Council and the River Authority.

44.—(1) In this section—

Compensation
as respects
undefended
lands and
existing
jetties.

“existing apparatus” means any mechanical, electrical or other apparatus or appliance or any plant or machinery which is liable to damage by flooding and the whole or the greater part of which was, on or before 4th December, 1971, installed, and is permanently housed, on undefended lands or on an existing jetty;

“existing building” means any building, structure or erection the construction of which was completed on or before 4th December, 1971, and which is situated on undefended lands;

“existing jetty” means any jetty, pier or similar structure the construction of which was completed on or before 4th December, 1971, which is situated in the river downstream of the barrier on or over tidal waters or tidal lands below the level of mean high-water springs;

“undefended lands” means lands (not being tidal waters or tidal lands below the level of mean high-water springs) fronting on or adjacent to the river downstream of the barrier being lands which have not been defended against floods or inundations from the overflow of the river by any defence work as defined in section 43 (Payments to River Authorities) of this Act, by any works to which section 56 (Orders for carrying out certain defence works) of this Act applies or by any works carried out by the Council in the exercise of their powers under the Land Drainage Acts.

(2) Where, by reason of damage caused to undefended lands or to any existing apparatus by flooding from the river (whether within or outside the London excluded area), injury is sustained by the owner or occupier of the undefended lands or of an existing jetty, then if it is shown by the said owner or occupier that such damage was caused or contributed to by the exercise by the Council of their powers to close the barrier gates under section 35 (As to operation of barrier) of this Act, the Council shall be liable to make to him compensation for such injury assessed in accordance with the provisions of the next following subsection, and any difference arising under this subsection between the Council and the said owner or occupier shall be referred to and determined by

PART II
—cont.

arbitration except that a difference as to the amount of any compensation payable thereunder shall be referred to and determined by the tribunal:

Provided that no compensation shall be payable under this subsection in respect of damage caused to, or to the contents of, any building, structure or erection on undefended lands which is not an existing building.

(3) For the purpose of assessing any compensation payable in any case under the last foregoing subsection—

(i) the injury sustained by an owner or occupier shall be deemed to be the actual injury shown by that owner or occupier to have been sustained by him from such flooding as aforesaid less the injury which it is reasonable to suppose he would have sustained if the barrier gates had not been closed on the occasion in question; and

(ii) regard shall be had to any facilities reasonably available to him for the avoidance or mitigation of such injury.

(4) The foregoing provisions of this section shall not apply in relation to any injury sustained after the expiry of the period of ten years from the date on which it is certified under paragraph (b) of subsection (5) of section 18 (As to execution of works) of this Act that Works Nos. 1 to 3 are completed and all the barrier gates are capable of being closed.

(5) The Council shall supply to the Confederation of British Industry all information coming into the possession of the Council which is relevant to an assessment of the downstream effects of the operation of the barrier under section 35 (As to operation of barrier) of this Act.

Contributions
by Lee
Conservancy
Catchment
Board.

45.—(1) Subject to and in accordance with such arrangements as may be agreed between the Lee Conservancy Catchment Board and the Council or, failing such agreement, as may be determined by the Minister on a reference to him under the next following subsection, the said board shall from time to time make such contributions towards the expenditure incurred by the Council in connection with the construction, operation and maintenance of the barrier as may be so agreed or determined to be reasonable in all the circumstances of the case having regard, amongst other relevant considerations, to the protection from flooding which will be or is afforded by the barrier to lands in the Lee Catchment Area.

(2) Any difference arising between the Council and the said board under or in pursuance of the provisions of the foregoing subsection may be referred by either of the parties (after giving notice in writing to the other of them) for determination by the Minister whose decision shall be final.

(3) Any contribution made under this section by the Lee Conservancy Catchment Board to the Council, in so far as it is a contribution towards expenditure incurred by the Council in connection with the construction of the barrier, shall be treated for the purposes of subsection (1) of section 55 of the Act of 1930 (which authorises the Minister to make grants to catchment boards in respect of their expenditure on land drainage) as if it were expenditure incurred by the Lee Conservancy Catchment Board in the improvement of existing works or the construction of new works under the Act of 1930; but the proviso to that section (which makes it a condition of grant that the Minister shall have approved plans and sections, and enables other conditions to be prescribed with the approval of the Treasury) shall not apply.

PART II
—cont.

(4) The Lee Conservancy Catchment Board may borrow such sums as may be necessary for the purposes of this section, and section 92 of the Water Resources Act, 1963, as applied to that board by the Lee Conservancy Catchment Board (New Functions of River Authorities) Order, 1965, shall have effect as if money borrowed under this section for purposes of this section were borrowed under that section for the purposes of paragraph (c) of subsection (2) of that section. 1963 c. 38.

Exemptions, etc.

46. Section 43 of the General Rate Act, 1967 (which exempts from rating certain property occupied or maintained by drainage authorities), shall apply and have effect in relation to Works Nos. 1 to 3 as if those works were such a structure or appliance as is referred to in paragraph (b) of subsection (1) of that section. Exemption from rating. 1967 c. 9.

47.—(1) Any development within the meaning of the Act of 1971 which is or may be authorised or regulated on the delineated lands by or under this Part of this Act is permitted by virtue of this section and may be undertaken without the permission of the local planning authority or the Secretary of State for the Environment. Exemption from town and country planning.

(2) The foregoing subsection, except in so far as it applies to Works Nos. 1 to 3 or any part thereof, shall not apply in relation to any development commenced after the expiration of three years from the date on which Works Nos. 1 to 3 are certified to be completed, and all the barrier gates capable of being closed, under paragraph (b) of subsection (5) of section 18 (As to execution of works) of this Act.

48.—(1) For the purposes of Part V of the Act of 1968 this Part of this Act shall be deemed to be an enactment which came into force before 17th August, 1894. 1968, etc.

PART II
—cont.

(2) A licence shall not be required under section 73 (Licensing of dredging, etc.) of the Act of 1968 by the Council in the exercise of their functions under this Part of this Act.

(3) The Port Authority shall not, without the consent in writing of the Council (which consent shall not be unreasonably withheld and may be given subject to such reasonable conditions as the Council may specify), exercise the powers of section 60 (Dredging and improvement), section 62 (Works in the Thames) or section 65 (Reclaiming creeks, etc.) of the Act of 1968, or grant any licence under section 66 (Licensing of works) or section 73 (Licensing of dredging, etc.) of that Act in respect of any work, within the delineated lands.

(4) Any difference arising between the Council and the Port Authority under the last foregoing subsection may be referred by either of the parties (after giving notice in writing to the other of them) for determination—

(a) if it relates to the said sections 60 or 73, by the Secretary of State for the Environment; or

(b) if it relates to the said sections 62, 65 or 66, by the Secretary of State for Trade and Industry;

whose decision shall be final.

(5) Before exercising the powers of section 120 (Power to raise and remove vessels sunk, etc.), section 121 (Removal of obstructions other than vessels) or section 122 (Removal of projections) of the Act of 1968 within the delineated lands, the Port Authority shall give to the Council as much notice of their intention to exercise the powers as is reasonably practicable in the circumstances and shall take into consideration any representations thereon which may be made by the Council for the protection of the barrier during the exercise of those powers.

