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*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993, SCHEDULE 2. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 2

Section 2.

#### WORKS: SUPPLEMENTARY

##### *Supplementary works*

- 1 (1) For the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act the Development Corporation may, within the limits of deviation or elsewhere within the inland bay—
- (a) make temporary junctions or communications (for use by pedestrians or other traffic) between a work and any existing street and divert, widen or alter the line or level of any existing street,
  - (b) remove, alter or divert any sewers, drains or other watercourses,
  - (c) alter any mains, pipes, wires or other works or apparatus for conveying or transmitting water, gas, electricity or petroleum (as defined in the <sup>M1</sup>Petroleum (Consolidation) Act 1928) or for [<sup>F1</sup>electronic communications],
  - (d) execute any works for the protection or improvement of any adjoining land or buildings,
  - (e) execute any works or do any other thing necessary for strengthening or supporting walls of adjoining buildings,
  - (f) raise, sink or otherwise alter the levels of any land,
  - (g) reclaim any land or (in the inland bay) create islands,
  - (h) dispose of spoil or other material excavated in the execution of the works, or
  - (i) alter any steps, walls, gateways, railings or pavements.
- (2) The Development Corporation shall not—
- (a) interrupt the flow in any sewer, drain or other watercourse under paragraph (b) of sub-paragraph (1) above, or
  - (b) interrupt any water supply by means of any mains, pipes or other works or apparatus under paragraph (c) of that sub-paragraph,
- unless they have provided a suitable alternative.
- (3) For the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act the Development Corporation may—
- (a) with the agreement of the owners and occupiers of any land abutting on land within the limits of deviation or elsewhere within the inland bay, exercise the powers conferred by sub-paragraph (1)(d) and (e) above on that abutting land, and
  - (b) accordingly carry out any works for providing or facilitating access to or from such land, or for preserving its amenities, in connection with the exercise of those powers on it.

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#### Textual Amendments

- F1** Words in [Sch. 2 para. 1\(c\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 124\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with [art. 11](#))

#### Marginal Citations

- M1** [1928 c. 32](#).

### *Interference with sea and inland bay*

- 2 (1) For the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act the Development Corporation may—
- (a) deepen, dredge, scour, cleanse, remove obstructions in or otherwise alter or interfere with the bed or foreshore of the sea or the bed or banks of the inland bay, and
  - (b) use or dispose of any material (other than wreck within the meaning of Part IX of the <sup>M2</sup>Merchant Shipping Act 1894) removed in the exercise of the power conferred by paragraph (a) above.
- (2) No material removed under sub-paragraph (1) above, other than any removed for the purpose of any of the works authorised by section 1 of this Act or filling in or reclaiming any of the bed or foreshore of the sea situated within the limits of deviation, shall be deposited below the level of mean high-water springs except in such places and in accordance with any such conditions and restrictions as may be specified or approved by the Secretary of State.

#### Marginal Citations

- M2** [1894 c. 60](#).

- 3 (1) The Development Corporation may, with the consent of the owners [<sup>F2</sup>and the Natural Resources Body for Wales, carry] out such sealing of so much of the bed or banks of the inland bay as may be necessary or expedient for the protection or efficacy of any of the works authorised by section 1 of this Act.
- (2) Any consent requested for the purposes of sub-paragraph (1) above shall not be unreasonably withheld; and any question whether such consent is or is not unreasonably withheld shall be determined by arbitration.

#### Textual Amendments

- F2** Words in [Sch. 2 para. 3\(1\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 357\(2\)](#) (with [Sch. 7](#))

- 4 (1) The Development Corporation may temporarily close the inland bay or any part of it to navigation in the course of executing any of the works authorised by section 1 of this Act or doing anything in pursuance of any of the preceding provisions of this Schedule.

