

Workington Harbour and Dock (Transfer) Act, 1957

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CHAPTER xxxii

An Act to transfer to the United Steel Companies Limited the undertaking of the Workington Harbour and Dock Board to constitute that company the port and harbour authority for the port and harbour of Workington in the county of Cumberland and to extend and redefine the limits of the said port and harbour to confer powers on that company in relation to the undertaking to make provisions as to the rates which may be demanded and taken by that company in relation to the user of the undertaking to repeal the Acts relating to the board's undertaking and for other purposes.

[31st July 1957.]

WHEREAS the Workington Harbour and Dock Board (hereinafter in this Act referred to as "the board") were incorporated by the Workington Harbour and Dock Act 1905 (hereinafter in this Act referred to as "the Act of 1905") and under the authority of that Act and of the other enactments mentioned in the First Schedule to this Act (hereinafter in this Act referred to as "the scheduled Acts") are the port and harbour authority for and are the owners of the harbour and certain docks railways and other works at the port and harbour of Workington in the county of Cumberland:

And whereas the board are entitled to demand and take rates and charges on vessels resorting to the said port and harbour and on goods shipped or discharged thereat and in respect of certain services afforded in connection therewith:

And whereas the Act of 1905 provided that the board should consist of five trustees and the power of appointing new trustees was vested in Cammell Laird and Company Limited and their successors and assigns:

And whereas the said power of appointment is and has since 1930 been vested in and exercised by the United Steel Companies Limited (hereinafter in this Act referred to as "the Company") :

And whereas over ninety per cent. of the trade of the port and harbour of Workington is related to the Workington Iron and Steel Works and those works are owned by the Company :

And whereas by the Workington Harbour and Dock Act 1920 (hereinafter in this Act referred to as "the Act of 1920") the board were authorised to raise and create by the issue of consolidated stock sums amounting in the aggregate to £850,000 and such stock was to be redeemed at par after the expiration of eighty years from the date or respective dates of issue thereof :

And whereas by the Act of 1920 the board were required by equal yearly instalments of principal or principal and interest to pay off the sums raised under the Act of 1920 within eighty years from the date or respective dates of raising the same by means of a sinking fund to be formed in accordance with the provisions of the said Act :

And whereas pursuant to the said powers granted by the Act of 1920 the whole of the consolidated stock authorised by that Act was issued by the board and there is now outstanding an amount of £829,549 (particulars of which are set out in the Second Schedule to this Act) :

And whereas the whole of the outstanding consolidated stock is now owned by the Company and the Company have for many years past waived their right to the payment of dividends on the said stock and to the payments required by the Act of 1920 being made to the sinking fund :

And whereas it is expedient that the Company should be the port and harbour authority for the port and harbour of Workington that the undertaking of the board hereinbefore referred to should be transferred to and vested in the Company and that there should be conferred on the Company such powers to demand and take rates and charges in excess of those now authorised as are by this Act granted :

And whereas it is expedient to cancel the outstanding amount of consolidated stock and all accrued dividends thereon to dissolve the board to indemnify the trustees in respect of any liability arising out of their failure to carry out their statutory obligations and to make such other provision in relation to these matters as is in this Act provided :

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

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

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

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

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Workington Harbour and Dock (Transfer) Act 1957. Short title and commencement.

(2) This Act (with the exception of subsection (1) of section 7 (Board to be entitled to receipts and to pay outgoings until transfer) which shall come into force on the passing of this Act) shall come into force on the day of transfer.

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

Act divided into Parts.

Part I.—Preliminary.

Part II.—Transfer of the undertaking of the board.

Part III.—Harbour.

Part IV.—Railways.

Part V.—Rates.

Part VI.—Miscellaneous and general.

3. The Harbours Clauses Act (except sections 12 and 13 16 to 19 and 84 to 87) so far as it is applicable to the purposes of and is not inconsistent with the provisions of this Act is hereby incorporated with and forms part of this Act : Incorporation of Harbours Clauses Act.

Provided that—

(a) in construing the said Act the expression “the harbour dock or pier” shall mean the harbour and the expression “the special Act” shall mean this Act ;

(b) nothing in the said Act shall require or authorise the harbour master to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

4.—(1) In this Act the following words and expressions have the several meanings hereby assigned to them respectively unless there be something in the subject or context repugnant to such construction (that is to say) :— Interpretation.

“the Act of 1905” means the Workington Harbour and Dock Act 1905 ;

“the Act of 1920” means the Workington Harbour and Dock Act 1920 ;

“the board” means the Workington Harbour and Dock Board ;

“the commission” means the British Transport Commission ;

PART I
—cont.

- “ the Company ” means the United Steel Companies Limited or in the event of the undertaking being transferred to some other person under the powers conferred by section 57 (Power to transfer the undertaking) of this Act such other person in whom the undertaking is for the time being vested ;
- “ the consolidated stock ” means the consolidated stock of the board outstanding at the passing of this Act particulars of which are set forth in the Second Schedule to this Act ;
- “ the day of transfer ” means the first day of January nineteen hundred and fifty-eight ;
- “ the docks ” means the Prince of Wales Dock and all other docks forming part of the undertaking of the board including the wharves quays piers jetties and other works and the apparatus connected therewith as altered enlarged improved or extended in pursuance of this Act ;
- “ the dock office ” means the administrative headquarters of the undertaking at Workington ;
- “ enactment ” means any provision of a public general Act of a local private or personal Act of a Provisional Order confirmed by an Act or of any regulation or order made under an Act ;
- “ goods ” includes livestock wares merchandise commodities and articles of whatever description ;
- “ the harbour ” means the port and harbour of Workington in the county of Cumberland ;
- “ the harbour master ” includes every officer of the Company having the powers of a harbour master under the Harbours Clauses Act ;
- “ the Harbours Clauses Act ” means the Harbour Docks and Piers Clauses Act 1847 ;
- “ the highway authority ” means in the case of a highway maintainable at the public expense the authority in whom that highway is vested ;
- “ land ” includes land covered with water and any interest in land and any easement or right in to or over land ;
- “ the Minister ” means the Minister of Transport and Civil Aviation ;
- “ the railways ” means the railways forming part of the undertaking of the board including the sidings buildings and works connected therewith as altered enlarged improved or extended in pursuance of this Act ;
- “ rates ” includes rents charges and sums of money ;
- “ the scheduled Acts ” means the Acts and Order set out in the First Schedule to this Act ;

PART II
—cont.

for the board shall by virtue of this Act and without any conveyance transfer or other instrument be transferred to and vested in the Company together with all rights attached to or subsisting in such property.

(b) The production of a copy of this Act together with a statutory declaration by the secretary or other authorised officer of the Company and by any person in whose name any registered land or any stock transferred to and vested in the Company by virtue of this Act is standing describing for the purpose of identification the land or stock so transferred and vested shall be sufficient authority to the Chief Land Registrar of Her Majesty's Land Registry to enter the name of the Company as proprietors of the said land or to any company in whose books any such stock is standing to transfer the stock into the name of the Company and to pay any dividend interest or bonuses thereon or other sums due or accrued in respect thereof to the Company.

(c) In this subsection—

“ company ” includes the Bank of England and any corporation or person keeping books in which any stock is registered or inscribed ;

“ stock ” includes any share bond debenture fund annuity or other security.

(3) Every officer and servant of the board in their employment on the day of transfer shall as from the day of transfer enjoy and hold his office and employment with the salary and emoluments thereunto annexed and be deemed an officer or servant of the Company as the case may be until he shall vacate or be removed from such office or employment and he shall have the same rights and privileges and be subject to the same conditions of service powers of removal rules regulations pains and penalties as he would have had or been subject to if this Act had not been passed subject nevertheless and without prejudice to any powers authorities obligations pains or penalties vested in him or to which he may be subject under any provisions of this Act.

Cancellation of consolidated stock.