Protections and savings

For protection of Port Authority and river users. **49.** For the protection of the Port Authority and users of the river the following provisions shall, unless otherwise agreed in writing between the Council and the Port Authority, apply and have effect:—

(1) In this section, except where the context otherwise requires—

“controlled access” means access on the terms that a person to whom access is afforded shall report on arrival at and on departure from the barrier to the person in authority there, and shall comply with any requirements which may be notified to him for the purpose of ensuring that there is no interference with safe and proper working at the barrier;

“ plans ” means outline design and construction drawings and such specifications and other appropriate documents (including so far as is reasonably practicable a programme of the times at which it is intended that significant operations will be carried out) as may be reasonably necessary to give the Port Authority an understanding of the Council’s intentions in connection with constructional operations which will or may have a significant effect on navigation in, or the flow or regime of, the river and, where applicable, such relevant hydraulic information obtained from models as may be available to the Council and is not already in the possession of the Port Authority;

“ scouring ” includes disturbance or collapse of the foreshore or bed of the river:

- (2) Notwithstanding anything in this Part of this Act or shown on the deposited plan the Council shall not under the powers of this Part of this Act acquire compulsorily from the Port Authority any part of the bed, banks and foreshore of the river, but they may in accordance with the provisions of section 8 (Power to acquire easements only) of this Act acquire compulsorily such easements and rights as they may require for the purposes of the exercise of their functions under this Part of this Act in, on, over or under so much of the river as is vested in the Port Authority and is within the delineated lands:

Provided that nothing in this paragraph shall be deemed to derogate from or affect the provisions of section 22 (Vesting of reclaimed lands) of this Act:

- (3) (a) Not less than twenty-eight days before—

(i) commencing any part of the construction of, or any work which may affect materially traffic in, or the flow or regime of, the river for the alteration, extension, enlargement, replacement or removal of, a tidal work under this Part of this Act; or

(ii) exercising any of the powers of section 25 (Provisions as to dredging, etc.) for the purposes specified in paragraph (i) of subsection (1) thereof or of section 27 (Temporary closing of river in connection with works) of this Act;

the Council shall submit plans thereof to the Port Authority and such further particulars as may be available to the Council and as the Port Authority may reasonably

PART II
—cont.

require, and in carrying out such construction or work or in exercising such powers the Council shall comply with all reasonable modifications and conditions (not involving alteration to the design of any tidal work) including the carrying out of works by the Council at their own expense, as may be specified by the Port Authority for the protection of traffic in, or the flow or regime of, the river:

Provided that any such modifications or conditions as aforesaid shall be notified by the Port Authority to the Council within twenty-eight days of the receipt by the Port Authority of the plans or particulars to which such modifications or conditions relate;

- (b) Before exercising the powers of paragraph (ii) of subsection (1) of the said section 25, the Council shall give to the Port Authority as much notice of their intention to exercise the powers as is reasonably practicable in the circumstances and shall take into consideration any representations thereon which may be made by the Port Authority for the protection of traffic in, or the flow or regime of, the river;
- (c) Section 76 (Works to be approved by Board of Trade) of the Act of 1968, except paragraph (b) of subsection (1) thereof, shall apply in relation to a tidal work as if it were, or were to be, a work placed or constructed on the bed of the river under the direction or licence of the Port Authority:
- (4) For the purpose of securing that traffic in, and the flow or regime of, the river shall not be interfered with more than is reasonably necessary, tidal works shall be maintained to the reasonable satisfaction of the Port Authority:
- (5) The Council shall, upon completion of any part of a tidal work, remove as soon as is practicable any temporary works and materials for temporary works carried out or placed only for the purposes of that part of the tidal work, and shall make good the site thereof to the reasonable satisfaction of the Port Authority:
- (6) The Council shall at all reasonable times afford to any duly authorised representative of the Port Authority controlled access, without payment or charge, to the barrier for the purposes of inspection and survey in connection with the exercise of the Port Authority's functions and shall provide reasonable facilities therefor:

- (7) Except so far as may be necessary or unavoidable in the construction of the barrier the Council shall not, without the consent of the Port Authority under the hand of their secretary or harbour master (which shall not be unreasonably withheld), deposit in or allow to fall or be washed into the river any gravel, soil or other material, and nothing in this Part of this Act shall authorise the Council to discharge or allow to escape either directly or indirectly into the river any offensive or injurious matter in suspension or otherwise or shall affect the operation of the provisions of Part VI of the Act of 1968 relating to the prevention of pollution:
- (8) (a) Any pile, stump or other obstruction which becomes exposed in consequence of a tidal work (other than a pile, stump or other obstruction situated on the site of any permanent works) shall be removed from the river by the Council or, if it is not reasonably practicable to remove it, shall be cut off at such level below the bed of the river as the Port Authority may reasonably direct;
- (b) If the Council fail to remove from the river, or to cut off as aforesaid, any such pile, stump or other obstruction within twenty-eight days after receipt of written notice from the Port Authority requiring its removal or cutting off the Port Authority may carry out the removal or cutting off and recover the costs of so doing from the Council:
- (9) (a) The Council shall be responsible for and make good to the Port Authority all costs, charges, damages and expenses which may be occasioned to or reasonably incurred by the Port Authority by reason of any negligent or wilful act or omission of the Council or of any officer, servant or agent of the Council in relation to the exercise or purported exercise of any of their functions under this Act;
- (b) The fact that any act or thing may have been done by the Council or any officer, servant or agent of the Council under this Part of this Act in accordance with plans or particulars submitted to or modifications or conditions specified by the Port Authority or in a manner approved by the Port Authority or under their supervision or the supervision of their duly authorised representative shall not excuse the Council from any liability under the provisions of this paragraph, and the Council shall effectively indemnify and hold harmless the Port

PART II
—cont.

Authority from and against all claims and demands arising out of or in connection with any act or thing which may have been done as aforesaid;

- (c) Nothing in this paragraph shall impose any liability on the Council with respect to costs, charges, damages or expenses so far as they may be attributable to any negligent or wilful act or omission of the Port Authority or their servants or agents;
- (d) The Port Authority shall give to the Council reasonable notice of any claim or demand as aforesaid, and no settlement or compromise thereof shall be made without the prior consent of the Council:
- (10) (a) If it is agreed between the Council and the Port Authority after taking into account any relevant data or circumstances, or in default of agreement determined in pursuance of a reference by the Port Authority under paragraph (18) of this section to the Minister and the Secretary of State for the Environment acting jointly that—

(i) any part of the river not lying between the two lines referred to in paragraph (f) of subsection (3) of section 25 (Provisions as to dredging, etc.) of this Act, or any part of the main navigation channel of the river lying between those two lines, has silted up or has been subjected to scouring; and

(ii) such silting up or scouring is silting up or scouring to which the provisions of this paragraph apply; and

(iii) for the safety of navigation or in the interest of persons using the river or for the protection of works in the river, such silting up or scouring should be removed or, as the case may be, made good;

the Council shall pay to the Port Authority (in the manner set out in sub-paragraph (c) of this paragraph) any additional expense to which the Port Authority may reasonably be put in dredging the river to remove the silting up, or in making good the scouring, in so far as it is attributable to a tidal work;

- (b) The provisions of this paragraph apply in relation to any silting up or scouring which is wholly or partly attributable—
- (i) to Works Nos. 1 to 3 and any other tidal work executed in connection therewith or incidentally thereto (not being such a tidal work as is referred to in paragraph (ii)

of this sub-paragraph), during the period of the execution of those works and thereafter for a period of ten years from the date on which it is certified under paragraph (b) of subsection (5) of section 18 (As to execution of works) of this Act that Works Nos. 1 to 3 are completed and all the barrier gates are capable of being closed; and

- (ii) to any tidal work for which the consent of the Minister is required under subsection (4) of the said section 18, during the period of the carrying out of that tidal work and thereafter for a period of ten years from the date on which it is certified under paragraph (c) of subsection (5) of the said section 18 that the tidal work is completed;

and shall then cease to apply in relation to any silting up or scouring which is wholly or partly attributable to the tidal work in question;

- (c) The Council shall, if so required by the Port Authority, make payments to the Port Authority on account of any sum required to be paid in pursuance of subparagraph (a) of this paragraph, being payments of such amounts and made at such times as may be agreed between the Council and the Port Authority or, in default of agreement, as may be determined by the Minister and the Secretary of State for the Environment acting jointly in pursuance of a reference to them under paragraph (18) of this section to be reasonable for meeting so much of the current expenditure of the Port Authority in dredging the river, or in making good scouring therein, as is required to be paid as aforesaid:

