

ELIZABETH II



1965 CHAPTER xxxiv

An Act to authorise Skydeck Brighton Limited to construct works and to acquire lands; and for other purposes.

[5th August 1965]

WHEREAS Skydeck Brighton Limited (hereinafter referred to as "the Company") are a company within the meaning of the Companies Act, 1948, and are a company limited by shares: c. 38.

And whereas development is taking place in the county borough of Brighton to accommodate an increasing number of residents and to attract visitors and it would be of public and local advantage to expand the existing facilities and, in particular, to increase the facilities on the sea front at Brighton:

And whereas it is expedient that the Company should be authorised to construct the observation tower, incorporating substantial restaurant and other accommodation and facilities, and the approach pier and other works as in this Act described, and to use part of the bed and foreshore of the sea at Brighton and to acquire lands, as by this Act provided:

And whereas it is expedient that the other provisions of this Act be enacted:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas plans and sections showing the lines and levels of the works by this Act authorised and the lands which may be taken or used compulsorily for the purposes thereof, and a book of reference to the said plans containing the names of the owners

and lessees, or reputed owners and lessees, and of the occupiers of those lands and describing the same, have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the town clerk of the county borough of Brighton, and such plans, sections and book of reference are respectively referred to in this Act as the deposited plans, sections and book of reference:

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

PART I

PRELIMINARY

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|------------------------------|---|
| Short title. | 1. This Act may be cited as the Brighton Skydeck Act 1965. |
| Division of Act into Parts. | 2. This Act is divided into Parts as follows:—
Part I.—Preliminary.
Part II.—Lands.
Part III.—Works.
Part IV.—Miscellaneous.
Part V.—Protective provisions.
Part VI.—General. |
| Incorporation of enactments. | 3.—(1) The following enactments, so far as the same are applicable to the purposes of, and are not inconsistent with the provisions of, this Act are hereby incorporated with this Act:— |
| c. 18. | (a) the Lands Clauses Acts (except section 92, sections 127 to 133 and sections 150 and 151 of the Lands Clauses Consolidation Act, 1845):
Provided that the bond required by section 85 of the Lands Clauses Consolidation Act, 1845, shall be sufficient without the addition of the sureties mentioned in that section; |
| c. 20. | (b) the provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof:
Provided that for the purposes of the incorporated provisions of the Railways Clauses Consolidation Act, 1845, the works authorised by this Act shall be deemed to be the railway and the centre line of those works as shown on the deposited plans shall be deemed to be the centre line of the railway; |
| c. 27. | (c) the provisions of sections 77, 78 and 102 of the Harbours, Docks and Piers Clauses Act, 1847; |

(2) In the construction of the enactments so incorporated with this Act the expression "special Act" shall be read as a reference to this Act and the expression "company" shall mean the Company.

PART I
—cont.

4.—(1) In this Act unless there be something in the subject or Interpretation context repugnant to such construction—

"the borough" means the county borough of Brighton;

"the Company" means Skydeck Brighton Limited;

"the corporation" means the mayor, aldermen and burgesses of the borough;

"enactment" means any Act, whether public, general or local, or any order made thereunder, or any provision in any Act or in any such order;

"the Lands Clauses Acts" means the Lands Clauses Acts as modified by the Lands Tribunal Act, 1949, the Land Compensation Act, 1961, and this Act; c. 42.
c. 33.

"the level of high water" means the level of mean high-water springs;

"the limits of deviation" means the limits of deviation shown on the deposited plans;

"telegraphic line" has the same meaning as in the Telegraph Act, 1878; c. 76.

"tidal work" means so much of any work authorised by this Act as is on, under or over tidal waters or tidal lands below the level of high water;

"the tribunal" means the Lands Tribunal;

"the Trinity House" means the Corporation of Trinity House of Deptford Strond;

"the undertaking" means the undertaking of the Company in connection with the works, as from time to time authorised;

"the works" means the works authorised by section 14 (Power to construct works) of this Act and any works constructed under section 15 (Subsidiary works) of this Act for or in connection with or subsidiary to any of those works and includes those works as extended, enlarged, altered, replaced or relaid under subsection (2) of the said section 14 and "work" shall be construed accordingly.

(2) This Act shall be read as if the words "or thereabouts" were inserted after each distance mentioned in section 14 (Power to construct works) of this Act.

(3) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment including this Act.

PART II

LANDS

Power to
acquire lands.

5.—(1) Subject to the provisions of this Act, the Company may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purpose of the works and for purposes ancillary thereto or connected therewith.

(2) The powers of compulsory acquisition of land under this section shall cease after the expiration of three years from 1st October, 1965.

Correction of
errors in
deposited
plans and
book of
reference.

6.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Company, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the place in which the said land is situated for the correction thereof.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, with the town clerk of the borough, and with every clerk of a local authority with whom a copy of the deposited plans, or of so much thereof as includes the land to which the certificate relates, has been deposited in accordance with the Standing Orders of the Houses of Parliament, or who has the custody of any such copy so deposited; and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Company to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

Power to
acquire
easements
only.

7.—(1) The Company may, instead of acquiring any land that they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights over or in the land as they may require for the purpose of constructing, using, maintaining, renewing or removing the works or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works.

(2) Accordingly the Company may give notice to treat in respect of any such easement or right describing the nature thereof and may exercise the powers of this Act, including in particular section 10 (Power to expedite entry) of this Act in respect of such easements or rights and, subject thereto, the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such easements and rights as if they were lands within the meaning of those Acts.

(3) Where the Company have acquired an easement or right only in any land under this section—

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

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Company to acquire the land, the Company shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the Company may acquire the land compulsorily, notwithstanding that the period mentioned in subsection (2) of section 5 (Power to acquire lands) of this Act has expired, but not later than one year after the determination of the tribunal:

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

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

8.—(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 purpose of this Act over or in the lands, not being an easement or right of water in which some person other than the grantor has an interest. Grant of easements by person under disability.