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- (2) The Development Corporation shall so exercise the power conferred by this paragraph as to ensure that no more of the inland bay is closed to navigation, and for no longer, than is reasonably necessary in the circumstances.
- 5 (1) The Development Corporation may remove or interfere with any mooring in the inland bay in any case where it appears to them to be necessary or expedient to do so for the purposes of any of the works authorised by section 1 of this Act or anything authorised by paragraph 1, 2 or 3 above.
- (2) Before removing or interfering with any mooring under this paragraph the Development Corporation shall give notice in writing to the owners of the mooring.
- (3) Such a notice shall include a summary of this paragraph and—
- (a) in case of emergency shall be given as long before removing or interfering with the mooring as is reasonably practicable, and
  - (b) otherwise shall be given not less than twenty-eight days before removing or interfering with the mooring.
- (4) Where—
- (a) the Development Corporation propose to remove or interfere with any mooring under this paragraph, or
  - (b) the owners of any mooring which the Development Corporation propose to remove under this paragraph themselves remove, or procure the removal of, the mooring,
- the owners of the mooring may require the Development Corporation to provide a replacement mooring elsewhere within the inland bay in a reasonably convenient location.
- (5) Except where it is not reasonably practicable to do so, any replacement mooring which the Development Corporation are required to provide under this paragraph shall be provided before the mooring which it replaces is removed or interfered with.
- (6) The owners of a mooring—
- (a) which is removed or interfered with by the Development Corporation under this paragraph, or
  - (b) which the Development Corporation propose to remove under this paragraph but is removed by or at the instigation of the owners,
- shall be entitled to recover from the Development Corporation any reasonable costs incurred in consequence of the removal of or interference with the mooring.
- (7) This paragraph shall be regarded for the purposes of section 37(5) of the <sup>M3</sup>Land Compensation Act 1973 (discretionary compensation for disturbance in absence of entitlement to a disturbance payment or to compensation for disturbance under any other enactment) as providing compensation for disturbance for the owners of moorings removed by the Development Corporation under this paragraph.

**Marginal Citations**

**M3** 1973 c. 26.

- 6 For the purposes of or in connection with the works authorised by section 1 of this Act or anything authorised by this Schedule the Development Corporation may moor or anchor vessels, or cause vessels to be moored or anchored, in the inland bay.

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*Tidal works*

- 7 (1) A tidal work shall not be constructed, altered, replaced or re-laid except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.
- (2) If a tidal work is constructed, altered, replaced or re-laid in contravention of this paragraph or of any condition or restriction imposed under this paragraph—
- (a) the Secretary of State may by notice in writing require the Development Corporation at their own expense to remove the tidal work or any part of it and to restore the site to its former condition or so near its former condition as is acceptable to him, or
  - (b) where it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work, or part of it, and so restore the site.
- (3) If at the end of the period of twenty-eight days from the date when notice is served on the Development Corporation under sub-paragraph (2)(a) above they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice.
- (4) The Secretary of State may, if he considers it expedient, order a survey and examination of any site on which it is proposed to execute a tidal work.
- (5) The Secretary of State shall be entitled to recover from the Development Corporation any expenditure incurred by him under sub-paragraph (2)(b) or (3) above or on a survey and examination under sub-paragraph (4) above.
- 8 (1) The Development Corporation shall—
- (a) during the whole time of the construction, alteration, replacement or re-laying of a tidal work, exhibit every night from sunset to sunrise at or near the work any such lights, and
  - (b) take such other steps for the prevention of danger to navigation from the construction, alteration, replacement or re-laying of a tidal work,
- as the Secretary of State may direct.
- (2) If the Development Corporation fail to comply in any respect with a direction given under this paragraph they shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.
- (3) In proceedings for an offence under sub-paragraph (2) above it shall be a defence for the Development Corporation to show that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) If in any case the defence provided by sub-paragraph (3) above involves the allegation that the commission of the offence was due to the act or default of another person, the Development Corporation shall not, without the leave of the court, be entitled to rely on the defence unless, not later than seven clear days before the hearing of the proceedings, they have served on the prosecution a notice in writing giving such information as was then in their possession identifying or assisting in the identification of the other person.
- (5) Nothing in this paragraph shall prejudice or derogate from the powers, rights and privileges of Trinity House.