- (11) Without prejudice to the provisions of section 36 (Marking of tidal works in river) of this Act, the Council shall provide at the barrier, or afford reasonable facilities thereat for the Port Authority to provide, navigational lights, signals, radar or other apparatus for the benefit, control and direction of navigation as the Port Authority may deem necessary by reason of the construction and use of the barrier, and the Council shall repay to the Port Authority the costs reasonably incurred by the Port Authority in connection therewith or in connection with any surveillance, co-ordination and regulation of river traffic which becomes reasonably necessary by reason of the exercise or prospective exercise by the Council of their powers to close the river or any part thereof to navigation under section 27 (Temporary

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—cont.

closing of river in connection with works) of this Act or to close the barrier gates under section 35 (As to operation of barrier) of this Act:

(12) On completion of the construction of Works Nos. 1 to 3 the Council shall supply to the Port Authority a plan on a scale of not less than 1 inch to 208.33 feet and sections and cross-sections on scales of not less than $\frac{1}{8}$ inch to 1 foot showing the situation and levels of those works:

(13) (a) The foundations of Work No. 2 shall be constructed and maintained in such a manner that their stability and the stability of that work will not be prejudiced if the Port Authority, subject to the provisions of subsection (3) of section 48 (Exemptions from Part V of Act of 1968 etc.) of this Act, dredge to a depth of 33 feet below the level of Ordnance Datum (Newlyn) that part of the channel of the river to which this paragraph applies which lies on either side of, and in the vicinity of, Work No. 2;

(b) This paragraph applies to the channel of the river which lies between two imaginary lines, one running parallel to the north bank of the river and passing through the point of commencement of Work No. 2 and the other running parallel to the south bank of the river and passing through the point of termination of that work:

(14) (a) If a tidal work is abandoned or suffered to fall into decay, the Port Authority may by notice in writing require the Council at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Port Authority may think proper;

(b) Where a work authorised by this Part of this Act and consisting partly of a tidal work and partly of work on land above the level of mean high-water springs is abandoned or suffered to fall into decay and that part of the work on land above the level of mean high-water springs is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Port Authority may include that part of the work, or any portion thereof, in any notice under this section;

(c) If on the expiration of such reasonable period as may be specified in a notice served under this section upon the Council they have failed to comply with the requirements of the notice, the Port Authority may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Council as a simple contract debt:

PART II
—cont.

(15) The Council shall at all reasonable times when accommodation at the barrier for a vessel employed in the service of the Port Authority is required and can reasonably be made available, afford such accommodation without payment or charge:

(16) Except as provided by this Part of this Act, or by Part IV of this Act so far as it applies to the London excluded area or for or in connection with the protection of that area, nothing in the said Part II or in the said Part IV as it so applies shall prejudice or derogate from the estates, rights, interests, privileges, liberties or franchises of the Port Authority or alter or diminish any power, authority or jurisdiction vested in the Port Authority at the commencement of this Act:

(17) The provisions of this section shall be in addition to and not in derogation of any other provision of this Act or of any enactment incorporated therewith to the benefit of which the Port Authority would have been entitled if this section had not been enacted:

(18) Any question or difference arising between the Council and the Port Authority under this section, other than a question or difference to which the provisions of the Act of 1961 or the Act of 1965 apply, or as to the meaning or construction of this section, may be referred by either of the parties (after giving notice in writing to the other of them) for determination by the Ministers and their decision shall be final:

Provided that as respects any question or difference so arising under paragraph (10) of this section the reference in this paragraph to the Ministers shall be deemed to be a reference to the Minister and the Secretary of State for the Environment acting jointly.

50. For the protection of the British Railways Board (in this section referred to as "the board") the following provisions

For protection
of British
Railways
Board.

PART II
—cont.

shall unless otherwise agreed in writing between the Council and the board apply and have effect:—

(1) In this section—

“ railway property ” means the railway of the board known as the Silvertown Tramway, and any works connected therewith for the maintenance or operation of which the board are responsible, and includes any lands forming part of the delineated lands and held or used by the board for the purpose of such railway or works;

“ the works ” means so much of the works authorised by this Part of this Act as may be situated upon, across, under or over, or within 50 feet measured in any direction from, railway property and includes the construction, maintenance or renewal of such works;

“ the engineer ” means an engineer to be appointed by the board;

“ plans ” includes sections, drawings and specifications:

(2) The Council shall not under the powers of this Part of this Act acquire compulsorily any lands of the board but they may acquire and the board shall if so required by them grant to the Council such easements and rights in the lands of the board shown on the deposited plan as the Council may reasonably require for the purposes of the exercise of their functions under this Part of the Act:

(3) The Council shall before commencing the works (other than works of repair or maintenance) furnish to the board proper and sufficient plans thereof for the reasonable approval of the engineer and shall not commence the works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that—

(a) the approval of the engineer shall not be unreasonably withheld;

(b) if within twenty-eight days after such plans have been furnished to the board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:

(4) The Council shall give to the engineer twenty-eight days' notice of their intention to commence the construction of any of the works and except in emergency (when they shall give such notice as may be reasonably practicable) also of their intention to carry out any works for the repair or maintenance of the works:

(5) The Council shall be responsible for and make good to the board all reasonable costs, charges, damages and expenses which may be occasioned to or incurred by the board—

(a) by reason of the works; or

(b) by reason of any negligent or wilful act or omission of the Council or of any persons in their employ or of their contractors or others whilst engaged upon the works;

and the Council shall effectively indemnify and hold harmless the board from and against all claims and demands arising out of or in connection with the works or any such act or omission as aforesaid and the fact that any act or thing may have been done in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (in the absence of negligence on the part of the board or of the engineer or any other person in their employ) excuse the Council from any liability under the provisions of this section:

Provided that the board shall give to the Council reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Council:

(6) Any difference arising between the Council and the board under this section shall be referred to and determined by arbitration.

51. For the protection of the undertakers the following provisions shall, unless otherwise agreed in writing between the Council and the undertakers concerned, apply and have effect:—

For
protection of
certain
statutory
undertakers.

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

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

PART II
—*cont.*

1882 c. 56.

“ apparatus ” means—

(a) electric lines or works (as respectively defined in the Electric Lighting Act, 1882) belonging to, or maintained by, the Central Electricity Generating Board or the London Electricity Board;

(b) mains, pipes, valves, stopcocks or other works or apparatus belonging to, or maintained by, the North Thames Gas Board or the South Eastern Gas Board; or

(c) mains, pipes, valves, hydrants, stopcocks or other works or apparatus belonging to, or maintained by, the Metropolitan Water Board;

and includes any works constructed for the lodging therein of apparatus;

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

“ position ” includes depth;

“ the undertakers ” means—

the Central Electricity Generating Board;

the London Electricity Board;

the North Thames Gas Board;

the South Eastern Gas Board; and

the Metropolitan Water Board;

or any of them and in relation to any apparatus or property means the undertakers to whom the apparatus or property belongs, or by whom the apparatus is maintained, and in relation to the supply of electricity, gas or water means the undertakers by whom the supply is provided;

“ works ” means any works executed or things done by the Council under the powers conferred by this Part of this Act other than any things done under the powers conferred by section 27 (Temporary closing of river in connection with works) or section 35 (As to operation of barrier) of this Act

(2) Notwithstanding anything in this Act or shown on the deposited plan the Council shall not acquire an apparatus under the powers of this Part of this Act otherwise than by agreement:

(3) The following provisions of this paragraph shall, notwithstanding paragraph (i) of the proviso to subsection (2) of section 22 of the Act of 1950 (which prohibits the making of a requirement under that section with respect to the permanent removal of apparatus from a street or controlled land), apply where, in consequence of the

execution of any works, any apparatus is required to be removed permanently from the land in which it is situated, that is to say:—

PART II
—cont.