(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.

PART II
—cont.

Acquisition
of part only
of certain
properties.
c. 18.

9.—(1) For the purposes of this Act the following provisions of this section shall have effect in substitution for section 92 of the Lands Clauses Consolidation Act, 1845.

(2) No person shall be required to sell a part only of any house, building or factory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, factory, park or garden unless the tribunal determines—

(a) in the case of a house, building or factory that such part as is proposed to be taken can be taken without material detriment to the house, building or factory; or

(b) in the case of a park or garden, that such part as is proposed to be taken can be taken without seriously affecting the amenity or convenience of the house to which it belongs.

(3) If the tribunal determines as aforesaid, compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part; and thereupon the person interested shall be required to sell to the Company that part of the house, building, factory, park or garden.

Power to
expedite
entry.

10. At any time after serving notice to treat in respect of any land that may be acquired compulsorily under this Act, but not less than three months after giving the owner and occupier of the land notice in writing of their intention to exercise the powers of this section, the Company may without previous consent and without compliance with sections 84 to 90 of the Lands Clauses Consolidation Act, 1845, enter on the land, or such part of it as may be specified in the last-mentioned notice, and take possession of the land or part or, as the case may be, enjoy any easement or exercise any right to be acquired under this Act over or in the land or part:

Provided that the Company shall pay the like compensation for land entered under this section, and the like interest on the compensation awarded, as would have been payable if the provisions of those sections had been complied with.

Power to
enter for
survey or
valuation.

11.—(1) Any person acting on behalf of the Company and duly authorised in that behalf may, on producing if so required some duly authenticated document showing his authority, at all reasonable times enter on any land that the Company are authorised by this Act to acquire compulsorily for the purpose of surveying or valuing the land:

Provided that no land shall be entered under this section unless the Company, not less than seven days before the date of the first entry and not less than twenty-four hours before any

subsequent entry, have given notice in writing to the owner and occupier of the land in manner provided by section 285 of the Public Health Act, 1936.

PART II
—cont.

c. 49.

(2) The power of survey conferred by the last foregoing subsection includes power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein:

Provided that a person shall not carry out any works authorised by this subsection unless notice of his intention to do so was included in the notice required by the last foregoing subsection.

(3) Where land is damaged in the exercise of a right of entry or survey conferred under this section, any person interested in the land may recover from the Company compensation for the damage to be determined in the case of dispute by the tribunal, and, so far as compensation is properly to be calculated by reference to the depreciation of the value of his interest in the land, rules 2 to 4 of the rules set out in section 5 of the Land Compensation Act, 1961, shall apply.

c. 33.

12. In determining any question of disputed compensation or purchase money in respect of land or easements or rights over or in land acquired under this Act, the tribunal shall not take into account—

Disregard of recent improvements and interests.

(a) any improvements or alterations made, or building erected, after 5th December, 1964; or

(b) any interest in the land created after the said date;

which in the opinion of the tribunal was not reasonably necessary and was made, erected or created with a view to obtaining or increasing the compensation or purchase money.

13.—(1) All private rights of way over any land that may be acquired compulsorily under this Act shall, as from the acquisition of the land, whether compulsorily or by agreement, be extinguished.

Extinction of private rights of way.

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

PART III

WORKS

14.—(1) The Company may make and maintain in the lines and situations and upon the lands delineated on the deposited

Power to construct works.

PART III
—cont.

plans and described in the deposited book of reference and according to the levels shown on the deposited sections the works hereinafter described, that is to say:—

Work No. 1 A pier partly of solid but mainly of slab construction with column and beam supports commencing at a point on the Esplanade in the borough 25 yards measured in a westerly direction from a line projected to the sea-wall from the western face of the Hotel Victoria and terminating by a junction with Work No. 2 at a point 150 yards measured in a southerly direction from the point of commencement;

Work No. 2 A pier head and observation tower surmounted by an aerial commencing by a junction with Work No. 1 extending 65 yards in a southerly direction from the point of commencement.

(2) The Company may within the limits of deviation for the said works extend, enlarge, alter, replace or relay the same.

Subsidiary
works.

15.—(1) Subject to the provisions of this Act, the Company for the purposes of or in connection with the works authorised by section 14 (Power to construct works) of this Act may, within the limits of deviation, in addition to such works—

(a) execute, place and keep, either permanently or temporarily, all such caissons, cofferdams, piles, piers, quays, abutments, embankments, cuts, channels, approaches, ways, landing-places, access works, pumping works, bridges, walls, fences, drains, sewers, mains, pipes, cables, fenders, moorings, mooring posts, bollards, booms, dolphins, beacons, lights, signals, pontoons, stagings, sheds, buildings, lifts, cranes, winches, capstans, tips, railways, junctions, sidings, turntables, stairs, subways, roadways, walkways, and other works and conveniences as they may find necessary or expedient for or in connection with the construction, maintenance or use of the works;

(b) temporarily or permanently use, strengthen, widen, improve, alter or otherwise interfere with drains, sewers, submarine cables, 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 streets, providing where possible a proper substitute before interrupting the passage of sewage, electricity, gas or water in or through any apparatus or the traffic on any such street.

(2) Any paving, metalling or materials in, on or under any street altered or otherwise interfered with by the Company under the powers of this section and rendered unnecessary 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.

PART III
—cont.