6. The consolidated stock or so much of that stock as is outstanding on the day of transfer together with any dividends on that stock which shall have accrued due before that day and shall not then have been paid shall be cancelled and all liabilities of the board in respect of the stock or to pay the said dividends shall be extinguished and be deemed never to have been incurred by the board.

Board to be entitled to receipts and to pay outgoings until transfer.

7.—(1) The board shall be entitled to all rates rents and profits and sums of money accrued due in respect of the undertaking of the board up to but not including the day of transfer (other than such as represent sums paid in advance in respect of any period after the day of transfer) and shall discharge all outgoings up to that day.

(2) All outgoing incurred on and after the day of transfer shall be borne and paid by the Company who shall be entitled on and after that day to all rates rents profits and sums of money in respect of the undertaking.

8. If on the day of transfer any action arbitration or proceeding or any cause of action arbitration or proceeding shall be pending or existing against or in favour of the board in relation to any property debt liability or obligation transferred to the Company the same shall not abate or be discontinued or in anywise prejudicially affected by reason of such transfer but the same may be continued prosecuted and enforced by against or in favour of the Company as and when it might have been continued prosecuted and enforced by against or in favour of the board if this Act had not been passed.

Actions not to abate.

9.—(1) All agreements conveyances contracts deeds and other instruments lawfully entered into or made with or by the board before and in force on the day of transfer shall be as binding and of as full force and effect in every respect against or in favour of the Company and may be enforced as fully and effectually as if instead of the board the Company had been a party thereto.

Contracts with board to be binding on Company.

(2) The Company shall indemnify the trustees against all claims and demands under such agreements conveyances contracts deeds and other instruments.

10. All books and documents which if the transfer of the undertaking of the board had not been made would have been receivable in evidence in respect of any matter for or against the board shall be receivable in evidence in respect of the same or the like matter for or against the Company.

Evidence of books and documents.

11.—(1) Every trustee and every officer and servant of the board shall be indemnified by the Company against all costs losses and expenses which any such trustee officer or servant may have incurred or become liable for in the execution of his office or in the case of an officer or servant in the course of his employment by the board unless incurred or occasioned by his own wilful default or negligence.

Indemnity to Trustees and to their officers and servants.

(2) No liability shall attach to a trustee as a result of his failure to comply with or observe the provisions of the scheduled Acts or otherwise in relation to the issue of any consolidated stock and to the service of the interest on and sinking fund established in relation to that stock.

PART III
HARBOUR

12.—(1) The limits of the harbour shall be the area coloured pink on the plan signed in quintuplicate by Sir Gordon Touche the chairman of the committee of the House of Commons to

Harbour limits.

PART III
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whom the Bill for this Act was referred one copy of which has been deposited at the office of the Clerk of the Parliaments House of Lords another in the Private Bill Office of the House of Commons another with the Minister another with the clerk of the Cumberland County Council and the fifth at the dock office together with any land which may be acquired by the Company for the purposes of the undertaking after the day of transfer and is for the time being held by the Company for those purposes and those limits shall be the prescribed limits for the purposes of the Harbours Clauses Act.

(2) Within the limits of the harbour the Company shall be the port and harbour authority for the port and harbour of Workington in the county of Cumberland and may exercise all such powers as are conferred upon them by this Act and the Harbours Clauses Act.

Reclamation of
sea bed etc.

13. The Company may within the limits of the harbour by means of any work forming part of the undertaking enclose and reclaim from the foreshore and bed of the sea or of the river Derwent and may hold and use as part of the undertaking so much of the foreshore and bed of the sea or river as the case may be as is within such limits and is required for or in connection with the undertaking :

Provided that nothing in this section shall authorise the Company to interfere with or prejudicially affect any right of way.

Subsidiary
works.

14.—(1) Subject to the provisions of this Act the Company may for the purposes of or in connection with the undertaking—

(a) construct or place and maintain all such cuts channels locks dock entrances sea walls gates weirs dams basins reservoirs ponds trenches pounds wet and dry docks lay-byes sluices culverts syphons by-passes arches bridges (fixed or opening) ferries sewers drains mains pipes cables tanks embankments towing-paths banks walls piers jetties landing places dolphins moorings buoys beacons lights marks posts signals groynes quays wharves warehouses sheds buildings engines pumps machinery lifts cranes drops winches capstans gantries conveyors staithes tips railways tramways junctions sidings turntables roads approaches works and appliances as may be necessary or convenient for or in connection with or subsidiary to any work forming part of the undertaking ;

(b) temporarily or permanently use strengthen widen improve alter remove or otherwise interfere with drains sewers telegraphic telephonic electric gas water and other pipes lines wires works and apparatus (all of which are hereinafter in this section referred to as “apparatus”) and highways public and private roads paths and streams providing where possible a proper

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PART III
—*cont.*

substitute before interrupting the passage of sewage electricity gas or water in or through any apparatus or any such stream or the traffic on any such highway road or path ;

(*c*) raise sink or otherwise alter the position of any of the steps areas cellars windows and pipes or spouts belonging to any house or building and remove any other obstruction.

(2) The powers conferred on the Company by this section shall not be exercised outside the limits of the harbour except that any buoys beacons lights marks posts or signals constructed or placed in exercise of the said powers may be either within or outside the said limits.

(3) Any paving metalling or materials in or on or under any highway public or private road or path altered or otherwise interfered with by the Company under the powers of this section and any apparatus rendered unnecessary by the substitution of other apparatus therefor shall vest in the Company and the substituted apparatus shall be under the same jurisdiction care management and direction as the existing apparatus for which it may be so substituted.

(4) (*a*) In the exercise of the powers conferred by this section the Company shall cause as little detriment and inconvenience as the circumstances permit to any person and shall make reasonable compensation for any damage caused to any person by the exercise of such powers.

(*b*) Any question of disputed compensation payable under the foregoing provisions of this section shall be determined under and in accordance with the Lands Clauses Acts.

(5) (*a*) Not less than twenty-eight days before executing any works under paragraph (*b*) of subsection (1) of this section affecting any drains sewers or pipes belonging to or repairable by the local authority or any highway or public road or path the Company shall submit to the appropriate authority sufficient plans sections and particulars of the proposed works for their reasonable approval.

(*b*) The Company shall not execute such works except in accordance with such plans sections and particulars as may be submitted to and approved by the appropriate authority or if such approval be refused as may be settled by arbitration and all such works shall be executed to the satisfaction of the appropriate authority and the Company shall at all times afford to the representative of the appropriate authority access for the purpose of inspecting such works.

(*c*) The Company shall give reasonable notice to the appropriate authority of the time at which such works are intended to be executed and shall comply with such reasonable conditions as the appropriate authority may require for obviating or reducing

PART III
—cont.

interference with the traffic using the highway public road or path.

(d) Any dispute or difference which may arise between the appropriate authority and the Company under this subsection shall be settled by arbitration.

(e) In this subsection “the appropriate authority” means in relation to any drain or sewer or pipe the local authority to whom they belong or by whom they are repairable and in relation to any highway or public road or path the highway authority.

(6) Notwithstanding anything in this section contained the Company shall not for the purposes of the undertaking unless otherwise agreed between the Company and the Postmaster-General—

(a) use any telegraphic line belonging to or used by the Postmaster-General ;

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

(7) Any electrical works or apparatus constructed erected laid down maintained worked or used in pursuance of the powers conferred by this section shall be so constructed erected or laid down and so maintained worked and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

(8) Any telegraphic and telephonic apparatus used under the provisions of this section shall be so used as not to contravene the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

(9) In subsection (6) of this section the expression “alter” has the same meaning as in the Telegraph Act 1878.

Undertaking to be within petty sessional division and borough of Workington.

15. So much of the undertaking as is outside the area of the petty sessional division of Workington in the county of Cumberland or the borough of Workington shall be deemed to be within the said area or the said borough (as the case may be).