(a) if the Council in the exercise of the powers of this Part of this Act acquire any interest in any lands in which any such apparatus is placed, that apparatus shall not be removed from any land or street in which it is situated, nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land or street be extinguished, until any necessary adequate alternative apparatus has been provided and is in operation to the reasonable satisfaction of the undertakers;

(b) if the Council, for the purposes of or in connection with the construction of any of the works in any lands acquired under this Part of this Act, require the permanent removal of any apparatus from those lands, they shall give to the undertakers written notice of such requirement together with a plan and section of the work proposed and of the proposed position of the alternative apparatus (if any) to be provided;

(c) if the Council require the undertakers to remove any apparatus permanently from any land or street, or if in consequence of the exercise of the powers of this Part of this Act the undertakers shall reasonably require the permanent removal of any apparatus, the Council shall, if practicable, afford to the undertakers the necessary facilities and rights for the laying down or erection in other lands of the Council of adequate alternative apparatus 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 laid down or erected elsewhere than in other lands of the Council, and the Council are unable to afford such facilities and rights as aforesaid in the lands in which the alternative apparatus or such part thereof is to be laid down or erected, the undertakers shall, on receipt of a written notice to that effect from the Council, forthwith use their best endeavours to obtain the necessary facilities and rights;

(d) any alternative apparatus to be laid down or erected in lands of the Council in pursuance of this paragraph shall be laid down or erected in such manner and in such line and position as may be agreed between the undertakers and the Council or, in default of agreement, settled by arbitration;

PART II
—cont.

(e) the undertakers shall, after the line and position of any necessary alternative apparatus and the manner in which the alternative apparatus shall be laid down or erected has been agreed or settled by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in sub-paragraph (c) of this paragraph, proceed with all reasonable dispatch to lay down or erect and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Council to be removed under the provisions of this paragraph and in default the Council may remove the apparatus;

(f) notwithstanding anything in the preceding provisions of this paragraph, if the Council give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situated in any lands of the Council, such work in lieu of being executed by the undertakers shall be executed by the Council with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:

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

(g) where in accordance with the provisions of this paragraph the Council afford to the undertakers facilities and rights in lands of the Council for the laying down or erection, maintenance, repair, renewal and inspection 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 Council and the undertakers or, in default of agreement, determined by arbitration:

Provided that—

(i) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be laid down or erected in or through any of the works the arbitrator shall—

(A) give effect to all reasonable requirements of the Council for ensuring the safety and efficient use of the works and for securing any subsequent

alterations or adaptations of the alternative apparatus which may be required to prevent interference with the works; and

PART II
—cont.

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

(ii) if the facilities and rights to be afforded by the Council 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 undertakers 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 Council by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

(4) Where any street or part thereof in which any apparatus is situated has been permanently stopped up or diverted by the Council under the powers of section 20 (Power to make subsidiary works, etc.) or section 29 (Power to stop up streets) of this Act, the undertakers shall, notwithstanding such stopping up or diversion, continue to have the same powers and rights in respect of apparatus remaining in the land which by reason of the stopping up or diversion has ceased to be a street as they would have had if it had remained a street and no such rights shall be extinguished by virtue of section 30 (Vesting of sites of streets stopped up) of this Act or the undertakers may and, if reasonably so required by the Council, shall—

(a) remove the apparatus and relay or replace it in such other position as the undertakers may reasonably determine; or

(b) provide and lay or place in such other position as aforesaid other apparatus in place of the existing apparatus:

(5) The Council shall repay to the undertakers the reasonable expenses incurred by the undertakers in, or in connection with—

(a) the removal, relaying, replacing, alteration or protection of any apparatus and the provision, laying down, erection or placing of any new apparatus

PART II
—cont.

rendered necessary by reason or in consequence of the construction of any of the works less the value of any apparatus removed in pursuance of the provisions of paragraph (3) of this section (such value being calculated after removal);

(b) the cutting off of any apparatus from any other apparatus in pursuance of the provisions of the said paragraph (3);

(c) any other work or thing rendered reasonably necessary in consequence of the operations referred to in the foregoing sub-paragraphs (a) and (b); and

(d) the carrying out of such works as are referred to in sub-paragraphs (a) and (b) of paragraph (4) of this section (whether or not the Council have required those works to be carried out) including expenses incurred in cutting off any apparatus from any other apparatus and in doing any work rendered necessary in consequence of carrying out the said works:

Provided that subsections (3) and (4) of section 23 of the Act of 1950 (which imposes limitations on undertakers' rights to payment) shall, so far as applicable, extend and apply to any payment to be made under this paragraph as if the works in respect of which the payment is to be made 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" there were substituted the words "agreed or settled by arbitration under section 51 (For protection of certain statutory undertakers) of the Thames Barrier and Flood Prevention Act, 1972,":

- (6) If the Council intend to exercise any of the powers to dredge or deepen the bed of the river conferred by subsection (1) of section 25 (Provisions as to dredging, etc.) of this Act otherwise than in that part of the river lying between the two lines described in paragraph (f) of subsection (3) of the said section 25, they shall give not less than twenty-eight days' notice in writing of that intention, identifying the position in the river in which they intend to exercise such powers, to such of the undertakers as it is reasonable to suppose may own or maintain apparatus which may be affected by such exercise and in respect of which no such plan as is referred to in the proviso to paragraph (b) of subsection (4) of the said section 25 has been supplied to the Council:
- (7) Notwithstanding anything in section 26 (Power to pump and discharge water) of this Act, no use shall be made by

the Council in the construction of the works of pumping or other like modes of removing water found by them except where reasonably necessary or in the case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water, and the provisions of section 26 of the Act of 1950 shall apply to, and in relation to, the laying down, taking up or altering of conduits, pipes or other works and conveniences for the purpose of pumping water found by the Council under the said section 26 of this Act as if executed by the Council as operating undertakers within the meaning of section 26 of the Act of 1950:

Provided that nothing in this paragraph shall apply in relation to the construction of any tidal work:

- (8) The provisions of section 26 of the Act of 1950 shall apply to and in relation to the removal or filling up of any sewer or drain, or part thereof, under section 28 (Sewers, etc., to be removed or filled up) of this Act as if executed by the Council as operating undertakers within the meaning of the said section 26:
- (9) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 31 (Power to stop up streets temporarily) of this Act, the undertakers shall be at liberty at all times to enter upon, with any necessary vehicles, and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary for inspecting, repairing, maintaining, renewing, replacing or removing any apparatus which at the time of the stopping up or diversion was in that street:
- (10) If by reason or in consequence of the execution of any of the works or any subsidence resulting therefrom any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water shall be caused, the Council shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply and shall—
 - (a) make reasonable compensation to the undertakers for any loss sustained; and
 - (b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

PART II
—cont.

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

Provided that—

(i) nothing in this paragraph shall impose any liability on the Council with respect to any damage or interruption which may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;

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

- (11) The expenses of all repairs or renewals of any apparatus which may be rendered necessary by reason or in consequence of the construction of the works or any subsidence resulting from the works shall be borne by the Council and paid by them to the undertakers:
- (12) The Council shall bear and pay any cost reasonably incurred by the undertakers in the reasonable employment of watchmen and inspectors during the execution of any works which will or may interfere with or affect any apparatus:
- (13) (a) Any difference arising between the Council and the undertakers under this section shall be referred to and determined by arbitration;
- (b) In settling any difference under this section the arbitrator shall have regard to any duty or obligation the undertakers may be under in respect of any apparatus and may if he thinks fit require the Council to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purpose for which the apparatus is used.