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

(4) (a) Before executing any works under paragraph (b) of subsection (1) of this section for the purposes of or in connection with the works affecting any apparatus the Company shall submit to the appropriate authority sufficient plans of the proposed works for their reasonable approval and shall not commence the works until such plans have been approved in writing by the appropriate authority or, if not so approved, until they have been settled by arbitration:

Provided that if within twenty-eight days after such plans have been furnished to the appropriate authority, they shall not have intimated their disapproval thereof and the grounds of the disapproval they shall be deemed to have approved them.

(b) The Company shall execute such works in accordance with such plans 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 reasonable 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 (including in the case of any electric line, wire or apparatus conditions for obviating or reducing interference with the supply or distribution of electricity).

(d) Any dispute or difference which may arise between the appropriate authority and the Company under this subsection (other than one relating to disputed compensation) shall be settled by arbitration.

(e) In this subsection—

“the appropriate authority” means in relation to any apparatus the authority to whom it belongs or by whom it is repairable;

“plans” includes sections and particulars.

PART III
—cont.

(5) Notwithstanding anything in this section contained the Company shall not—

- (a) use any telegraphic line belonging to or used by the Postmaster General;
- c. 76. (b) alter (as defined in the Telegraph Act, 1878), any such line except in accordance with and subject to the provisions of paragraphs (1) to (8) of section 7 of the said Act of 1878.

- (6) Any electrical works or equipment 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 or with any apparatus of statutory undertakers (as defined by the Public Health Act, 1936), or with any purpose for which such apparatus is used.
- c. 49.

- (7) Any telegraphic and telephonic apparatus used under the provisions of this Act shall be so used as not to contravene the exclusive privilege conferred upon the Postmaster General by the Telegraph Act, 1869.
- c. 73.

- (8) Notwithstanding anything in this section contained the Company shall not instal or use apparatus for wireless telegraphy (as defined by the Wireless Telegraphy Act, 1949) in contravention of the provisions of that Act.
- c. 54.

- (9) Any question of disputed compensation payable under the provisions of this section shall be determined under and in accordance with the Land Compensation Act, 1961.
- c. 33.

- (10) In this section “street” has the same meaning as in the Public Utilities Street Works Act, 1950.
- c. 39.

Temporary
stoppage of
highways.

16.—(1) The Company during and for the purpose of the execution of the works may temporarily stop up and divert and interfere with any highway within the limits of deviation and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway from passing along and using the same.

(2) The Company shall not exercise the powers of this section—

- (a) as respects any highway without the consent of the corporation, but such consent shall not be unreasonably withheld and any question whether such consent is or is not unreasonably withheld shall be determined by the Minister of Transport; or

(b) so as to deprive foot-passengers bona fide going to or from any building or land abutting on the highway of reasonable access to the building or land.

(3) The Company shall provide, whenever possible, a proper temporary substitute way before interrupting the traffic on any highway.

(4) The exercise by the Company of the powers conferred by this section in relation to any highway shall not prejudice or affect the right of the Postmaster General—

(a) to maintain, inspect, repair, renew or remove any telegraphic line belonging to or used by him which may for the time being be under, in, upon, over, along or across that highway; or

(b) for the purpose of such maintenance, inspection, repair, renewal or removal to enter upon or break open that highway.

17.—(1) The Company shall, during the execution and until the completion of so much of the works as is in, on or over or in any way affects a highway, secure at their expense that the following requirements are observed, that is to say:—

As to
highway
works.

(a) that so long as the highway is open or broken up (except in a place to which the public have no right of access and are not permitted to have access), it is adequately fenced and guarded, and lighted in such manner as to give proper warning to the public during the hours of darkness for the purposes of the Road Transport Lighting Act, 1957;

c. 51.

(b) that traffic signs (within the meaning of the Road Traffic Act, 1960) are placed on the highway or elsewhere as reasonably required by the corporation for the guidance or direction of persons using the highway and operated and lighted, in accordance with any directions in that behalf which may be given by the Minister of Transport;

c. 16.

(c) that no greater width or length of any highway than is reasonably necessary is open or broken up at any one time;

(d) that there is no greater obstruction of traffic on any highway than is reasonably necessary; and

(e) that any spoil or other material not required for the execution of the works or of the reinstatement and making good is carried away as soon as is reasonably practicable.

(2) Without prejudice to the generality of the requirement as to lighting imposed by paragraph (a) of the foregoing subsection it shall include a requirement to comply with any regulations

PART III
—cont.
c. 39.

made by the Minister of Transport in that behalf under section 8 of the Public Utilities Street Works Act, 1950, as if the Company were undertakers within the meaning of that Act.

c. 16.

(3) Any traffic sign provided under subsection (1) (b) of this section shall be deemed to be a traffic sign lawfully placed on or near a road in accordance with the provisions of section 52 of the Road Traffic Act, 1960:

Provided that nothing in this section shall impose on the corporation any liability in respect of a traffic sign so provided and in relation to any such traffic sign the said section 52 shall have effect as if for the references therein to a highway authority there were substituted references to the Company.

(4) If the Company fail to satisfy an obligation to which they are subject by virtue of subsection (1) of this section as regards any requirement mentioned in paragraphs (a), (b) or (e) thereof, the corporation may do anything needed for securing observance of that requirement and the Company shall pay to the corporation an amount equal to any cost reasonably incurred by them of so doing.

Power to deviate.

18. In the construction of the works authorised by section 14 (Power to construct works) of this Act the Company may deviate laterally from the lines or situations thereof shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and may deviate vertically from the levels of those works shown on the deposited sections to any extent upwards or downwards.

Works to be within borough and petty sessional division of Brighton.

19. So much of the works as are and of the land within the limits of deviation which is for the time being used in connection therewith as is not within the borough shall for all purposes be deemed to be within the borough and the petty sessional division of Brighton.

Period for completion of works.