Power to divert water.

16. The Company may divert into any dock or other work forming part of the undertaking the water of the river Derwent (at a point below the entrance to the Prince of Wales Dock) and all other waters which are under the control of the owners of the harbour or to which the Company are in any way entitled as such owners.

Power to dredge.

17. The Company may from time to time within the limits of the harbour and the channels and approaches thereto deepen dredge scour and improve the bed and foreshore of the sea and of the river Derwent and blast any rock and any chalk gravel rock or other materials taken up or collected as a result of or by means of such deepening dredging scouring or blasting shall be the

property of the Company and they may use sell or otherwise dispose of remove or deposit the same as they think fit :

PART III
—cont.

Provided that no such materials shall be laid down or deposited in any place below high water mark of ordinary spring tides except in such a position and under such restrictions and regulations as may be fixed by the Minister.

18. The Company may temporarily close the Prince of Wales Dock and discontinue the use thereof for the accommodation of vessels for such period as they may deem necessary or expedient.

Power to close Prince of Wales Dock temporarily.

19.—(1) The Company shall at or near such works constructed altered or extended for the purposes of the undertaking as are situated below high-water mark of ordinary spring tides during the whole time of the construction alteration or extension of the same exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Minister shall from time to time require or approve.

Lights on works during construction.

(2) If the Company fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding twenty pounds and in the case of a continuing offence to an additional penalty not exceeding two pounds for every day on which after conviction thereof they so fail.

20.—(1) Subject to the provisions of this Act any work authorised by this Act shall be constructed so far as the same shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides only in accordance with plans and sections approved by the Minister and subject to such conditions and restrictions as the Minister may prescribe before such work is begun.

Works below high-water mark to be subject to approval of Minister.

(2) Any alteration or extension of any such work shall be subject to the like approval.

(3) If any such work be commenced or completed contrary to the provisions of this section the Minister may abate and remove the same and restore the site thereof to its former condition at the cost of the Company and the amount of such cost shall be a debt due from the Company to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

21.—(1) The Company shall at the outer extremity of such works forming part of the undertaking as are situated below high-water mark of ordinary spring tides exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Corporation of Trinity House of Deptford Strond shall from time to time direct.

Permanent lights on works.

PART III
—cont.

(2) If the Company fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding twenty pounds and in the case of a continuing offence to an additional penalty not exceeding two pounds for every day on which after conviction thereof they so fail.

Provision
against danger
to navigation.

22.—(1) In case of injury to or destruction or decay of any work forming part of the undertaking so far as the same is constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Company shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House of Deptford Strond and shall apply to the said corporation for directions as to the means to be taken.

(2) If the Company fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding ten pounds and in the case of a continuing offence to an additional penalty not exceeding one pound for every day during which they fail after conviction thereof so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

Abatement of
work
abandoned or
decayed.

23.—(1) Where any work forming part of the undertaking and situated wholly or partially on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides is abandoned or suffered to fall into decay the Minister may by notice in writing either require the Company at their own expense to repair and restore such part of such work as is situated below high-water mark of ordinary spring tides or any portion thereof or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Minister may think proper.

(2) Where any part of any such work which has been abandoned or suffered to fall into decay is situated above the high-water mark of ordinary spring tides and is in such condition as to interfere or to cause reasonable apprehension that the same may interfere with the right of navigation or other public rights over the foreshore the Minister may include any such part of such work or any portion thereof in any notice under this section.

(3) If during the period of thirty days from the date when the notice is served upon the Company they have failed to comply with such notice the Minister may execute the works required to be done by the notice at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

PART III
—cont.

sum is payable in respect of the deficiency and the award of the arbitrator appointed by the Minister that no sum is payable or as to the sum payable as the case may be shall be conclusive and binding on both parties. The costs of the appeal and the award shall be in the absolute discretion of the arbitrator and he shall award and order how those costs are to be borne and paid and any costs so awarded and ordered to be paid by either party may be recovered by the other party in the same manner as the sum payable in respect of the deficiency is recoverable under subsection (3) of this section.

(5) The Company shall (except in any case which in their opinion is a case of emergency) before raising removing blowing up or destroying any vessel under the provisions of this section give to the owner of the vessel twenty-four hours' notice of their intention so to do and if within twelve hours after the expiration of such notice the owner gives to the Company notice in writing of his intention himself to raise and remove the vessel he shall be at liberty to do so in lieu of the Company :

Provided that if the owner gives any such notice as last aforesaid—

- (a) he shall in raising or removing the vessel comply with any directions which may from time to time be given to him by or on behalf of the Company for the purpose of preventing interference with navigation ; and
- (b) he shall forthwith after giving such notice commence and shall with all diligent dispatch proceed with and complete the raising or removal of the vessel ;

and if such raising or removal be not completed within seven days after the giving of such notice by the owner such notice shall be null and void and the Company shall be at liberty to cause the vessel to be raised removed blown up or destroyed in accordance with the provisions of this section as if the owner had not given such notice.

(6) The Company shall (except in any case which in their opinion is a case of emergency) before selling any vessel or any part thereof or any part of the cargo and goods thereof under the provisions of this section give to the owner seven days' notice of their intention so to do.

(7) Any notice given by the Company pursuant to subsection (5) or subsection (6) of this section shall be given by delivering the same to the owner or by posting a prepaid letter addressed to the owner at the place in the United Kingdom where he carries on business or at his last known place of abode in the United Kingdom or if the owner cannot be found or such place of business or abode is not known to the Company then by exhibiting such notice at the dock office for twenty-four hours in the case of a notice given under the said subsection (5) or for seven days in the case of a notice given under the said subsection (6).

(8) (a) In this and the next succeeding section the expression “owner” in relation to any vessel sunk stranded or abandoned as aforesaid means the owner of that vessel at the time of the sinking stranding or abandonment thereof.

(b) For the purposes of this subsection where a vessel is registered under the Merchant Shipping Act 1894 or under any corresponding provision of the law of any country other than the United Kingdom the registered owner of the vessel at the time of the sinking stranding or abandonment thereof shall be deemed to be the owner thereof at that time.

(9) The Company shall (except in any case which in their opinion is a case of emergency) before raising removing blowing up or destroying any vessel under the provisions of this section give to the Postmaster-General in writing as long notice as is practicable of their intention so to do.

(10) The powers conferred on the Company by this section shall be in addition to and not in derogation of any other powers exercisable by them for or with respect to the removal of wrecks.

(11) Except for the purpose of removing any obstruction to the harbour nothing in this section shall entitle the Company to remove any wreck (as defined in section 510 of the Merchant Shipping Act 1894) to the prejudice or in derogation of the rights with respect to such wreck of the receiver of wrecks under the provisions of Part IX of the said Merchant Shipping Act and if the Company shall for any purpose as aforesaid remove any such wreck they shall (without prejudice to the rights of sale conferred upon them by the foregoing provisions of this section) hold and dispose of the same or any such surplus of the proceeds of sale thereof as is referred to in subsection (2) of this section in accordance with such directions (if any) as may be given to them by the said receiver.

(12) For the removal of doubt it is expressly provided that nothing in this section shall apply to any vessel belonging to Her Majesty or held by any person on behalf of or for the benefit of the Crown nor shall any of the powers conferred by this section be exercised if by such exercise the Crown would become liable directly or indirectly otherwise than as an insurer or reinsurer under a contract of insurance or reinsurance for any expenses incurred by the Company except where such consent is given as is provided for in the next succeeding section of this Act and the vessel was not such a vessel as aforesaid at the time of its sinking stranding or abandonment.

26.—(1) The Company shall before taking possession of raising removing blowing up or destroying any vessel sunk stranded or abandoned under the powers conferred upon them by this Act or by any other enactment give to the Admiralty and to the Minister notice in writing of their intention so to do and

Vessels in which the Crown have an interest.