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- 9 Notwithstanding anything in any other provision of this Act, any pipes to be laid or placed in the exercise of any of the powers conferred by section 1 of this Act or this Schedule under or over any tidal waters or land below the level of mean high-water springs shall be laid or placed at such depth under, or such height over, the tidal waters or land as the Secretary of State may require.

*Other matters relating to water etc.*

- 10 (1) Notwithstanding anything in any other enactment, the Development Corporation may for the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act or anything authorised by any of the preceding provisions of this Schedule—
- (a) take, impound or use water from, or discharge water into, the sea, or
  - (b) pump any water required by them from or into the inland bay or pump any water found by them into the inland bay;
- and, in order to do so, they may, within the limits of deviation, lay down, take up or alter pipes or other apparatus and make any convenient connections with the inland bay.
- (2) Notwithstanding anything in any other enactment, the Development Corporation may for the purposes of or in connection with—
- (a) the works authorised by section 1(1) of this Act, or
  - (b) anything authorised by section 1(5) of this Act, or any of the preceding provisions of this Schedule, to be done for the purposes of or in connection with those works,
- pump any water found by them into any sewer or drain; and, in order to do so, they may, within the limits of deviation, make any convenient connections with any sewer or drain.
- (3) The Development Corporation shall not under this paragraph—
- (a) discharge any water into any sewer or drain except with the consent of the appropriate person or otherwise than in accordance with such terms and conditions as that person may reasonably impose,
  - (b) make any opening into any sewer or drain except in accordance with plans reasonably approved by and under the superintendence (if given) of the appropriate person, or
  - (c) take, impound, use or pump any water from upstream of either the weir at Blackweir in the river Taff or the Wiggins Teape Weir in the river Ely.
- (4) In sub-paragraph (3) above “the appropriate person” means—
- (a) in the case of a private sewer or a drain, the owner, and
  - (b) in the case of a public sewer, the sewerage undertaker for the area where it is situated.
- (5) Any consent requested for the purposes of sub-paragraph (3)(a) above shall not be unreasonably withheld.
- (6) Nothing in this paragraph shall exempt the Development Corporation from any requirement of the <sup>M4</sup>Prevention of Oil Pollution Act 1971.
- (7) Subject to sub-paragraph (8) below, nothing in this paragraph shall exempt the Development Corporation from any requirement of the <sup>M5</sup>Water Resources Act 1991; and, accordingly, this paragraph shall not be regarded as a local statutory provision

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for the purposes of section 88 of that Act (defences to pollution offences under section 85).

- (8) In the application of section 85 of that Act to, and to the consequences of, a discharge effected under this paragraph that section shall have effect with the omission of subsections (2) to (4) (offences involving discharge from sewer or drain in contravention of prohibition under section 86 or discharge of trade or sewage effluent).

#### Marginal Citations

- M4** 1971 c. 60.  
**M5** 1991 c. 57.

- 11 (1) [<sup>F3</sup>Where the Natural Resources Body for Wales and] the sewerage undertaker for the area in which any sewer, drain or other watercourse (or any part of a sewer, drain or other watercourse) within the limits of deviation is situated consider—
- (a) in the case of (or of a part of) a sewer or drain, that it has become unnecessary by reason of the exercise of any of the powers conferred by section 1 of this Act or the preceding provisions of this Schedule, or
  - (b) in the case of any other watercourse (or part of a watercourse), that it has ceased to be of use for any purpose connected with water supply, land drainage or conservation or recreation by reason of the exercise of any of those powers,
- the Development Corporation shall remove it or fill it in.
- (2) Any difference between the Development Corporation and [<sup>F4</sup>the Natural Resources Body for Wales or a] sewerage undertaker as to whether the condition in paragraph (a) or (b) of sub-paragraph (1) above is satisfied shall be determined by arbitration.