20. If the works authorised by section 14 (Power to construct works) of this Act are not completed before 1st January, 1971, then on that day the powers by this Act granted to the Company for making and completing those works shall cease, except as to so much thereof as is then completed.

Tidal works not to be executed without approval of Board of Trade.

21.—(1) A tidal work shall not be constructed, altered or extended except in accordance with plans and sections approved by the Board of Trade and subject to any conditions and restrictions imposed by the Board before the work is begun.

(2) If a tidal work is constructed, altered or extended in contravention of this section or of any condition or restriction imposed under this section—

PART III
—cont.

(a) the Board may by notice in writing require the Company at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of thirty days from the date when the notice is served upon the Company they have failed to comply with the requirements of the notice, the Board may execute the works specified in the notice; or

(b) if it appears to the Board urgently necessary so to do, they may themselves remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Board in so doing shall be recoverable from the Company as a simple contract debt.

22.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Company shall forthwith notify the Trinity House and shall lay down such buoys exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

Provision
against
danger to
navigation.

(2) If the Company fail to notify the Trinity House as required by this section or to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

23.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Board of Trade or the corporation may by notice in writing require the Company at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Board or the corporation think proper.

Abatement
of works
abandoned
or decayed.

(2) Where a work authorised by this Act and consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Board of Trade or the corporation, as the case may be, may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the Company they have

PART III
—cont.

failed to comply with the requirements of the notice the Board of Trade or the corporation may execute the works specified in the notice and any expenditure incurred by them in so doing shall—

- (a) in the case of works executed by the Board of Trade be recoverable from the Company as a simple contract debt;
- (b) in the case of works executed by the corporation, be a debt due from the Company to the corporation and shall be recoverable by the corporation in any court of competent jurisdiction.

(4) The powers conferred by this section shall be exercisable by the corporation in relation to any works situate above the level of high water as if that work were situate on, under or over tidal lands below the level of high water.

Survey of
tidal works.

24. The Board of Trade may at any time if they deem it expedient order a survey and examination of a tidal work constructed by the Company or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Board of Trade in any such survey and examination shall be recoverable from the Company as a simple contract debt.

Permanent
lights on
tidal works.

25.—(1) After the completion of a tidal work the Company shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Trinity House shall from time to time direct.

(2) If the Company fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Lights on
tidal works
during
construction.

26.—(1) The Company shall at or near a tidal work during the whole time of the construction, alteration or extension thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Board of Trade shall from time to time direct.

(2) If the Company fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

PART IV

MISCELLANEOUS

Power to
dredge.

27. Subject to the provisions of this Act, the Company may, from time to time, deepen, dredge, scour, cleanse, alter and

improve the foreshore and bed of the sea adjoining or near to the works for the purpose of constructing, maintaining, safeguarding and preserving the amenities of the works and may use, appropriate or dispose of the materials from time to time dredged by them:

PART IV
—cont.

Provided that no materials so dredged by them shall be deposited below the level of high water, except in such places and in accordance with such restrictions or regulations as may be approved or prescribed by the Board of Trade.

28.—(1) The Company may from time to time make, alter and repeal such byelaws as they think fit for all or any of the following purposes, that is to say:—

Power to
Company to
make byelaws.

for the management, control and regulation of any moorings or landing places provided by the Company or otherwise forming part of or in the vicinity of the works and for determining the types and number of vessels which may use the same;

for regulating the navigation of vessels in the vicinity of the works;

for regulating the conduct of persons in any such vessel.

(2) No byelaw made under this section shall have effect above mean low-water springs or beyond a distance of 100 yards measured from any part of the works.

(3) No byelaw made under this section shall apply to any vessel belonging to or any officer of the Trinity House while engaged in carrying out his duties as such an officer.

(4) Subsections (2) to (7) of section 250 and sections 251 and 252 of the Local Government Act, 1933, shall apply to any byelaws made by the Company under subsection (1) of this section as if they were a local authority and the secretary of the Company were the clerk of the local authority, and all fines imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of fines.

(5) The confirming authority for the purposes of the said section 250 shall be the Board of Trade.

(6) For the purposes of this section “vessel” includes any ship, boat, raft or craft of every class or description, howsoever navigated or propelled, a vehicle designed to be supported on a cushion of air and a seaplane on the surface of the water.

29. At any time after the works have been completed the Company may sell or lease the undertaking and the purchaser or lessee (as the case may be) to the extent authorised by his conveyance or lease (as the case may be) shall have and may exercise all or any of the powers conferred upon the Company by this Act in relation to the undertaking and shall be subject to all the

Power to
sell or lease
undertaking.

PART IV
—cont.

restrictions, liabilities and obligations in respect of the undertaking to which the Company are subject and shall perform all the duties of the Company under this Act in respect of such undertaking:

Provided that no conveyance or lease entered into under this section shall have effect so as to release the purchaser or the lessee of the undertaking (as the case may be) from the restrictions, liabilities, obligations and duties imposed on the Company by this and the following sections of this Act:—

- Section 15 (Subsidiary works);
- Section 16 (Temporary stoppage of highways);
- Section 17 (As to highway works);
- Section 21 (Tidal works not to be executed without approval of Board of Trade);
- Section 22 (Provision against danger to navigation);
- Section 23 (Abatement of works abandoned or decayed);
- Section 24 (Survey of tidal works);
- Section 25 (Permanent lights on tidal works);
- Section 26 (Lights on tidal works during construction);
- Section 31 (Provisions applicable to next four sections);
- Section 32 (Provisions relating to land and apparatus);
- Section 33 (Restrictions on construction and use of works);
- Section 34 (Restrictions on exercise of powers of certain sections of Act);
- Section 35 (Plans of works including works affecting apparatus);
- Section 36 (Indemnity to Shoreham authorities);
- Section 37 (For protection of electricity and gas undertakers).

