

**ELIZABETH II**



**1988 CHAPTER xxii**

An Act to authorise the Council of the borough of Torbay to reclaim land and to construct works in the harbour at Brixham; to empower the said Council to acquire lands; to extend a public coastal footpath; to confer further powers on the Council; and for connected and other purposes. [29th July 1988]

**W**HEREAS—

- (1) The borough of Torbay (hereinafter referred to as “the borough”) is under the management and local government of the council of the borough of Torbay (hereinafter referred to as “the Council”);
- (2) The Council are the harbour authority for the harbour of Tor Bay which includes Brixham harbour;
- (3) Commercial and leisure activities at, and within the vicinity of, Brixham harbour have increased considerably in recent years and are continuing so to increase;
- (4) The south Devon coastal footpath links Paignton and Brixham and terminates in a public car park adjacent to Oxen Cove;
- (5) It would be of substantial public and local advantage to improve and add to the existing facilities serving those activities within the borough by reclaiming land from Brixham harbour and extending the said coastal footpath at sea level to provide a further public amenity namely access along that extended footpath to The Quay at Brixham:

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(6) It is expedient that the Council should be authorised to carry out the works as hereinafter described in this Act:

(7) It is expedient that the other provisions of this Act be enacted:

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

(9) A plan and section showing the lines and levels of the works by this Act authorised and the lands which may be taken or used for the purposes thereof, together with a book of reference to the said plan containing the names of the owners or reputed owners, lessees or reputed lessees and of the occupiers of all such lands and describing the same, have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the Chief Executive of the Devon County Council, and such plan, section and book of reference are respectively referred to in this Act as the deposited plan, the deposited section and the deposited book of reference:

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

PART I  
PRELIMINARY

Short and  
collective titles.

1.—(1) This Act may be cited as the Tor Bay Harbour (Oxen Cove and Coastal Footpath, Brixham) Act 1988.

1970 c. liii.  
1983 c. x.

(2) The Tor Bay Harbour Act 1970, the Tor Bay Harbour (Torquay Marina &c.) Act 1983 and this Act may together be cited as the Tor Bay Harbour Acts 1970 to 1988.

Interpretation.

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

“the Act of 1970” means the Tor Bay Harbour Act 1970;

“the Act of 1983” means the Tor Bay Harbour (Torquay Marina &c.) Act 1983;

“the authorised works” means the works authorised by section 8 of this Act or any part of those works;

“the Council” means the council of the borough of Torbay;

“the limits of deviation” means the limits of deviation shown on the deposited plan.

(2) All directions, distances, lengths and areas stated in any description of the work, powers or land in this Act shall be construed as if the words “or thereabouts” were inserted after each such direction, distance, length or area.

(3) Map reference points specified in this Act shall be construed as references to Ordnance Survey National Grid reference points.

3.—(1) Part I of the Compulsory Purchase Act 1965 (except sections 4 and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory purchase of land under this Act as it applies to a compulsory purchase to which the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

PART I  
—cont.

Application of  
Part I of  
Compulsory  
Purchase Act  
1965.  
1965 c. 56.  
1981 c. 67.

(2) In section 11 (1) of the Compulsory Purchase Act 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice), as so applied, for the words "fourteen days" there shall be substituted the words "three months".

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

1845 c. 18.

PART II  
LANDS

4. Subject to the provisions of this Act, the Council may purchase compulsorily and use such of the lands delineated on the deposited plan and described in the deposited book of reference as they may require for the purposes of the authorised works or for any purpose connected with or ancillary to the authorised works.

Purchase of  
lands.

5. The powers of the Council for the compulsory purchase of the lands which they are authorised by this Act to purchase shall cease on 31st December 1997.

Time for  
purchase of lands.

6.—(1) All private rights of way over any land which may be purchased compulsorily under this Act shall be extinguished on the purchase of the land, whether compulsorily or by agreement or on the entry on the land under section 11 (1) of the Compulsory Purchase Act 1965, as applied by this Act, whichever is sooner.

Extinction or  
suspension of  
private rights of  
way.

(2) Any person who suffers loss by the extinguishment or suspension 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 Land Compensation Act 1961.

1961 c. 33.

7. In determining a question with respect to compensation claimed in consequence of the compulsory purchase of land under this Act, the tribunal shall not take into account—

Disregard of  
recent  
improvements  
and interests.

(a) any interest in land; or

(b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made (whether on the land purchased 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.

PART III  
WORKS

Power to  
reclaim land  
and to  
construct  
works.

**8.—(1)** Subject to the provisions of this Act, the Council may in the lines and situations and within the limits of deviation, and according to the levels shown on the deposited section, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith:—

In the county of Devon—

In the borough of Torbay—

Work No. 1—The reclamation and filling in of the bed of the sea at Oxen Cove in Brixham Harbour comprising an area of 6,000 square metres, together with a rock revetment commencing at the southern end of the existing car park at Freshwater Quarry at a point at SX 923565567305 and extending for a distance of 230 metres and terminating at the Brixham Yacht Club quay at a point at SX 925000565465;

Work No. 2—The provision of a public footpath and the construction of a quayside and promenade together with a retaining wall and associated reclamation and filling in of areas of the bed of the sea adjacent to Oxen Cove in Brixham Harbour, comprising an area of 480 square metres commencing at the termination of Work No. 1 and extending for a distance of 160 metres and terminating at the junction of The Quay and New Pier at a point at SX 925925564245.

(2) In the construction of the authorised works the Council may deviate laterally from the lines or situations thereof shown on the deposited plan to any extent not exceeding the limits of deviation, and may deviate vertically from the levels of those works shown on the deposited sections to any extent not exceeding 3 metres upwards and to any extent downwards as may be found necessary or convenient.

(3) The Council may, within the limits of deviation, from time to time reconstruct, renew, alter, replace or re-lay the authorised works and may maintain the same as reconstructed, renewed, altered, replaced or re-laid.

Power to make  
subsidiary and  
accommodation  
works.

**9.** Subject to the provisions of this Act, the Council may from time to time construct and maintain within the limits of deviation all such works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance and use of the authorised works.

Obstruction of  
works.

**10.** Any person who intentionally obstructs any person acting under the authority of the Council in setting out the lines of the authorised works, or who without reasonable excuse, moves any pole, stake, station point or bench mark established for the purpose of such setting out, shall for every such offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART IV  
GENERAL

11. The following sections of the Act of 1970 and the Act of 1983 shall apply in relation to this Act as they apply in relation to those Acts, namely:—

Application of  
provisions of  
Acts of 1970  
and 1983.

The Act of 1970—

- section 67 (Saving for Board of Trade);
- section 68 (Crown rights);
- section 69 (Crown right of access);
- section 70 (Saving rights of Duchy of Cornwall);

The Act of 1983—

- section 5 (Correction of errors in deposited plan and book of reference);
- section 6 (Provision against danger to navigation);
- section 7 (Abatement of works abandoned or decayed);
- section 8 (Survey of tidal works);
- section 9 (Permanent lights on tidal works);
- section 10 (Lights on tidal works during construction);
- section 22 (Planning permission);
- section 23 (For protection of South Western Electricity Board).

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# Tor Bay Harbour (Oxen Cove and Coastal Footpath, Brixham) Act 1988

CHAPTER xxii

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