PART III
—cont.

if within fourteen days after the receipt of such notice the Admiralty or the Minister gives to the Company—

- (a) a certificate that the vessel was sunk stranded or abandoned by a person acting on behalf of Her Majesty or otherwise by an officer or servant of the Crown acting in the course of his duty as such and that it is not in the national interest that the Company should take possession of the vessel or that the vessel should be raised removed blown up or destroyed ; or
- (b) a notice that the exercise by the Company of the rights of recovery conferred by subsection (2) of the last foregoing section of this Act would render the Crown liable directly or indirectly otherwise than as an insurer or reinsurer under a contract of insurance or reinsurance for all or a substantial proportion of the expense incurred by the Company ;

the Company shall not without the consent in writing of the authority by whom the certificate was issued or the notice given take possession of raise remove blow up or destroy such vessel :

Provided that in any case which in their opinion is a case of emergency the Company may take possession of raise remove blow up or destroy any vessel without giving notice of their intention so to do to the Admiralty or to the Minister and in that event the Company shall not be entitled to recover from any person the expenses incurred by them in so doing if the effect of such recovery would be to render the Crown so liable.

(2) If the Company shall mark light watch buoy control or give warning to shipping of the presence of any vessel in respect of which the Admiralty or the Minister have refused their consent under subsection (1) of this section the Company shall not be entitled to recover the expenses of so doing from the owner of the vessel.

Further power to provide supplies and services.

27.—(1) In addition to the powers conferred by the Harbour Clauses Act the Company may provide such supplies and services for persons using any part of the undertaking as in the opinion of the Company are required for the purpose of maintaining or improving the prosperity of the undertaking.

(2) The Company may demand and take such rates as appear to them reasonable in respect of any supplies or services provided under this section and all such rates shall be respectively recoverable from the owner of the vessel or other person to whom such supplies or services are provided.

Company may provide steamers tugs etc.

28.—(1) The Company may for the purposes of the undertaking from time to time build purchase contract for or hire and may maintain and use vessels to which this section applies and may from time to time demand and take such rates or charges as

may appear to them reasonable in respect of the use thereof and such rates or charges shall be paid by the owner agent master consignee or other person having charge of any vessel obtaining or demanding the assistance or use of any vessel to which this section applies to the Company or to the person with whom they may contract as the case may be and such rates shall be due and payable whether such vessels to which this section applies shall be actually employed or not provided the assistance or use thereof shall have been required and shall in consequence of such requisition have been tendered by the master or other person having the command of such vessel to which this section applies.

(2) The raising of steam or any other act of preparation done in consequence of and with a view to complying with a request for assistance shall be deemed to constitute the tendering of assistance notwithstanding that such request is cancelled or withdrawn before the vessel to which this section applies leaves the berth or place at which it was lying at the time when the request for assistance was received.

(3) This section applies to tugs hoppers lighters barges and other ships and boats for the use and accommodation of vessels frequenting the harbour.

29. The Company may for such term or terms and on such conditions as they may deem expedient lease or grant the use or occupation of any warehouses buildings sheds cranes hoists jiggers weighing or other machines or conveniences in connection therewith to any person and may confer on such person all or any of the powers of the Company in connection therewith. Power to lease warehouses etc.

30. The Company may appoint and license persons to be meters and weighers. Power to appoint meters and weighers.

31. Where any rates are payable in respect of any vessel its cargo or any passengers which are or have been carried in it the harbour master may prevent the removal or sailing from the harbour of such vessel until evidence has been produced to him of the payment of those rates to the collector. Harbour master may prevent sailing of vessels.

32.—(1) Section 52 of the Harbours Clauses Act in its application to the Company and the harbour master— Directions of harbour master.

(a) shall extend to empower the harbour master to give directions prohibiting the mooring of vessels in any particular part or parts of the harbour ;

(b) shall not be construed to require the harbour master in emergency to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section but in pursuance of that section for all or any of the purposes thereof the harbour master shall be entitled in emergency to give general directions applicable to all vessels or to particular classes of vessels.

PART III
—cont.

(2) Section 53 of the Harbours Clauses Act in its application to the undertaking and the harbour master shall not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel but such directions may be given orally or otherwise communicated to such master but a notice which is not in writing shall not be deemed to be sufficient unless in the opinion of the court before whom any case may be heard it was not reasonably practicable to serve a written notice on the master of the vessel.

Licensing
of tugs.

33.—(1) The Company may from time to time license such number of tugs belonging to any person upon such terms and conditions as to the granting suspension and revocation of such licences and as to the period during which such licences are to remain in force as are reasonable.

(2) The Company may charge such fee for the granting of a licence under subsection (1) of this section as may be approved by the Minister.

(3) (a) A person aggrieved by the refusal suspension or revocation of such a licence by the Company or who alleges that any terms or conditions attached thereto are unreasonable may appeal to a magistrates' court by way of a complaint and on any such appeal the court shall have power to make such order as they may think fit.

(b) Any person aggrieved by a decision of a magistrates' court under this subsection may appeal to a court of quarter sessions.

(4) (a) It shall not be lawful for any person to use or employ any tug for towing vessels within the harbour (other than a tug provided by the Company) unless there is in force in relation to such tug a licence granted under this section.

(b) Any person who contravenes the provisions of paragraph (a) of this subsection shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding five pounds and in the case of a continuing offence a further penalty not exceeding forty shillings for each day during which the offence continues after conviction therefor.

(5) Notwithstanding anything contained in the last preceding subsection—

(a) it shall be lawful for any person who immediately before the day of transfer was using or employing any tug for the purposes aforesaid and had before that day duly applied for such a licence as is required by subsection (1) of this section to continue to use or employ any tug for the said purposes until he is informed of the decision with regard to his application and if he is aggrieved by the decision until the time for appealing has expired or when an appeal is lodged until the appeal is disposed of or withdrawn or fails for want of prosecution;

(b) it shall be lawful for any person who after the day of transfer has had his licence suspended or revoked or his application for a renewal of his licence refused to continue to use or employ any tug for the purposes aforesaid until the time for appealing has expired or when an appeal is lodged until the appeal is disposed of or withdrawn or fails for want of prosecution.

34.—(1) The powers of the Company to make byelaws under section 83 of the Harbours Clauses Act shall extend so as to enable them to make byelaws—

Extension of section 83 of Harbours Clauses Act.

- (a) for prohibiting the use navigation or mooring within the limits of the harbour of such class or classes of vessels to which this paragraph applies as may be prescribed in such byelaws as being vessels unsuitable for use within the said limits ;
- (b) for prohibiting and regulating the discharge within the harbour of ballast and of any other matter (whether liquid or solid) ;
- (c) for the good rule and government of persons resorting to the harbour ;
- (d) for regulating and controlling vehicles resorting to the harbour.

(2) Paragraph (a) of subsection (1) of this section applies to any vessel (not being a vessel which is solely used as a tug or for the carriage of goods or for the catching of fish).

35.—(1) The Company shall from time to time at the request of any person warehousing or depositing goods in any warehouse or vault or on or in any of the quays or yards of the undertaking specially appropriated for the purpose or entitled to any goods so warehoused or deposited issue and deliver to him a certificate of the goods or a warrant for delivery of the goods so warehoused or deposited or any specified part thereof.

Certificates of deposit of goods and warrants for delivery of goods.

(2) Goods specified in any such certificate or in any such certificate issued by the board under the scheduled Acts shall for all purposes of this Part of this Act be deemed the property of the person in that behalf named in the certificate.