For protection of Post Office. 52. For the protection of the Post Office the following provisions shall, unless otherwise agreed in writing between the Council and the Post Office, apply and have effect:—

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

“ telegraphic line ” has the same meaning as in the Act of 1878;

“ apparatus ” means any telegraphic line belonging to or used by the Post Office and includes any works constructed for the lodging therein of apparatus:

- (2) Notwithstanding anything in this Act or shown on the deposited plan or described in the deposited book of

reference the Council shall not acquire any apparatus under the powers of this Part of this Act otherwise than by agreement:

PART II
—cont.

- (3) Nothing in section 20 (Power to make subsidiary works, etc.) of this Act shall authorise the doing of anything constituting an infringement of the exclusive privilege with respect to telecommunication conferred on the Post Office by subsection (1) of section 24 of the Post Office Act, 1969:

1969 c. 48.

- (4) Any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by the said section 20 shall be so constructed, erected or laid down and so maintained, worked 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 or with telecommunication by means of any such line:

- (5) Notwithstanding the provisions of section 30 (Vesting of sites of streets stopped up) of this Act where a street or any part of a street is stopped up under the powers of section 29 (Power to stop up streets) of this Act and, immediately before that street or part thereof is stopped up, there is under, in, upon, over, along or across the street any telegraphic line, the Post Office shall have the same powers in respect of that line as if the street or part thereof had not been stopped up:

Provided that if the Council requires that the telegraphic line shall be altered, paragraphs (1) to (8) of section 7 of the Act of 1878, shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the Council:

- (6) The exercise of the powers conferred by section 31 (Power to stop up streets temporarily) of this Act in relation to a street or highway or part of a street or highway shall not affect the powers of the Post Office under the Telegraph Acts, 1863 to 1916, to maintain, inspect, repair, renew or remove apparatus or to open or break up that street or highway or part thereof for any of those purposes.

53. Nothing in this Part of this Act shall entitle or oblige the Council to instal or use apparatus for wireless telegraphy as defined in the Wireless Telegraphy Act, 1949, in contravention of the provisions of that Act.

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

PART II

—cont.

Crown rights.

54. Nothing in this Part of this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this section authorises the Council to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

- (a) 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; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

PART III

POWERS TO RIVER AUTHORITIES

Interpretation
of Part III.

1963 c. 38.

55. In this Part of this Act unless the context otherwise requires—

- “the Act of 1963” means the Water Resources Act, 1963;
- “the appropriate Minister” means the Minister and in relation to any order for which application is by paragraph (b) of subsection (1) of section 56 (Orders for carrying out certain defence works) of this Act required to be made to the Ministers means the Ministers;
- “drainage” has the same meaning as in the Act of 1930;
- “sea defence work” means a work which is required or constructed for or in connection with the protection of any part of the area of the River Authority against floods or inundations from the overflow of the river or from the sea or other tidal water and “sea defence” shall be construed accordingly.

Orders for
carrying out
certain defence
works.

56.—(1) (a) Where the River Authority propose to carry out any works to which this section applies and it appears to them that for the purposes of those works they need compulsory powers, whether consisting of or including powers of compulsory acquisition or not, the River Authority may apply for an order under this section.

(b) If the works proposed to be carried out are to be or to include works in, on, under or over tidal waters or tidal lands below the level of mean high-water springs the application shall be made to the Ministers and in any other case to the Minister.

(c) An application to the appropriate Minister for an order under this section as respects any work in or adjacent to Dartford Creek or Crayford Creek may be made either by the Kent River Authority or jointly by the Kent River Authority and the Council, and, accordingly, in relation to an application made jointly by the Kent River Authority and the Council—

- (i) any reference in this and in the two next following sections to the River Authority shall be construed as a reference to the Council as well as to the Kent River Authority; and
- (ii) any order made under this section or under the next following section may confer functions on the Council as well as on the Kent River Authority and (without prejudice to the provisions of section 43 (Payments to River Authorities) of this Act) may include provision for the making of contributions by either of them towards any expenses incurred by the other in the performance of such functions.

(2) The provisions of Schedule 8 to the Act of 1963 (except paragraph 7 thereof) shall apply and have effect with respect to applications and orders under this section as if—

- (a) for references to an order under section 67 of the Act of 1963 there were substituted references to an order under this section;
- (b) for references to engineering or building operations there were substituted references to works to which this section applies; and
- (c) for references to the Minister (as defined for the purposes of the Act of 1963) there were substituted references to the appropriate Minister (as defined for the purposes of this Part of this Act):

Provided that, where the powers applied for by an application under this section do not consist of or include any powers of compulsory acquisition, Part II of the said Schedule 8 shall not have effect with respect to that application or to any order made thereon, and an order made on that application shall not confer any powers of compulsory acquisition.

(3) (a) Subject to the provisions of the said Schedule 8 and of the last foregoing subsection, where application is made to the appropriate Minister for an order under this section, the appropriate Minister may make an order conferring on the River Authority such compulsory powers, for the purposes of the works in question, as the appropriate Minister may consider necessary or expedient for those purposes, and (subject to the said Schedule 8 and the last foregoing subsection) an order under this section may contain such incidental and supplementary

PART III
—cont.

provisions, including penal provisions and provisions for amending, adapting or repealing local enactments (as defined in the Act of 1963), as the appropriate Minister considers necessary or expedient, but no penal provision shall be so framed as to permit of a person's being punished otherwise than on his conviction or as to permit—

- (i) on his being summarily convicted, of the infliction on him of a penalty other than a fine or of the infliction on him of a fine exceeding one hundred pounds;
- (ii) on his being convicted on indictment, of the infliction on him of imprisonment (whether in addition to, or in substitution for, a fine) for a term exceeding six months.

(b) For the removal of doubts it is hereby declared that an order under this section may provide for the extinguishment, variation or suspension of rights of navigation.

1949 c. 74.

(c) The consent of the Secretary of State for Trade and Industry under section 34 of the Coast Protection Act, 1949, shall not be required to the construction, alteration or improvement of any work or the deposit of any materials authorised by or under an order under this section.

(4) This section applies to the following works:—

- (i) for the purposes of sea defence, constructing, improving, maintaining, operating, altering, reconstructing or removing barriers, barrages, dams, embankments, sluices, sluice gates, locks, lock gates or other works in or across any watercourse, dock, basin, channel, creek, bay, estuary or arm of the sea;
- (ii) working clay or other substances for obtaining material for a sea defence work;
- (iii) constructing roads, or improving roads other than highways, for meeting transport requirements of doing work of a kind mentioned in this subsection or of maintaining things constructed, improved or repaired in the course of such work.

(5) The foregoing provisions of this section shall have effect without prejudice to any compulsory powers (including powers of compulsory acquisition) which the River Authority can exercise or can be authorised to exercise, apart from this section.

(6) In this section "powers of compulsory acquisition" means any power to acquire compulsorily any land or an interest in or right over land, including any power to acquire compulsorily such an interest or right by way of the creation of a new interest or right.

57.—(1) Where it appears to the River Authority that in order to secure the purposes, or as a result, of any work to which the last foregoing section applies for which compulsory powers are needed, interference with or alteration of a highway will also be needed, the River Authority may apply to the appropriate Minister and the Secretary of State for the Environment for an order under this section authorising both the carrying out of the work and the interference with or alteration of the highway, including, where diversion of the highway is authorised, the carrying out on any land of work needed for rendering the site to which it is to be diverted available for use as a highway.

PART III
—cont.
Orders where
highways are
affected.

(2) An order under this section—

- (a) may authorise either the River Authority on the one hand or the highway authority (in the case of a highway maintainable at the public expense) or some other authority specified in the order (in the case of a highway not so maintainable) on the other hand to carry out the whole of the work needed whether for the purposes mentioned in the last foregoing section or any work to be combined therewith or in connection with the interference with or alteration of the highway, or may authorise the carrying out of that work partly by the River Authority and partly by that highway or other authority, and in the latter case shall specify or provide for determining the parts which they are respectively to carry out;
- (b) may impose either on the River Authority or on such an authority as aforesaid an obligation to maintain things constructed, improved or repaired in the course of the work;
- (c) may impose either on the River Authority or on such an authority as aforesaid an obligation to contribute to the expense incurred by the other of them in carrying out any of the work, or in such maintenance, or on the River Authority an obligation to contribute to any increase in expense of maintaining the highway incurred by the authority or person responsible therefor in consequence of the carrying out of any of the work.