Power to mortgage undertaking.

30. The Company may mortgage, charge or otherwise encumber the undertaking.

PART V

PROTECTIVE PROVISIONS

Provisions applicable to next four sections.

31.—(1) For the protection of the corporation the next following four sections of this Act shall unless otherwise agreed in writing between the Company and the corporation apply and have effect.

(2) In the said four sections (unless the subject or context otherwise requires) “ apparatus ” means any drain, sewer, water main, electric line or other apparatus or work of the corporation and includes any structure for the lodging therein of apparatus.

(3) Any notice or consent to be given under any provision of the said four sections shall be given in writing.

(4) Any difference which may arise between the Company and the corporation under any provision of the said four sections

(other than a difference as to the construction thereof or a difference to which the Lands Clauses Acts apply) shall be referred to and determined by arbitration.

PART V
—cont.

32.—(1) Notwithstanding anything in this Act or shown on the deposited plans or contained in the deposited book of reference the Company shall not under the powers of this Act acquire compulsorily any apparatus or the interest of the corporation in any land. Provisions relating to land and apparatus.

(2) (a) On entering any land (not forming part of a highway) for the purpose of constructing any work the Company shall, if reasonably so required by the corporation, adequately fence that land from any adjoining land to which the public have access.

(b) Any fence erected in pursuance of this paragraph shall be maintained by the Company until the work has been completed or for such shorter period as may be agreed with the corporation.

(3) Subsection (4) of section 15 (Subsidiary works) of this Act shall not apply to any apparatus.

(4) The Company shall not interrupt the passage of sewage or water in or through any apparatus without the consent of the corporation, which consent shall not unreasonably be withheld.

(5) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the Company shall at their expense provide an alternative means of access to such apparatus to the reasonable satisfaction of the corporation.

33.—(1) (a) Before commencing to exercise the powers conferred on it by Part III (Works) of this Act the Company shall give to the corporation not less than twenty-eight days' notice of their intention to commence the exercise of those powers together with such documents and information as may be requisite to enable the corporation to assess the probable cost of the works and the financial resources which are and will be available to the Company for the purpose of the works. Restrictions on construction and use of works.

(b) If within the said period of twenty-eight days the corporation give to the Company counter-notice stating that the corporation are not satisfied that the Company has and will have adequate financial resources to secure the completion of the whole of the works in one continuous operation and to satisfactory standards the Company shall not commence to exercise the powers conferred by the said Part III—

- (i) until the corporation have certified that they are satisfied as to the said matters; or
- (ii) if the Company consider that the corporation are unreasonably withholding such certificate, until an independent accountant to be appointed (in default of

PART V
—cont.

agreement between the Company and the corporation) by the President of the Institute of Chartered Accountants in England and Wales has certified that he is satisfied as to the said matters and the Company shall be entitled to assume for the purposes of this sub-paragraph that the certificate has been unreasonably withheld if it has not been given within two months after the receipt of the counter-notice.

(2) Notwithstanding anything in this Act or shown on the deposited plans Work No. 1 authorised by this Act shall—

- (a) be constructed so as to provide access to Work No. 2 on not more than two levels;
- (b) be of open construction with a longitudinal distance between supports of not less than 75 feet;
- (c) be so constructed that between supports no part thereof is below the lines coloured red on a plan of the work signed in duplicate by Robert Carpenter on behalf of the Company and by Dennis Joseph Howe on behalf of the corporation;
- (d) be so constructed as to provide, at each level, a continuous solid deck without openings for a distance of 350 feet from the point of commencement of Work No. 1 authorised by this Act as shown on the deposited plans.

(3) Notwithstanding anything in this Act or shown on the deposited plans, Work No. 2 authorised by this Act shall be constructed—

- (a) so that the commencement of that work (at the junction with Work No. 1) is at a distance not less than 450 feet from the point of commencement of Work No. 1 as shown on the deposited plans;
- (b) so that the top of the observation tower forming part of that work is not more than 750 feet nor less than 600 feet above ordnance datum (Newlyn).

(4) Notwithstanding anything in section 15 (Subsidiary works) of this Act the Company shall not within the limits of deviation, without the consent of the corporation (which consent shall not unreasonably be withheld) execute, place or keep any permanent work, apparatus or thing.

(5) The Company shall at all reasonable times afford to the corporation and to all persons duly authorised by them access to any part of the works—

- (a) during the construction of the works, for the purpose of inspection; and
- (b) after the completion of the construction of the works (on giving twenty-four hours' notice of the intended

entry) for the purpose of ascertaining whether such of the provisions of this Part of this Act as apply and have effect for the protection of the corporation are being complied with.

PART V
—cont.

(6) The Company shall be responsible for and make good to the corporation all costs, charges, damages and expenses which may be occasioned to the corporation by—

- (a) the construction, or any failure of any work;
- (b) any subsidence caused by the construction of any work;
or
- (c) any act or omission of the Company, their contractors, agents, workmen or servants whilst engaged upon the works;

and the Company shall effectually indemnify the corporation against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the corporation by reason of such construction, failure, subsidence, act or omission as is referred to in paragraphs (a), (b) and (c) of this subsection:

Provided that—

- (i) nothing in this subsection shall impose any liability on the Company with respect to any costs, charges, damages and expenses which may be attributable to the act, neglect or default of the corporation or their contractors or workmen;
- (ii) the corporation shall give to the Company reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Company.

(7) (a) The Company shall provide and place in suitable positions a reasonably sufficient number of receptacles for litter and of notices drawing the attention of the public to the importance of abating the defacement by litter of the foreshore and of the danger of dropping things on to the foreshore, the promenade or the beach or into the sea.