(3) Every such warrant for delivery shall be transferable by special endorsement and every such endorsement shall be recorded in the books of the undertaking and thereupon shall entitle the person named therein or the last endorsee thereof named in the endorsement to the delivery of the goods specified therein and the following rules shall have effect with reference to the issue of such warrants (namely) :—

- (a) No warrant shall be given unless and until all liens and claims for freight and all other liens or claims to which the goods were liable while on board any vessel and before the warehousing or depositing thereof and of

PART III
—cont.

which the Company have notice in writing before the date of such warrant are paid and discharged and the goods mentioned in such warrant shall not be delivered up until all harbour rates on the goods and all rates and expenses payable to the Company with respect to the warehousing or depositing of the goods or for services performed by the Company in respect thereof are paid or discharged ;

- (b) Before a warrant is issued the certificate (if any) shall be delivered up to the Company to be cancelled and retained by them ;
- (c) If the warrant is for delivery of part only of the goods the Company shall issue to the person delivering up the certificate a new certificate if asked for with respect to the goods not specified in the warrant.

(4) All certificates delivery warrants transfer certificates and other documents relating to goods in the custody of the Company if signed and issued by any officer duly authorised in that behalf shall be effectual in law and binding on the Company and all other parties interested without any other signature and without any seal.

36. The importer proprietor or consignee of any goods warehoused stored or yarded within the harbour shall before the expiration of one year to be computed from the day of the first entry thereof pay such rates as shall be then due and payable on such goods and in case such importer proprietor consignee or his agents shall fail or neglect so to do before the expiration of such year the Company or such person as may be appointed by the Company may cause all such goods to be publicly sold first paying customs duties excise duties purchase tax (if any) and surcharge in respect of sugar or molasses payable thereon and the produce of such sale shall be applied first in payment of the rates imposed by the scheduled Acts and this Act or of any other sums which may be owing to the Company for which they may be liable or have undertaken liability and the surplus arising from such sale shall be paid to such importer proprietor consignee or his agents :

Provided that the said goods shall not be sold until the Company shall have given one month's previous notice in writing to such importer proprietor or consignee and shall have inserted such notice twice at least in a newspaper published in the borough of Workington and have affixed the same in a conspicuous place in the dock office.

37.—(1) The Company shall not be responsible for the safety of any goods deposited in sheds yards buildings quays or other premises forming part of the undertaking except goods warehoused by the Company in any shed yard or building specially set apart by the Company for the purpose of warehousing.

Rates on
warehoused
goods to be
paid within one
year or
otherwise
goods to be
sold for
payment of
rates etc.

Company's
liability for
goods.

(2) The provisions of this section shall not relieve the Company from liability for damage to or loss of any goods so deposited if such damage or loss is caused by the act or neglect of the Company or their servants and is damage or loss for which apart from this section the Company would be liable.

PART III
—cont.

38.—(1) The Company shall not be compelled to receive within the harbour any articles which in their opinion would endanger the safety of the harbour or of vessels or goods.

Power to
exclude
dangerous
articles.

(2) The Company shall from time to time publish in such manner as the Minister may direct a schedule of such articles, as they refuse so to receive and every person who after such publication brings or causes or permits to be brought within the harbour any such article shall for every such offence be liable on summary conviction to a penalty not exceeding one hundred pounds and the Company may remove the article and may recover the costs of such removal and of placing or storing the same elsewhere from the owner or offender.

(3) This section shall not apply to any articles in respect of the carriage conveyance loading discharging or handling of which within the harbour special provision (either for the safety of the harbour or of vessels or goods therein or by way of exemption from the operation of safety provisions which save for the exemption would apply) is made by or under any enactment for the time being in force.

39.—(1) In addition to their powers under section 20 of the Harbours Clauses Act and notwithstanding any restrictions imposed by that section the Company shall have power under this section to acquire land by agreement whether by way of purchase lease or exchange for any of the purposes of the undertaking.

Power to
acquire land by
agreement.

(2) Without prejudice to the generality of the foregoing subsection the Company may acquire land thereunder for the purpose of erecting houses and other buildings thereon for the use of persons employed or whose services are hired by them for the purposes of the undertaking.

(3) The Lands Clauses Acts (except the provisions relating to the acquisition of land otherwise than by agreement those relating to access to the special Act and sections 99 to 107 and sections 127 to 132 of the Lands Clauses Consolidation Act 1845) are hereby incorporated with the foregoing provisions of this section and in construing those Acts as so incorporated those provisions shall be deemed to be the special Act and the word "land" shall have the meaning assigned to it by this Act.

40.—(1) The Company may notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 or any enactment from time to time relating to the undertaking retain hold or

Power to sell
and lease lands
etc.

PART III
—cont.

use and from time to time for such consideration at such rents and upon and subject to such terms (pecuniary or otherwise) and conditions as they may from time to time think fit sell exchange or lease any lands which are from time to time held by them for the purposes of the undertaking and in the opinion of the Company may not be for the time being required for those purposes and (for such period as they may think proper) lease or grant the use or occupation of or easements or rights over or affecting any warehouses buildings wharves yards cranes machines or other works or conveniences for the time being belonging to or provided by them for the purposes of the undertaking.

(2) Nothing in this section shall release the Company or any person purchasing or acquiring any land from them under this section from any rents covenants restrictions reservations terms or conditions made payable by or contained in any conveyance lease or other deed or instrument by which the land has been conveyed leased to or otherwise acquired by or vested in the Company or any persons from or through whom the Company have derived title to it.

Grants of easements by person under disability.

41.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or release lands may if he thinks fit subject to the provisions of those Acts grant to the Company any easement or right required for the purposes of this Act in over or affecting any such 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 said Acts 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.

For protection of electricity undertakers.

42. For the protection of the Central Electricity Authority and the North Western Electricity Board the following provisions shall unless otherwise agreed in writing between the Company and the undertakers apply and have effect—

(1) In this section—

“ apparatus ” means electric lines or works (as respectively defined in the Electricity Supply Acts 1882 to 1936) belonging to or lawfully laid or erected by the undertakers (not being apparatus in respect of which the relations between the Company and the undertakers are regulated by the provisions of Part II of the Public Utilities Street Works Act 1950) and includes any structure for the lodging therein of apparatus ;

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

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under over or upon land ;

“the undertakers” means the Central Electricity Authority or the North Western Electricity Board :

- (2) (a) Not less than one month before commencing to execute any works under the provisions of this Act which will or are likely to affect any apparatus belonging to the undertakers the Company shall submit to the undertakers a plan section and description of the works to be executed ;
- (b) Such works shall be executed only in accordance with the plan section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of their apparatus or for securing access thereto and the undertakers shall be entitled by their officer to watch and inspect the execution of such works :

Provided that if—

(a) the undertakers within fourteen days after the submission to them of any such plan section and description shall in consequence of the works proposed by the Company reasonably require the removal of any apparatus and give written notice to the Company of such requirement the Company shall if reasonably practicable afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other lands of the Company and thereafter for the maintenance repair renewal and inspection of such apparatus ;

(b) the alternative apparatus or any part thereof is to be constructed elsewhere than in other lands of the Company and the Company 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 constructed the undertakers shall on receipt of a written notice to that effect from the Company forthwith use their best endeavours to obtain the necessary facilities and rights in such last-mentioned lands :

Provided also that the rights of the undertakers in connection with the maintenance repair renewal and inspection of the existing apparatus shall continue until adequate alternative apparatus has been provided :

- (3) Any alternative apparatus to be constructed in lands of the Company in pursuance of this section shall be

PART III
—cont.

constructed in such manner and in such line or situation as may be agreed between the undertakers and the Company or in default of agreement settled by arbitration :

- (4) Where in accordance with the provisions of this section the Company afford to the undertakers facilities and rights for the construction maintenance repair renewal and inspection in lands of the Company of alternative apparatus in substitution for apparatus to be removed as aforesaid these facilities and rights shall be granted upon such terms and conditions as may be agreed between the Company and the undertakers or in default of agreement settled by arbitration :

Provided that if the facilities and rights to be afforded by the Company 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 less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the arbitrator shall make such provision for the payment of compensation by the Company to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case :

- (5) The Company shall pay to the undertakers the costs charges and expenses reasonably incurred by the undertakers in or in connection with the inspection removal alteration or protection of any apparatus or the construction of any alternative apparatus required in consequence of the execution of any such works as are referred to in subsection (2) of this section less the value of any apparatus removed in pursuance of the provisions of this section (such value being calculated after removal) and shall also make compensation to the undertakers—

(a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section) ;
and

(b) for any other expenses loss damages penalty or costs incurred by the undertakers ;

by reason or in consequence of the execution maintenance user or failure of any such works or otherwise by reason or in consequence of the exercise by the Company of the powers of this Act.