(3) The provisions of subsections (2) and (3) of the last foregoing section and of Schedule 8 to the Act of 1963, as applied by the said subsection (2), shall apply to an order made under this section as they apply to an order made under that section and as if for references therein to the appropriate Minister there were substituted references to the appropriate Minister and the Secretary of State for the Environment acting jointly.

PART III
—cont.

(4) Any works authorised by an order made under this or the last foregoing section which involve interference with or alteration of a highway shall for the purposes of Part II of the Act of 1950 be deemed to be executed for road purposes and in relation to such works the expression “promoting authority” (as defined in subsection (3) of section 21 of that Act) shall be deemed to include the River Authority.

(5) (a) Where for the purposes of carrying out any work under an order made under this or the last foregoing section the River Authority require an alteration to be made in a telegraphic line the provisions of paragraphs (1) to (8) of section 7 of the Act of 1878 shall apply with respect to that alteration as being an alteration involved by work proposed to be done by undertakers (within the meaning of that Act) in the execution of an undertaking authorised by an Act of Parliament, if apart from this subsection those provisions would not so apply.

(b) In this subsection “telegraphic line” and “alteration” have the same meanings as in the Act of 1878.

Application
of Land
Drainage
Acts.

58.—(1) Subject to the provisions of subsection (2) of this section and of any order made under either section 56 (Orders for carrying out certain defence works) or section 57 (Orders where highways are affected) of this Act, the Land Drainage Acts shall apply to any work authorised by an order made under the said section 56 and to any such work and to any alteration of or interference with a highway by the River Authority authorised by an order made under the said section 57 as if it was to be or had been carried out under those Acts.

(2) In relation to any order under either of the said sections, except in so far as it confers any powers of compulsory acquisition (as defined in subsection (6) of the said section 56), section 61 of the Act of 1930 (which contains provision for the protection of certain public utility and other undertakings) shall have effect as it has effect in relation to any order under that Act but subject to the modification that in subsection (3) for the words “a single arbitrator to be agreed between the parties or failing such agreement to be appointed by the President of the Institution of Civil Engineers” there were substituted the words “and determined by the appropriate Minister (as defined in section 55 (Interpretation of Part III) of the Thames Barrier and Flood Prevention Act, 1972)”.

As to orders.

59.—(1) The powers to make orders conferred on the appropriate Minister by section 56 (Orders for carrying out certain defence works) of this Act and on the appropriate Minister and

the Secretary of State for the Environment by section 57 (Orders where highways are affected) of this Act shall include powers to vary or revoke any order so made by a subsequent order.

PART III
—cont.

(2) The powers to make orders conferred by the said sections 56 and 57 shall be exercisable by statutory instrument.

60.—(1) The River Authority during and for the purposes of—
(a) the execution of any sea defence work; or
(b) obtaining materials for the construction of such a work;

Temporary stopping up of watercourses, highways, etc.

may temporarily stop up, alter, divert or otherwise interfere with any watercourse or highway or any private right of way, and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway or right of way from passing along and using the same.

(2) The River Authority shall provide reasonable access for foot passengers with or without animals bona fide going to or from any such land, house or building.

(3) (a) The powers of subsection (1) of this section shall not be exercised in relation to—

(i) a trunk road except with the consent of the Secretary of State for the Environment but such consent shall not be unreasonably withheld and any difference between the River Authority and the Secretary of State as to whether such consent has been unreasonably withheld shall be referred to and determined by arbitration;

(ii) any other highway without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a condition requiring a monetary payment) as the highway authority may require, and any difference arising between the River Authority and the highway authority under this sub-paragraph may be referred by either of the parties (after notice in writing to the other of them) for determination by the Secretary of State for the Environment whose decision shall be final;

(iii) any highway upon which a service of stage carriages or express carriages is operated unless not less than forty-eight hours' previous notice is given to the traffic commissioners and to the holders of the road service licence under which that service is authorised;

(iv) a highway so as to obstruct or interfere with the access to or exit from any station or depot of passenger road transport operators.

PART III
—cont.

(b) The powers of subsection (1) of this section shall not be exercised in relation to any watercourse without providing a proper substitute before interrupting the passage of water in or through such watercourse, and the River Authority shall make compensation for any damage caused to any person by the exercise of such powers in relation to any watercourse, the amount of such compensation being, in case of dispute, determined by the tribunal.

(4) (a) The temporary stopping up or diversion of any highway or right of way under the powers of this section shall not prejudice or affect any right of statutory undertakers—

- (i) to place, maintain, inspect, repair, renew or remove any apparatus in the highway or right of way; or
- (ii) for the purpose of such placing, maintenance, inspection, repair, renewal or removal to enter upon or break open that highway or right of way.

(b) In this subsection—

“ apparatus ” means—

(i) in the case of electricity undertakers, electric lines or works (as respectively defined in the Electric Lighting Act, 1882) belonging to or maintained by or lawfully laid or erected by such undertakers;

(ii) in the case of gas or water undertakers, any mains, pipes or other apparatus belonging to such undertakers or for the maintenance of which they are responsible; or

(iii) in the case of the Post Office, any telegraphic line (as defined in the Act of 1878) belonging to or used by them;

and includes any structure for the lodging therein of apparatus;

“ statutory undertakers ” has the same meaning as in the Act of 1971 and includes the Post Office.

1882 c. 56.

Extension of
section 111 of
Act of 1963.

61.—(1) Any power conferred on the River Authority by section 111 of the Act of 1963 (which confers rights of entry and inspection) to enter upon land for the purpose of performing any functions of the River Authority with regard to sea defence or for the purpose of determining whether, and if so in what manner, any of such functions are to be performed in relation to any land shall be construed as including—

- (a) power to place and leave on or in the land any apparatus for use in connection with any survey of that or any other land (whether from the air or on the ground) and to remove such apparatus; and

(b) power to search and bore for the purpose of ascertaining the nature of the subsoil and in any case where refuse or waste or other materials have been deposited on any land such refuse or materials shall be deemed to be part of the subsoil of that land.

PART III
—cont.

(2) Section 112 of the Act of 1963 in its application to the River Authority shall have effect as if references therein to section 111 of that Act were references to that section as extended by subsection (1) of this section.

(3) Section 61 of the Act of 1930 shall have effect in relation to the exercise by the River Authority of the powers of this section as it has effect in relation to the exercise of the powers conferred by any enactment contained in that Act.

62. Any development within the meaning of the Act of 1971 which is a defence work (as defined in section 43 (Payments to River Authorities) of this Act) may be undertaken without the permission of the local planning authority or the Secretary of State for the Environment and for the purposes of the Act of 1971 and any regulations or instruments made thereunder shall be deemed to be development carried out in accordance with planning permission granted under Part III of that Act.

As to town
and country
planning.

63. Notwithstanding anything contained in subsection (8) of, and without prejudice to the provisions of subsection (8A) of, section 47 of the Act of 1930 as amended by section 19 of the Land Drainage Act, 1961, byelaws made by the River Authority for securing the proper defence against the sea or other tidal water of any part of their area may contain provisions for imposing on persons who act in contravention of, or fail to comply with, any such byelaw fines, recoverable on summary conviction, not exceeding one hundred pounds and in the case of a continuing contravention or failure a further fine not exceeding fifty pounds for every day on which the contravention or failure is continued after conviction.

Fines for
contravention
of sea defence
byelaws.
1961 c. 48.