(b) The Company shall take all reasonable steps to ensure that their employees and the employees of their contractors, agents and tenants do not throw down, discharge, drop or deposit from or on any part of the works any thing so as to cause, contribute to or tend to or lead to, the defacement by litter of the foreshore, the promenade, the beach or the sea or so as to be a danger or a nuisance to members of the public thereon or therein.

(8) The Company shall not discharge or permit to be discharged on to the foreshore or into the sea any sewage or trade effluent.

PART V
—cont.

Restrictions
on exercise
of powers
of certain
sections of
Act.

34.—(1) If at any time after the completion of the works there is an accumulation or erosion of shingle on or from any land between the southern boundary of the Lower Promenade and the line of mean low-water springs (hereinafter in this subsection referred to as “the protected land”) and it is agreed between the corporation and the Company or, in default of agreement, determined by arbitration that—

- (a) such accumulation or erosion is wholly or partly attributable to a prescribed cause; and
- (b) it is harmful to the amenities, or likely to endanger the stability of the beach or of the Lower Promenade;

the Company shall, if so required by the corporation by notice—

- (i) in the case of accumulation, remove or redistribute the whole or so much of the shingle which has so accumulated as may have been agreed or determined by arbitration to have accumulated as a result of a prescribed cause in such manner and to such extent as may be reasonably required by the corporation;
- (ii) in the case of erosion, replace the whole or so much of the shingle which has been so eroded as may have been agreed or determined by arbitration to have been eroded as a result of a prescribed cause in such manner and to such extent as may be reasonably required by the corporation, and shall take such reasonable steps to prevent or minimise the continuance or recurrence of such erosion as may be agreed or, in default of agreement, determined by arbitration and any shingle which has accumulated elsewhere on the beach as a result of a prescribed cause may be used by the Company to replace shingle which has been so eroded but, if the quantity is insufficient, the balance shall be obtained from some other source;

and if the Company fail to comply with any of their obligations under this subsection within such reasonable time as may be prescribed by the corporation, the corporation may carry out the necessary work and the amount of any expense so incurred shall be borne by the Company:

Provided that if there has been an accumulation or erosion of shingle on any protected land and the corporation are of the opinion that the conditions thereby created are such as to require immediate action, then, notwithstanding the foregoing provisions of this subsection, they may on giving notice to the Company carry out the necessary work and the amount of any expense reasonably incurred by the corporation in taking any such action shall, to the extent to which it is subsequently agreed between the Company and the corporation, or in default of agreement determined by arbitration, to have been incurred in

relation to an accumulation or erosion which was attributable to a prescribed cause and harmful to the amenities, or likely to endanger the stability, of the beach or of the Lower Promenade, be borne by the Company.

PART V
—cont.

In this subsection “a prescribed cause” means the existence of the works or the exercise by the Company of the powers of section 27 (Power to dredge) of this Act.

(2) The Company shall provide all such facilities as may be requisite for the purpose of enabling the corporation to carry out any works which they are authorised to carry out under the provisions of the foregoing subsection and the amount of any expenses incurred by the corporation in carrying out any works which under the provisions of that subsection are to be borne by the Company shall be a debt due to the corporation from the Company and shall be recoverable by the corporation in any court of competent jurisdiction.

(3) The Company shall not exercise the powers of section 27 (Power to dredge) of this Act (except for the purpose of constructing the works) otherwise than at such times and in accordance with such terms and conditions as may be agreed between the Company and the corporation or, in default of agreement, as may be determined by arbitration as required to avoid as far as possible any disturbance of the amenities enjoyed by residents of and visitors to the borough including in particular but without prejudice to the generality of the foregoing disturbance of amenities caused by noise and smoke.

(4) (a) The Company shall not exercise the powers of section 29 (Power to sell or lease undertaking) or section 30 (Power to mortgage undertaking) of this Act except with the previous consent of and subject to such terms, conditions and restrictions as may be approved by the corporation but such consent shall not be unreasonably withheld and any dispute between the Company and the corporation as to whether such consent has been unreasonably withheld or as to whether any term, condition or restriction is reasonable shall be referred to and determined by an arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice to the other) by the President of The Law Society.

(b) The Company shall within one month after the date of any conveyance, lease, mortgage, charge or other incumbrance made under the said sections deposit a certified copy thereof at the office of the town clerk of the borough.

35.—(1) In this section—

“authorised work” means any work (other than a work of maintenance) over, under or in any way affecting any highway or apparatus;

Plans of works including works affecting apparatus.

PART V
—cont.

“ plans ” means plans, elevations, sections, drawings, particulars (distinguishing between permanent and temporary works) and specifications.

c. 38.

(2) (a) Before commencing any work the Company shall (except in case of emergency) furnish to the corporation plans thereof for their reasonable approval and (without prejudice to the generality of the foregoing) if the plans relate to a proposed extension, enlargement or alteration of an existing work the corporation may either disapprove the plans on any ground upon which, in the case of an application for planning permission for development (not being development to which a development order made under section 14 of, or to which section 41 of, the Town and Country Planning Act, 1962 applies) a local planning authority would be entitled to refuse to grant planning permission or may give approval thereto subject to any condition which, in the case of such an application, a local planning authority would have been entitled to impose.

(b) The Company shall not commence any work until the plans so required to be submitted to the corporation have been approved in writing by the corporation or, if the corporation shall disapprove the plans or approve the plans subject to any condition that is unacceptable to the Company, until the same shall have been settled by arbitration and in approving the plans the corporation shall be deemed to have given their consent under subsection (4) of section 33 (Restrictions on construction and use of works) of this Act to any permanent work, apparatus or thing shown thereon.

(3) If the corporation do not within twenty-eight days of the submission to them of any plans pursuant to subsection (2) of this section intimate to the Company their approval (either with or without conditions) or disapproval thereof they shall be deemed to have approved of the same unconditionally.