- (6) Any difference arising between the Company and the undertakers under this section shall be referred to and settled by a single arbitrator to be agreed between the parties or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to such arbitration :
- (7) Nothing in this section shall be deemed to prejudice or affect the provisions of any enactment or agreement regulating the relations between the Company or their predecessors in title and the undertakers in respect of any apparatus laid or erected in land held by the Company for the purposes of the undertaking.

43. For the protection of the commission the following provisions shall unless otherwise agreed in writing between the Company and the commission apply and have effect :— For protection of commission.

- (1) In this section—

“ railway property ” means the railways and railway works of the commission ;

“ the works ” means so much of any works constructed by the company under the powers of section 14 (Subsidiary works) of this Act as may in any way affect any railway property and includes the construction maintenance and renewal of such first-mentioned works ;

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

“ plans ” includes sections drawings and specifications :

- (2) The Company shall before commencing the works (other than works of maintenance and repair) furnish to the commission plans thereof for the approval of the engineer (which approval shall not be unreasonably withheld) and shall not commence the works until such plans shall have been approved in writing by the engineer or if he shall not approve the plans until the same shall have been settled by arbitration :

Provided that if within twenty-eight days after such plans have been furnished to the commission the engineer shall not have intimated his approval or disapproval thereof he shall be deemed to have approved them :

- (3) Upon signifying his approval or disapproval of the said plans the engineer may specify any protective works whether temporary or permanent which in his opinion should be carried out before the commencement of the

works to ensure the stability of railway property or to protect it from injury and such protective works as may be reasonably necessary for those purposes shall be constructed by the commission with all reasonable dispatch and the Company shall not commence the execution of the works until the engineer shall have notified the Company that the protective works have been completed :

- (4) The Company shall give to the engineer twenty-eight days' notice in writing of their intention to commence any of the works except in case of emergency when they shall give such notice thereof as may be reasonably practicable :
- (5) The works shall when commenced be carried out in accordance with the plans approved or deemed to be approved or settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the engineer and in such manner as to cause as little damage to railway property as may be and so as not to interfere with delay or interrupt the traffic on any railway of the commission and if any such damage to railway property or any such interference delay or interruption shall be caused or take place the Company shall notwithstanding any such approval as aforesaid forthwith make good such damage and pay to the commission all reasonable costs and expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of any such damage interference delay or interruption :
- (6) The Company shall at all times afford reasonable facilities to the engineer for access to the works and shall supply him with all such information as he may reasonably require with regard to the works or the method of executing the same :
- (7) Notwithstanding anything in section 17 (Power to dredge) of this Act the Company shall not blast any rock within a distance of 400 yards from any railway of the commission without the consent in writing of the engineer whose consent shall not be unreasonably withheld and may be given on such conditions as the engineer may reasonably impose :
- (8) The Company shall repay to the commission all costs charges and expenses reasonably incurred by the commission—
 - (a) in constructing any protective works under the provisions of paragraph (3) of this section ;
 - (b) in respect of the employment of any inspectors signalmen watchmen and other persons whom it shall

be reasonably necessary to appoint for inspecting watching lighting and signalling railway property and for preventing as far as may be all interference obstruction danger or accident arising from the works ;

(c) in respect of any special traffic working resulting from any speed restriction which may in the opinion of the engineer require to be imposed or from the substitution or diversion of services :

(9) The Company shall be responsible for and make good to the commission all costs charges damage and expenses not otherwise provided for in this section which may be occasioned to the Commission by reason of—

(a) the works or any failure thereof ;

(b) any work of deepening or scouring of the bed and foreshore of the sea and of the river Derwent ;

(c) any work of blasting any rock under the powers of section 17 of this Act ; or

(d) any act or omission of the Company or of any persons in their employ or of their contractors or others whilst engaged upon the works ;

and the Company shall effectively indemnify and hold harmless the commission from and against all claims or demands arising out of or in connection with the works or any such work failure act or omission as is referred to in the foregoing provisions of this paragraph and the fact that any work or thing may have been done in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the commission or of any person in their employ or of their contractors or others whilst engaged upon the works) excuse the Company from any liability under the provisions of this section:

Provided that the commission shall give reasonable notice to the Company of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without prior consultation with the Company :

(10) Any difference arising between the Company and the commission or the engineer under this section (other than a difference as to the meaning or construction of this section) shall be settled by arbitration.

44. For the protection of the mayor aldermen and burgesses of the borough of Workington (hereinafter in this section referred to as “ the corporation ”) the following provisions shall unless

For protection of Workington Corporation.

PART III
—cont.

otherwise agreed between the Company and the corporation apply and have effect:—

- (1) The Company shall maintain to the reasonable satisfaction of the corporation the two culverts marked “ A ” and “ B ” on the plan signed in duplicate by Ronald Peddie on behalf of the Company and Russell Craik Pharaoh on behalf of the corporation one copy of which has been deposited with the Company and the other with the town clerk of the borough of Workington :
- (2) Any question difference or dispute between the Company and the corporation under this section shall be determined by arbitration.

PART IV
RAILWAYS

Power to enter into working agreements with commission.

45. The Company and the commission may from time to time enter into and carry into effect and rescind contracts agreements or arrangements with respect to the purposes hereinafter mentioned or any of them but subject so far as such purposes are purposes within the meaning of Part III of the Railway Clauses Act 1863 to the provisions of that part of that Act (that is to say) :—

- the working use management and maintenance of the railways and the railway system of the commission or any part or parts thereof respectively ;
- the management regulation interchange collection transmission and delivery of traffic upon or coming from or destined for the railways and the railway system of the commission ;
- the supply and maintenance under any agreement for the railways being worked and used by the commission of engines stock and plant necessary for the purposes of such agreement ;
- the erection formation and provision by the Company and the commission or either of them of wharves piers landing places stairs tramways sidings accommodation works buildings and conveniences upon or in connection with the railways and the railway system of the commission and the maintenance use and repair thereof ;
- the fixing collection payment appropriation apportionment and distribution of the rates income and profits arising from the railways and the railway system of the commission or either of them or any part thereof ;
- the payments allowances drawbacks or rebates to be made by either the Company or the commission to the other of them ; and
- the employment of officers and servants.

46.—(1) For the consideration hereinafter in this section mentioned the commission shall have the right in common with the Company their lessees and others to use in perpetuity the railways for the conveyance of merchandise and the staithes and other conveniences provided in connection with the undertaking (hereinafter in this section referred to as “the railway facilities”).

PART IV
 —*cont.*
 Use of the railways by the commission.

(2) The use of the railway facilities by the commission shall be subject to complying with such rules and regulations for the conduct of traffic on the railways and in the harbour as may from time to time be agreed between the Company and the commission or in default of agreement be settled by arbitration.

(3) (a) The consideration to be paid by the commission for the user of the railway facilities shall unless otherwise agreed between the Commission and the company be:—

- (i) an annual rent of three hundred and fifty pounds (payable by equal half-yearly payments) or such other sum as may be agreed between the Company and the commission or in default of agreement settled by arbitration as takes into account the amount by which on the first day of July nineteen hundred and fifty-eight and thereafter at intervals of not less than five years the traffic on the railways has become greater or less than in the case of the first of such revisions seventy thousand tons per annum and in the case of each subsequent revision the tonnage in respect of which the annual rent was fixed on the occasion of the last preceding revision; and
- (ii) such proportion of the cost of maintaining the railway facilities in efficient repair and working order as the proportion of the traffic of the commission bears to the traffic of the other users.