64. The power of the River Authority under subsection (4) of section 6 of the Act of 1930 to enter into an agreement with the Council or with the council of any county, county borough, London borough or county district or with any navigation authority for the carrying out by the Council or such council or authority, on such terms as to payment and otherwise as may be specified in the agreement, of any work for the purpose of defence against the sea or other tidal water which the River Authority are authorised to carry out shall be exercisable anywhere in the area of the River Authority, irrespective of whether it is a work in connection with the main river.

Agreements
for carrying
out sea
defence
works.

PART III

—cont.

Exchequer grants towards expenditure of the River Authority.
1961 c. 48.
1968 c. 34.

65. For the purposes of the following enactments (which authorise the Minister to make grants to various authorities including river authorities, in respect of their expenditure on and in connection with drainage works), that is to say—

(a) section 55 of the Act of 1930;

(b) section 38 of the Land Drainage Act, 1961; and

(c) section 37 of the Agriculture (Miscellaneous Provisions) Act, 1968;

any expenditure incurred, or to be incurred, by the River Authority under this Part of this Act, whether in pursuance of section 56 (Orders for carrying out certain defence works) or section 57 (Orders where highways are affected) or otherwise, but not including expenditure on or in connection with the maintenance of any works, shall be treated as incurred by them in the exercise of their functions under paragraph (b) or (c) of subsection (1) of section 34 of the Act of 1930.

Power to River Authority to borrow.

66.—(1) The River Authority may without the consent of any sanctioning authority borrow the sum required to be paid by them under section 74 (Costs of obtaining and execution of Act) of this Act and shall repay the sum so borrowed within such period as they may determine not exceeding ten years from the date of borrowing.

(2) The River Authority may also with the sanction of the Minister borrow such further sums as may be necessary for any of the purposes of this Act, and any sum borrowed under the powers of this subsection shall be repaid within such period, not exceeding sixty years, from the date of borrowing as the River Authority with the consent of the Minister may determine.

(3) Any sum borrowed by the River Authority under this section shall for the purposes of the Act of 1963 be deemed to have been borrowed under subsection (2) of section 92 of that Act.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

As to works, etc., in adjoining areas.

67.—(1) If in the opinion of the River Authority it is necessary or desirable to exercise any of their functions under the Land Drainage Acts or under Part III of this Act in the London excluded area for or in connection with the protection of any part of the River Authority's area against floods or inundations from the overflow of the river, the River Authority may by agreement with the Council, and subject to such terms and conditions (if any) as may be agreed, exercise their said functions for such purpose.

(2) If in the opinion of the Council it is necessary or desirable to exercise any of their functions under the Land Drainage Acts

in the area of the River Authority for or in connection with the protection of any part of the London excluded area against floods or inundations from the overflow of the river, the Council may by agreement with the River Authority, and subject to such terms and conditions (if any) as may be agreed, exercise their said functions for such purpose.

PART IV
—cont.

68.—(1) This section applies to any opening which is situated in the London excluded area downstream of the barrier or in the area of the Essex River Authority and which consists of—

- (a) an opening from the river, or from the sea or other tidal water, to any dock, lock, canal or watercourse;
- (b) any other opening provided for access to any land; or
- (c) an opening used or intended to be used for or in connection with any abstraction from, or discharge to, the river, the sea or other tidal water;

being an opening which is furnished with one or more caissons, lock gates, gates, doors, dams, dam boards, sluice gates, sluices, valves or any other similar structures, appliances or apparatus (hereafter in this section referred to as “flood dams”) which in the opinion of the appropriate authority form, when in a closed position, an effectual and necessary part of the defences of their area against floods or inundations from the overflow of the river or from the sea or other tidal water.

(2) Whether or not the appropriate authority in the exercise of their functions under the Land Drainage Acts have provided or contributed to, or maintain, the flood dams of an opening to which this section applies, they may, after consultation (if reasonably practicable) with the occupier of the land on which such opening is situated, by notice given to him in writing require him to comply with such arrangements and conditions as the appropriate authority consider necessary, and as may be specified in the notice, for securing that the flood dams are closed at such times, and are kept closed throughout such periods, as may be so specified, and generally requiring him to keep the flood dams closed whenever necessary for preventing floods or inundations from the overflow of the river or from the sea or other tidal water through the opening:

Provided that in giving any notice under this section to the Central Electricity Generating Board in respect of any such opening as is referred to in paragraph (c) of subsection (1) of this section and is maintained by that board for the purposes of the cooling water system of an electricity generating station, the appropriate authority shall have proper regard to the need for securing that compliance with the requirements of the notice will cause no unnecessary interference with the generation of electricity at such generating station.

PART IV
—cont.

(3) (a) If any flood dams of an opening to which this section applies have not been closed, or have not been kept closed, at any time in compliance with the requirements of a notice given or deemed to have been given under this section and for the time being in force, then—

- (i) without prejudice to any right of entry conferred under any other enactment, any person duly authorised by the appropriate authority may enter on the land on which the opening is situated and close the flood dams or cause them to be closed;
- (ii) the occupier of the said land shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding four hundred pounds or on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both:

Provided that where the commission by any person of an offence under this subsection is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged and convicted of the offence by virtue of this proviso whether or not proceedings are taken against the first-mentioned person.

(b) Where a person who is charged with an offence under this subsection proves to the satisfaction of the court—

- (i) that he exercised all due diligence to secure that the provisions of this subsection would not be contravened; and
- (ii) that the offence was due to the act or default of another person;

the first-mentioned person shall, subject to the next following paragraph, be acquitted of the offence.

(c) A person shall not, without the leave of the court, be entitled to rely on the defence provided by the last foregoing paragraph unless, not later than seven clear days before the date of the hearing, he has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, the other person in question as was then in his possession.

(4) The appropriate authority may from time to time, by notice in writing given to the occupier of the land after consultation (if reasonably practicable) with him, alter or revoke any notice previously given or deemed to have been given under this section.

(5) The occupier of any land in respect of which a notice has been given, or is deemed to have been given, under this section and is for the time being in force shall keep a copy of the notice displayed in a prominent position on that land.

(6) (a) The requirements of a notice given or deemed to have been given under this section shall be registrable as a local land charge as if they were such prohibitions or restrictions as are

registrable in pursuance of the provisions of paragraph (b) of subsection (7) of section 15 of the Land Charges Act, 1925, and subject to the provisions of that section shall be binding upon the occupier for the time being of the land. 1925 c. 22.

PART IV
—cont.

(b) The appropriate authority shall send a copy of any such requirements to the proper officer of the council of each county borough, London borough or county district in which the land to which the requirements relate is situated and the proper officer shall cause it to be registered in the register of local land charges in such manner as may be prescribed by rules made in reference to local land charges under subsection (6) of section 15 of the said Act of 1925; and the power conferred by the said subsection (6) to make rules for giving effect to the provisions of the said section 15 shall be exercisable for giving effect to the provisions of this paragraph.

(7) Any person aggrieved by a notice given to him under this section may within fourteen days of the receipt of such notice appeal to the Minister on the ground that the notice is unreasonable in character or extent, and on any such appeal the Minister may confirm, vary or rescind the notice.

(8) A person entitled under this section to enter on any land may take with him such other persons and such equipment as may be necessary and, if the land is unoccupied, he shall, on leaving it, leave it as effectually secured against trespassers as he found it.

(9) Section 117 (Closing of flood doors) of the Kent County Council Act, 1958, shall cease to have effect so far as it relates to any part of the London boroughs of Bexley and Bromley situated within the London excluded area, and any notice given under that section before the passing of this Act and for the time being in force in respect of land in the London excluded area shall (with any necessary modifications) be deemed as from the passing of this Act to have been given by the Council under this section. 1958 c. vi.