(4) Upon signifying their approval or disapproval of the plans relating to any authorised work the corporation may specify any temporary or permanent protective works which in their opinion should be carried out before the commencement of the authorised work to ensure the stability of any highway or apparatus or to protect it from injury and such temporary or permanent protective works shall be constructed by the Company with all reasonable dispatch and the Company shall not commence the construction of the authorised work to which the plans relate until such temporary or permanent protective works have been completed to the reasonable satisfaction of the corporation.

(5) A work shall not be constructed otherwise than in accordance with such plans (with or without conditions) as may be approved or deemed to be approved by the corporation as aforesaid or

settled by arbitration and shall be constructed to the reasonable satisfaction of the corporation who shall be given reasonable notice of the date and time on and at which the work is to be commenced.

PART V
—cont.

(6) If there shall be any inconsistency between any plans approved or deemed to be approved by the corporation or settled by arbitration under the provisions of this section and the plans approved by the Board of Trade under section 21 (Tidal works not to be executed without approval of Board of Trade) of this Act the work shall be constructed in accordance with the plans approved by the Board of Trade.

(7) (a) If within twenty-one days after the plans relating to an authorised work have been furnished to them the corporation give notice to the Company that, in consequence of the nature of the authorised work, it is reasonably necessary that the corporation should themselves execute any part of the authorised work, that part of such authorised work, in lieu of being executed by the Company, shall be executed by the corporation on behalf of the Company with all reasonable dispatch in accordance with the plans approved, deemed to be approved or settled as aforesaid.

(b) The reasonable expenses incurred by the corporation in or in connection with the execution of such an authorised work shall be a debt due from the Company to the corporation and shall be recoverable by the corporation in any court of competent jurisdiction.

(8) The fact that any work or thing has been executed or done in accordance with a plan approved or not objected to by the corporation or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Company from any liability under the provisions of this section.

36.—(1) If at any time after the construction of the tidal works an application under the principal section is made to the Shoreham authorities by any of the protected authorities in relation to any part of the coast lying to the east of the works and it is agreed between the Company and the Shoreham authorities or in default of agreement determined by the Minister that—

Indemnity to
Shoreham
authorities.

(a) the part of the coast in respect of which the application has been made has been injuriously affected; and

(b) the injurious affection is wholly or partly attributable to the existence of the tidal works;

the Company shall indemnify and hold harmless the Shoreham authorities from and against all costs and expenses which they may reasonably incur in carrying out such remedial measures as may be determined by the Shoreham authorities or may be directed by the Minister under the principal section to be necessary

PART V
—cont.

to make good the damage or to prevent further damage and from and against the amount of any expenses incurred by a protected authority which pursuant to sub-paragraph (b) of paragraph (4) of the principal section the Shoreham authorities are required to repay to a protected authority:

Provided that—

- (i) if it has been agreed or determined by the Minister that the injurious affection is only partly attributable to the existence of the tidal works the costs and expenses for which the Company would otherwise be liable under this section shall be apportioned between the Company and the Shoreham authorities according to the degree of liability;
- (ii) if as a result of any such application as aforesaid the Shoreham authorities determine to carry out remedial measures the Company shall not be liable under this section for the whole or any part of those costs unless the remedial measures have been previously agreed with the Company or in default of agreement determined by the Minister to be such as are reasonably necessary in all the circumstances of the case.

(2) The Company shall be entitled—

- (a) to appear at and be heard at any local inquiry held by the Minister under paragraph (3) of the principal section;
- (b) to the production at their request of any records kept by the Shoreham authorities under paragraph (5) of the principal section and to take copies or extracts therefrom; and
- (c) to exercise subject to the like conditions the rights granted to the protected authorities by sub-paragraph (b) of paragraph (6) and sub-paragraph (b) of paragraph (7) of the principal section.

(3) Any difference arising under this section between the Company and the Shoreham authorities (other than a difference as to the construction thereof) shall be referred to and determined by the Minister and in any case where—

- (a) a local inquiry is being held under subsection (3) of the principal section; and
- (b) a difference between the Company and the Shoreham authorities which has been referred to the Minister under this section can conveniently be investigated at that inquiry;

it shall stand referred to that inquiry and be determined by the Minister accordingly.

(4) In this section—

“ the Minister ” and “ the protected authorities ” have the same meaning respectively as in the principal section;

“ the principal section ” means section 49 (For protection of certain local authorities) of the Shoreham Harbour Act, 1949;

“ the Shoreham authorities ” means the Shoreham Harbour Trustees and the Central Electricity Generating Board or either of them.

PART V
—cont.

c. lix.

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

For protection
of electricity
and gas
undertakers.

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

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

“ apparatus ” means—

(a) in relation to the South Eastern Electricity Board any electric lines and works (as respectively defined in the Electric Lighting Act, 1882) belonging to or lawfully laid, erected or maintained by that board; and

(b) in relation to the South Eastern Gas Board mains, pipes and other apparatus belonging to or lawfully laid, erected or maintained by that board; and includes any structure for the lodging therein of apparatus;

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

“ position ” includes depth;

“ the undertakers ” means the South Eastern Electricity Board or the South Eastern Gas Board or either of them:

(2) Notwithstanding anything in this Act or shown on the deposited plans the Company shall not under the powers of this Act acquire any apparatus otherwise than by agreement:

(3) Subsection (4) of section 15 (Subsidiary works) of this Act shall not apply to any apparatus:

c. 56.

PART V
—cont.