(b) For the purpose of any revision of the annual rent payable by the commission under this subsection the Company shall be entitled to have access to all relevant books and accounts of the commission.

(4) Any dispute or difference which may arise between the Company and the commission under the provisions of this section shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing agreement appointed by the Minister on the application of either party (after notice in writing to the other).

(5) The agreement dated the thirty-first day of December nineteen hundred and thirty-one and made between the London Midland and Scottish Railway Company and the board shall be deemed to have been made between the commission and the Company respectively under the provisions of this section.

(6) The Company shall within three months after the passing of this Act produce to the Commissioners of Inland Revenue a

PART IV
—cont.

Queen's Printer's copy of this Act duly stamped with the same duty that would have been payable had the right conferred by this section on the commission been created upon the sale thereof by an actual grant or conveyance comprised in an instrument of conveyance on sale for the consideration aforesaid and in default of such production the duty with interest thereon at the rate of five per centum per annum from the passing of this Act shall be a debt due to Her Majesty from the Company.

PART V

RATES

Tonnage rates
on vessels.

47.—(1) The Company may demand and take in respect of every vessel (other than a steam-tug or lighter when in use as such and a seaplane) entering using or clearing the harbour rates not exceeding those specified in the Third Schedule to this Act subject to the regulations and conditions specified in that schedule :

(2) Notwithstanding anything in the foregoing subsection the Company may from time to time agree with the master or owner of any vessel trading to or from the harbour for the payment in respect of such vessel of such special rates other than those mentioned in the said schedule as the Company shall think fit :

Provided that the same rates shall be demanded and taken in respect of all such vessels equally under the same circumstances.

Rates on
goods.

48. The Company may demand and take in respect of all goods shipped or discharged in the harbour rates not exceeding those specified in the Fourth Schedule to this Act subject to the regulations and conditions specified in that schedule.

Passenger
rates.

49. The Company may demand and take in respect of every passenger including ordinary luggage accompanying him not exceeding fifty-six pounds in weight embarking on or disembarking from any vessel in the harbour and intending to be or having been carried in the vessel between any place in the harbour and any place beyond the harbour any sum not exceeding one shilling and sixpence and for all luggage exceeding fifty-six pounds in weight accompanying any such passenger the Company may demand and take an additional sum at a rate not exceeding one shilling for every hundredweight or part thereof :

Provided that nothing in this section shall authorise the Company to demand and take any rate from any person when on duty in the service of the Crown.

Railway rates.

50.—(1) The Company may demand and take in respect of goods conveyed on the railways and in respect of any services performed by the Company in connection therewith such rates as they shall think fit.

(2) The consideration paid by the commission under section 46 (Use of the railways by the commission) of this Act or under

any agreement made or deemed to be made thereunder shall in so far as it relates to the conveyance by the commission of goods on the railways under the provisions of the said section 46 or of any agreement made or deemed to be made thereunder be in full satisfaction of the obligation to pay rates in respect of such conveyance under the preceding subsection and the Company shall not by virtue of this section be authorised to demand or take any additional rate in respect of such conveyance.

51.—(1) The Company may (except in so far as specified in the Third and Fourth Schedules to this Act) demand and take such reasonable rates as they may from time to time determine in respect of the use of any sheds buildings yards weighing-machines moorings cranes buoys works and conveniences belonging to or provided by the Company for the purposes of the undertaking or in respect of any services rendered by them in connection with the harbour.

Rates for services and accommodation not otherwise provided for.

(2) All such rates shall be respectively recoverable from the owner of the goods dealt with or from the owner of any vessel using or applying for the use of such plant appliances conveniences or services or from any person who may so apply.

52.—(1) The Company may demand and take such reasonable rates as they may from time to time determine in respect of shipping discharging or otherwise handling or for warehousing any goods which may be shipped discharged or handled within the limits of the harbour or warehoused in premises forming part of the undertaking and in respect of any services rendered by the Company in connection therewith.

Rates for unloading warehousing etc.

(2) Any rates charged by the Company under this section may be recoverable from the owner of the vessel or other person responsible therefor.

53.—(1) Nothing in this Act shall prevent or hinder the dues known as anchorage dues within the harbour from being paid or payable by the master or person having the charge of every vessel liable therefor to the lord or lords for the time being of the respective manors of Workington and Seaton or to their assigns as the same were paid before the day of transfer.

Saving rights to anchorage dues.

(2) The said anchorage dues shall from time to time be collected and paid by the Company in the same manner and on the same terms in all respects as before the day of transfer those anchorage dues were collected and paid over by the board to the lord or lords respectively of the said manors.

54.—(1) In addition to the remedy given by section 44 of the Harbours Clauses Act and whether the demand required by that section has been made or not the Company may recover any rates which by this Act they are authorised to demand and take or any arrears of rates payable to them under the scheduled Acts as a debt in any court of competent jurisdiction.

Recovery of rates.

PART V
—cont.

(2) Any charges which by virtue of section 7 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 the Company are authorised to demand and take in respect of seaplanes shall be paid by or be recoverable from either the owner or the pilot or other person in charge of such seaplane as the Company may determine.

Revision of
rates.

55. For the purposes of any application under section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 for the revision of any of the rates which the Company are authorised by this Act to demand and take in respect of the undertaking (other than those relating to the railways)—

- (a) the Company shall be deemed to have been operating the undertaking on the third day of September nineteen hundred and thirty-nine and to have been authorised to demand and take the rates which the board were authorised to demand and take on that day by the scheduled Acts ; and
- (b) the share capital of the undertaking shall be deemed to be the amount of the book value of the fixed assets (less depreciation) the investments and of the current assets less the amount of the book value of the current liabilities as shown by the accounts of the undertaking.

PART VI

MISCELLANEOUS AND GENERAL

Maintenance
etc. of
undertaking.

56. Subject to the provisions of this Act the Company may maintain repair alter enlarge improve and extend the undertaking or any part thereof.

Power to
transfer the
undertaking.

57.—(1) The Company may if authorised so to do by their memorandum of association and subject to the powers and provisions thereof transfer the undertaking to any other person and such other person shall have and may exercise all or any of the powers conferred upon the Company by this Act (including those of this section) and shall be subject to all the liabilities and obligations to which the Company are subject and shall perform all the duties of the Company under this Act :

Provided that any such transfer (except a transfer within the United Steel Group) shall not be lawful unless it has been previously consented to by the Minister and the terms and conditions thereof have received his approval.

(2) In the event of the undertaking being transferred to a subsidiary company of the Company it shall not be lawful for the Company without the consent of the Minister to take any action which would result in the subsidiary company ceasing to be a subsidiary company of the Company.

(3) The Company shall within one month after the date of any conveyance made under this section deposit a certified copy thereof at the Ministry of Transport and Civil Aviation and shall upon failure to do so be liable to a penalty not exceeding twenty pounds.

(4) In this section—

“ a transfer within the United Steel Group ” means a transfer by or to the United Steel Companies Limited to or from any subsidiary company of that company or a transfer as between any two such subsidiary companies; and

“ subsidiary company ” has the meaning assigned to that expression by section 154 of the Companies Act 1948.

58.—(1) The Company shall within three months after the date to which the annual accounts and balance sheet of the undertaking are made up send a copy of the same to the Minister and section 16 of the General Pier and Harbour Act 1861 Amendment Act shall apply to such accounts and balance sheet.

Annual accounts to be sent to Minister.

(2) The Company shall as from the expiration of that period be liable to a penalty not exceeding twenty pounds for every refusal or neglect to comply with the foregoing provisions.