(10) Section 117 of the Kent County Council Act, 1958, as modified by the last foregoing subsection shall have effect as if—

(a) the following subsection were substituted for subsection (5) thereof:—

“(5) (a) If the flood doors have not been closed at any time in compliance with directions given under this section, then—

(i) without prejudice to any right of entry conferred under any other enactment, any person duly authorised by the local authority who gave the directions may enter and close the flood doors or cause them to be closed;

(ii) the occupier of the said land or premises shall be guilty of an offence and shall be liable

PART IV
—cont.

on summary conviction to a fine not exceeding four hundred pounds or on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both:

Provided that where the commission by any person of an offence under this subsection is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged and convicted of the offence by virtue of this proviso whether or not proceedings are taken against the first-mentioned person.

(b) Where a person who is charged with an offence under this subsection proves to the satisfaction of the court—

- (i) that he exercised all due diligence to secure that the provisions of this subsection would not be contravened; and
- (ii) that the offence was due to the act or default of another person;

the first-mentioned person shall, subject to the next following paragraph, be acquitted of the offence.

(c) A person shall not, without the leave of the court, be entitled to rely on the defence provided by the last foregoing paragraph unless, not later than seven clear days before the date of the hearing, he has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, the other person in question as was then in his possession.”;

(b) at the end of subsection (7) there were inserted the words “and on the hearing of any such appeal the court may confirm, vary or amend the directions or alteration or revocation thereof which is the subject of the appeal.”;

(c) the following subsection were substituted for subsection (9) thereof:—

“(9) Any directions given under this section shall be registrable as a local land charge as if they were such prohibitions or restrictions as are registrable in pursuance of the provisions of paragraph (b) of subsection (7) of section 15 of the Land Charges Act, 1925, and subject to the provisions of that section shall be binding upon the occupier for the time being of the land or premises.”;

(d) after subsection (9) there were inserted the following subsection:—

“(10) Section 287 of the Act of 1936 (which confers powers of entry) shall apply for the purposes

of this section as it applies for the purposes of that Act and as if for the references in the said section 287 to that Act there were substituted references to this section.”.

PART IV
—cont.

(11) Any reference in this section to flood dams being in a closed position shall include a reference to flood dams being secured in such a manner and in such a position as, in the opinion of the appropriate authority, will most effectively seal the opening in respect of which they are furnished against floods or inundations from the overflow of the river, or from the sea or other tidal water, through that opening, and the word “closed” shall be construed accordingly.

(12) In this section—

“the appropriate authority”—

(a) in relation to a flood dam in the London excluded area means the Council; and

(b) in relation to a flood dam in the area of the Essex River Authority means that river authority; and any reference to the area of the appropriate authority shall be construed accordingly;

“opening”, without prejudice to the generality of that word, includes an opening from or into any pipe, tunnel or culvert.

69.—(1) Nothing in the Thames River (Prevention of Floods) Acts, 1879 to 1962, shall be construed as preventing or restricting the exercise of, or in any way affecting, the powers of the Council to carry out works on any lands or premises in the London excluded area, or otherwise to exercise the functions conferred on them, under the Land Drainage Acts by virtue of the provisions of Schedule 14 to the Act of 1963 or under this Act; and in the Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879—

Miscellaneous amendments of enactments relating to flood prevention, etc.

1879 c. cxcviii.

(i) in section 5 (Flood works not to be executed except in accordance with plans), after the words “flood works” there shall be inserted the words “(other than flood works executed by the Greater London Council in the exercise of their functions under the Land Drainage Act, 1930, and the Land Drainage Act, 1961)”;

1930 c. 44.

1961 c. 48.

(ii) in section 6 (Bodies and persons liable to provide for execution of flood works), for the words “may from time to time in the opinion of the Greater London Council be necessary” there shall be substituted the words “the Greater London Council may from time to time require to be executed under the Thames River (Prevention of Floods) Acts, 1879 to 1962,”;

(iii) in section 7 (Board to make plan of necessary flood works, etc.), for the words “as soon as may be after the passing

PART IV
—cont.

of this Act, shall ” there shall be substituted the words “ may from time to time ”, and for the words “ are in their opinion immediately necessary for effectually protecting all ” there shall be substituted the words “ they consider should be executed under the Thames River (Prevention of Floods) Acts, 1879 to 1962, for the protection of ”;

(iv) in section 24 (Survey and repair of dangerous or insufficient banks and maintenance and repair of same) for the word “ shall ” in the first and fifth places in which that word occurs there shall be substituted the word “ may ”, and the word “ also ” shall be omitted.

(v) in section 31 (Power to Board to recover expenses incurred by them in whole or in part) and in section 32 (Rentcharge may be granted in respect of works) for the words “ the rate of five pounds ” in both places where they occur there shall be substituted the words “ such rate as the Greater London Council may from time to time by resolution prescribe for the purposes of this section but not exceeding the rate of ten pounds ”.

1929 c. lxxxvii. (2) (a) In subsection (1) of section 51 (Inspection of banks and supervision of flood works) of the London County Council (General Powers) Act, 1929, for the words “ it shall be the duty of the Council ” there shall be substituted the words “ the Council is hereby empowered ”, and for the word “ duties ” there shall be substituted the word “ powers ”.

1962 c. xlv. (b) In subsection (2) of section 29 (Power to require notice of date of commencement of flood works) of the London County Council (General Powers) Act, 1962, for the words “ in accordance with the duty imposed on them by ” there shall be substituted the word “ under ”.

(3) (a) Paragraph 16 of Schedule 14 to the Act of 1963 shall have effect and shall be deemed to have had effect as from 1st April, 1971, as if the words from “ and within the existing county of London ” to the end of the paragraph were omitted.

(b) Section 42 (Amendment of Schedule 14 to Act of 1963) of the Act of 1969 is hereby repealed as from 1st April, 1971.

Penalty for obstructing execution of Act.

70. A person who wilfully obstructs or impedes any person acting—

(a) in the execution of this Act or of any order or byelaw made thereunder; or

(b) in compliance with any notice or direction given under this Act;

shall be guilty of an offence and, if no other penalty for such offence is provided by or under this Act, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

71.—(1) Where a body corporate is guilty of an offence under this Act, or under any byelaws made under or in pursuance of this Act, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the foregoing subsection shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

72.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act. Local inquiries.

(2) Subsections (2) to (5) of section 290 of the Act of 1933 shall apply in relation to any such inquiry; and for that purpose the definition of “ department ” in subsection (8) of that section shall include any Minister of the Crown having functions under this Act.

(3) In this section “ Minister of the Crown ” has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act, 1946. 1946 c. 31.

73. Any question or difference which pursuant to this Act is to be settled by arbitration shall, except as otherwise provided by this Act, be referred to and determined by an arbitrator to be agreed upon between the parties in difference or, failing such agreement, to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers. Arbitration.

74.—(1) Paragraphs 11 to 14 of Schedule 14 to the Act of 1963 shall apply to— Costs of obtaining and execution of Act.

(a) so much of the costs, charges and other expenses preliminary to and of and incidental to the preparing, applying for and obtaining of this Act as falls to be borne by the Council in pursuance of the provisions of subsection (2) of this section; and

(b) the expenses incurred by the Council in the discharge of the functions conferred on them by this Act;

as they apply to the expenses described in the said paragraph 11.

(2) The costs, charges and other expenses preliminary to and of and incidental to the preparing, applying for and obtaining of this Act shall be borne by the Council, the Essex River Authority and the Kent River Authority in such shares as may be agreed between those bodies.

Section 29.

SCHEDULE**STREETS WHICH MAY BE STOPPED UP**

In the borough of Greenwich—

Eastmoor Place.
Eastmoor Street.
Hardens Manorway.
Herringham Road.
Holdgate Street.
Lydenburg Street.
Riverside.
Westmoor Street.
Woolwich Road.

In the borough of Newham—

North Woolwich Road.

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Thames Barrier and Flood Prevention Act 1972

CHAPTER xlv

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