#### Textual Amendments

- F3** Words in Sch. 2 para. 11(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 357(3)(a)** (with Sch. 7)
- F4** Words in Sch. 2 para. 11(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 357(3)(b)** (with Sch. 7)

#### *Duty to avoid inconvenience*

- 12 In the exercise of any of the powers conferred by the preceding provisions of this Schedule the Development Corporation shall cause as little detriment or inconvenience to other persons as the circumstances permit.

#### *Compensation*

- 13 (1) The Development Corporation shall pay compensation to any person for any damage sustained by him by reason of the exercise of any of the powers conferred by paragraphs 1, 2, 3, 6 and 10 above.
- (2) Any dispute as to a person's entitlement to compensation under sub-paragraph (1) above, or as to the amount of any such compensation, shall be determined by the [<sup>F5</sup>Upper Tribunal].

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### Textual Amendments

- F5** Words in Sch. 2 para. 13(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 252](#) (with Sch. 5)

#### *Works affecting highway*

- 14 (1) In so far as they authorise the execution of any works on, over or under any highway, the powers conferred on the Development Corporation by section 1 of this Act and this Schedule shall not be exercised without the consent of the highway authority.
- (2) Any consent requested for the purposes of sub-paragraph (1) above shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a condition requiring a monetary payment for the grant of the consent) as the highway authority may impose.
- (3) Any question whether such consent is or is not unreasonably withheld, or any conditions so imposed are or are not reasonable, shall be determined by arbitration.

#### *Works affecting apparatus*

- 15 (1) Sub-paragraph (2) below applies where—
- (a) statutory undertakers' apparatus is or may be affected by any works executed under any of the powers conferred on the Development Corporation by section 1 of this Act or this Schedule, and
  - (b) section 84 of the <sup>M6</sup>New Roads and Street Works Act 1991 does not apply.
- (2) Where this sub-paragraph applies the Development Corporation and the statutory undertakers shall take such steps as are reasonably required—
- (a) to identify any measures needing to be taken in relation to the apparatus in consequence of, or in order to facilitate, the execution of the works,
  - (b) to settle a specification of the necessary measures and determine by whom they are to be taken, and
  - (c) to co-ordinate the taking of those measures and the execution of the works, so as to secure the efficient implementation of the necessary work and the avoidance of unnecessary delay.
- (3) The costs of those measures shall be borne by the Development Corporation except—
- (a) where the apparatus in question was placed after the Development Corporation had given the statutory undertakers notice in writing of their intention to execute the works, or
  - (b) where they are taken to remedy matters for which the Development Corporation were not to blame.
- (4) Any question arising under this paragraph shall, in default of agreement, be settled by arbitration.
- (5) If there is a failure on the part of the Development Corporation or the statutory undertakers to comply with an agreement or arbitrator's decision as to any of the matters mentioned in sub-paragraph (2) above, the Development Corporation or the statutory undertakers shall be liable to compensate the other in respect of any loss or damage resulting from the failure.

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(6) In this paragraph “apparatus” and “affected by” have the same meanings as in Part III of the <sup>M7</sup>New Roads and Street Works Act 1991.

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**Marginal Citations**

**M6** 1991 c. 22.

**M7** 1991 c. 22.

16      [<sup>F6</sup>Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] (procedure where works involve the alteration of [<sup>F7</sup>electronic communications apparatus]) shall apply to the Development Corporation for the purposes of any works carried out by them in exercise of any of the powers conferred by section 1 of this Act or this Schedule.

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**Textual Amendments**

**F6** Words in Sch. 2 para. 16 substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\), s. 118\(6\), Sch. 3 para. 33](#); S.I. 2017/1286, reg. 2(d)

**F7** Words in Sch. 2 para. 16 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 124\(b\)](#) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)



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