59. No liability duty or obligation to which the Company are subject by virtue of this Act shall apply to the Company except in their capacities as the port and harbour authority for the port and harbour of Workington in the county of Cumberland and as the owners of the undertaking.

Saving for Company.

60.—(1) Nothing in this Act shall prejudice in any manner whatsoever the right title or interest of the lords for the time being of the manors of Workington and Seaton or of Isabel Mary Chance as owner of land adjoining the harbour on the south side thereof or of the owners for the time being of the close called the Lower Cloffocks or other the lords of the said manors and the owners of the said lands respectively for the time being of in or to all rights powers and privileges incident or belonging to the said manors and lands (whether or not within the limits of the harbour) but the same rights powers and privileges shall continue to be held exercised or enjoyed in all respects in the same manner as heretofore as if this Act had not been passed.

Royalty rights reserved.

(2) The said lords of the said manors and the owners of the said lands respectively for the time being shall be and be deemed to be the owners (according to their several rights and interests therein) of all mines of lead copper tin iron and other mines minerals and ores of what nature and kind soever (other than those (if any) vested in the National Coal Board by virtue of the Coal Industry Nationalisation Act 1946) within the limits of the harbour (whether already worked and opened or not) and shall have full power to use and exercise all convenient ways and means of

PART VI
—cont.

searching for winning working taking loading carrying away and shipping such ores and other minerals and to make drifts levels watercourses and other workings underground for more effectual and easy working and winning of the said mines and minerals and all other powers privileges and authorities to do or execute any necessary acts or things for all or any of the purposes aforesaid in under and over the limits of the harbour in the same manner as they or he could have done if this Act had not been passed.

Byelaws.

61.—(1) The provisions of subsections (2) to (7) of section 250 and sections 251 and 252 of the Local Government Act 1933 shall apply to all byelaws to be made by the Company under the provisions of the Harbours Clauses Act or this Act (except byelaws which relate solely to the Company their officers or servants) as if the Company were a local authority and for the purposes of such application the Minister shall be the confirming authority.

(2) Notwithstanding the provisions of section 67 (Repeal) of this Act all byelaws made by the Board and in force on the day of transfer shall remain in force until and except in so far as they may be revoked by byelaws made by the Company under the relevant enactment and while so in force shall apply and have effect in all respects within the limits of the harbour as extended by subsection (1) of section 12 (Harbour limits) of this Act and as if the Company had been named therein instead of the Board.

Inquiries by
Minister.

62. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Act and section 290 of the Local Government Act 1933 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Company were a local authority.

Saving for
fishing
rights.

63. Nothing in this Act shall prejudice in any manner whatsoever the salmon fishery and piscary for all kinds of fish of and belonging to John Edward Reginald Wyndham Esquire in the river Derwent and within the limits of the harbour or in the arm of the sea into which the said river flows and runs at the mouth of the said harbour and within the limits thereof and the Company shall not (by themselves or their agents or any person or bodies authorised by them) without the consent of the said John Edward Reginald Wyndham his heirs or assigns—

(a) demolish take away injure interfere with or destroy any net fishlock garth coop bay or other work which shall have been or may hereafter be lawfully erected placed or used for the purposes of the said fishery in the said river or within the limits of the harbour or the arm of the sea or elsewhere; or

(b) interfere in any manner with the methods now or hereafter to be used by the said John Edward Reginald Wyndham his heirs and assigns or his and their lessees agents and other persons authorised by him or them for taking and killing salmon and other fish in the said river and within the limits of the harbour or the arm of the sea or elsewhere ; or

(c) erect within the limits of the harbour or elsewhere any works in such a manner as to injure the said fishery or prejudice its enjoyment by the said John Edward Reginald Wyndham his heirs and assigns.

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

65. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act. Saving for town and country planning.

66. Where under this Act any question difference or dispute is to be referred to or determined by an arbitrator or arbitration then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties or failing agreement appointed by the President of the Institution of Civil Engineers on the application of any party to the dispute after notice in writing to the other. Arbitration.

67. On the day of transfer the scheduled Acts shall be repealed. Repeal.

68. The costs charges and expenses preliminary to and of and incidental to the applying for and the preparing obtaining and passing of this Act shall be paid by the Company. Costs of Act.

SCHEDULES

FIRST SCHEDULE

REPEALS

The Act 3 Vict. c. xliv.
 The Workington Dock Act 1861.
 The Workington Wet Dock Act 1863.
 The Workington Harbour Act 1864.
 The Workington Harbour (Transfer) Act 1869.
 The Workington Dock and Harbour Act 1882.
 The Workington Dock and Harbour (Extension of Time) Act 1889.
 The Workington Railways and Docks Act 1900.
 The Workington Harbour and Dock Act 1905.
 The Workington Harbour and Dock Act 1920.
 The Workington Harbour and Dock Order 1950 confirmed by the
 Pier and Harbour Order (Workington) Confirmation Act 1950.

SECOND SCHEDULE

PARTICULARS OF THE CONSOLIDATED STOCK ISSUED BY THE
 BOARD AND OUTSTANDING AT THE PASSING OF THIS ACT

Date of issue	Amount	Rate of dividend	Date of redemption
23rd October 1922	£297,663	5¼ per cent.	31st October 2025.
1st May 1948 ..	£132,000	5¼ per cent.	31st December 2001.
1st May 1948 ..	£399,886	5¼ per cent.	30th June 2028.

THIRD SCHEDULE

RATES ON VESSELS ENTERING USING OR CLEARING
 THE HARBOUR

INWARD CHARGES

	s.	d.
For every vessel with a cargo from any port or place within the limits of the home trade per register ton ..	1	10¾
For every vessel with a cargo from any port or place beyond the limits of the home trade per register ton ..	2	10¼
For every vessel entering in ballast from any port or place within the limits of the home trade per register ton ..	0	11½
For every vessel entering in ballast from any port or place beyond the limits of the home trade per register ton ..	1	10¾

OUTWARD CHARGES

For every vessel clearing with or without a cargo on board for any port or place within the limits of the home trade per register ton	1	10¾
For every vessel clearing with or without a cargo on board for any port or place beyond the limits of the home trade per register ton	2	10¼

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 (Transfer) Act, 1957

4TH SCH.
 —cont.

REGULATIONS AND CONDITIONS

1. The Company may demand and take in respect of any goods not enumerated in this schedule such reasonable rates as they think fit.

2. Fractions of a ton shall be reckoned as one ton and quantities of less than fifty cubic feet as fifty cubic feet.

Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act 1845	8 & 9 Vict. c. 18
Harbour Docks and Piers Clauses Act 1847	10 & 11 Vict. c. 27
General Pier and Harbour Act 1861 Amendment Act	25 & 26 Vict. c. 19
Railway Clauses Act 1863	26 & 27 Vict. c. 92
Telegraph Act 1869	32 & 33 Vict. c. 73
Telegraph Act 1878	41 & 42 Vict. c. 76
Merchant Shipping Act 1894	57 & 58 Vict. c. 60
Workington Harbour and Dock Act 1905	5 Edw. 7 c. cxlvii
Workington Harbour and Dock Act 1920	10 & 11 Geo. 5 c. cl
Local Government Act 1933	23 & 24 Geo. 5 c. 51
Coal Industry Nationalisation Act 1946	9 & 10 Geo. 6 c. 59
Town and Country Planning Act 1947	10 & 11 Geo. 6 c. 51
Companies Act 1948	11 & 12 Geo. 6 c. 38
Civil Aviation Act 1949	12 & 13 Geo. 6 c. 67
Arbitration Act 1950	14 Geo. 6 c. 27
Public Utilities Street Works Act 1950	14 Geo. 6 c. 39
Transport Charges &c. (Miscellaneous Provisions) Act 1954	2 & 3 Eliz. 2 c. 64

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