- (4) If the Company in the exercise of the powers of this Act acquires any interest in any land in which any apparatus is placed, that apparatus shall not be removed nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land be extinguished until adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers:
- (5) (a) The Company for the purpose of the construction of any work may require the undertakers to remove any apparatus;
- (b) If the Company require the undertakers to remove such apparatus they shall give to the undertakers written notice of such requirement with a plan and section of the proposed work and of the proposed position of the alternative apparatus to be constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed;
- (c) If the Company require the undertakers to remove any apparatus or if in consequence of the construction of a work the undertakers shall reasonably require to remove any apparatus the Company shall if 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:
- Provided that if 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:
- (6) (a) Any alternative apparatus to be constructed in lands of the Company in pursuance of paragraph (5) of this section shall be 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;
- (b) The undertakers shall after the alternative apparatus to be constructed shall have been agreed or settled by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are

referred to in paragraph (5) of this section proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Company to be removed under the provisions of this section and in default the Company may remove the apparatus:

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

Provided that nothing in this paragraph shall authorise the Company to execute the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around the apparatus extending (where the apparatus is laid in a trench) to not less than 12 inches above the apparatus:

- (8) 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 those 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 determined by arbitration:

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed across or through a work the arbitrator shall—

(i) give effect to all reasonable requirements of the Company for ensuring the safety and efficient operation of the work and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such work; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case give effect to the terms and conditions applicable

PART V
—cont.

to the apparatus (if any) constructed through the lands of the Company for which the alternative apparatus is to be substituted;

(b) 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 more or less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed the arbitrator shall make such provision for the payment of compensation to or by the Company by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

- (9) (a) Not less than twenty-eight days before commencing to execute a work which is near to or is likely to affect any apparatus the removal of which has not been required by the Company under paragraph (5) of this section the Company shall submit to the undertakers a plan, section and description of the work to be executed;
- (b) Such works shall be executed substantially 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 the apparatus or for securing access thereto and the undertakers shall be entitled by their officer to watch and inspect the execution of such work:

Provided that—

(i) if the undertakers within fourteen days after the submission to them of any such plan, section and description shall in consequence of the work proposed by the Company reasonably require the removal of any apparatus and give written notice to the Company of such requirement the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Company under paragraph (5) thereof; and

(ii) nothing in this sub-paragraph shall preclude the Company from submitting at any time or from time to time but in no case less than twenty-eight days before commencing the execution of any such work a new plan, section and description in lieu of the plan section and description previously submitted

and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;

PART V
—cont.

- (c) The Company shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but in such a case they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the work as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:
- o (10) The Company shall repay to the undertakers the reasonable expenses incurred by the undertakers in or in connection with—
- (a) the removal and relaying or replacing, alteration or protection of any apparatus and the provision and construction of any new apparatus under the provisions of paragraph (5) of this section; and
 - (b) the subsequent alteration or adaptation of apparatus required under the provisions of proviso (a) (i) to paragraph (8) of this section; and the reasonable costs of and incidental to—
 - (i) the cutting off of any apparatus from any other apparatus; and
 - (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this paragraph:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act, 1950 (which c. 39. imposes limitations on undertakers' rights to payment), shall so far as applicable extend and apply to any payment to be made by the Company under this paragraph as if the Company were the promoting authority and works hereinbefore in this paragraph mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 37 (For protection of electricity and gas undertakers) of the Brighton Skydeck Act, 1965":

- (11) Notwithstanding the stopping up or diversion temporarily of any highway under the powers of section 16 (Temporary stoppage of highways) of this Act the undertakers shall be at liberty at all times to execute

PART V
—cont.

and do all such works and things in any such highway as may be necessary for inspecting, repairing, maintaining, renewing or removing any apparatus which at the time of the stopping up or diversion was in the highway:

- (12) (a) Any difference which may arise between the Company and the undertakers under this section shall be referred to and determined by arbitration;
- (b) In settling any difference under this section the arbitrator may if he thinks fit require the Company to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

PART VI

GENERAL

Inquiries.

38. The Minister of Transport or the Board of Trade, as the case may be, may cause to be held such inquiries as he or they may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him or them 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.

c. 51.

As to exercise of powers by Board of Trade.

39. Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board of Trade, any Minister of State with duties concerning the affairs of the Board of Trade, any Secretary, Under-Secretary or Assistant Secretary of the Board of Trade or any person authorised in that behalf by the President.

Arbitration.

40. Where under this Act any difference (other than a difference as to the construction thereof or a difference to which the Lands Clauses Acts apply) is to be referred to or settled by arbitration, then, unless otherwise provided, such difference 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.

Crown rights.

41. 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.

PART VI
—cont.

42. The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is, or may be, authorised or regulated by or under this Act. Saving for town and country planning. c. 38.

43. 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.



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CHAPTER xxxiv

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17. As to highway works.
18. Power to deviate.
19. Works to be within borough and petty sessional division of Brighton.
20. Period for completion of works.
21. Tidal works not to be executed without approval of Board of Trade.
22. Provision against danger to navigation.
23. Abatement of works abandoned or decayed.
24. Survey of tidal works.
25. Permanent lights on tidal works.
26. Lights on tidal works during construction.

PART IV

MISCELLANEOUS

27. Power to dredge.
28. Power to Company to make byelaws.
29. Power to sell or lease undertaking.
30. Power to mortgage undertaking.

PART V

PROTECTIVE PROVISIONS

31. Provisions applicable to next four sections.
32. Provisions relating to land and apparatus.
33. Restrictions on construction and use of works.
34. Restrictions on exercise of powers of certain sections of Act.
35. Plans of works including works affecting apparatus.
36. Indemnity to Shoreham authorities.
37. For protection of electricity and gas undertakers.

PART VI

GENERAL

38. Inquiries.
39. As to exercise of powers by Board of Trade.
40. Arbitration.
41. Crown rights.
42. Saving for town and country planning.
43. Costs of Act.