

**ELIZABETH II**



**1968 CHAPTER ii**

An Act to authorise the Brighton Marina Company Limited to construct works; and for other purposes.

[10th April 1968]

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

And whereas the sport of yachting, cruising and boating is expanding and is likely to continue to expand around the south coast of England and it would be of public and local advantage to increase the existing facilities therefor at Brighton:

And whereas the county borough of Brighton and its environs constitute an important holiday and residential centre and it would be of public and local advantage to expand the existing facilities for the accommodation and enjoyment of tourists and visitors and of residents on the sea front in the said county borough:

And whereas it is expedient that the Company should be authorised to construct the marina and the recreational, residential and other facilities and the road and harbour works described in this Act and to reclaim land from the sea, 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 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 Marina Act 1968.  |
| Division of Act into Parts.   | 2. This Act is divided into Parts as follows:—<br>Part I.—Preliminary.<br>Part II.—Works.<br>Part III.—Use of harbour and harbour charges.<br>Part IV.—Miscellaneous.<br>Part V.—Protective provisions.<br>Part VI.—General.   |
| Incorporation of Act of 1847. | 3.—(1) The provisions of the Act of 1847 (except sections 6 to 13, 16 to 27, 32, 33, 37 to 43, 45, 49, 50, 66, 67, 81, 82, 84 to 90, 95, 97, 98 and 101) 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.<br>(2) In the construction of the provisions so incorporated—<br>(i) the expression “special Act” shall be read as a reference to this Act;<br>(ii) the expression “the harbour, dock or pier” shall mean the harbour;<br>(iii) the prescribed limits shall be the harbour limits; |



- (iv) the word "vessel" shall have the meaning assigned to it by section 4 (Interpretation) of this Act;
- (v) the word "rates" shall, in section 29 of that Act, be deemed not to include mooring rates.

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

- "the Act of 1847" means the Harbours, Docks and Piers 1847 c. 27. Clauses Act, 1847;
- "the added area" means the area described in the Schedule to this Act;
- "the borough" means the county borough of Brighton;
- "the Company" means the Brighton Marina Company 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 harbour" means the area comprised within the harbour limits and the harbour works authorised by or under this Act;
- "the harbour limits" means the limits within which the Company exercise jurisdiction as defined in section 45 (Limits of the harbour) of this Act;
- "land" includes any estate or interest in land and land covered by water;
- "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;
- "the Minister" means the Minister of Transport;
- "the sewers board" means the Brighton Intercepting and Outfall Sewers Board;
- "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 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, or any part thereof;
- "vessel" includes any thing (howsoever propelled or moved) constructed or used to carry persons or goods by water and (without prejudice to the generality of the foregoing)

PART I  
—cont.

includes in particular a hover vehicle (namely a vehicle designed to be supported on a cushion of air) and, except for the purpose of levying rates, any seaplane on or in the water;

“the works” means the works authorised by section 5 (Power to construct works) of this Act and any works constructed under section 6 (General power to make subsidiary works) and section 7 (Subsidiary works on foreshore) 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 5 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 5 (Power to construct works) of this Act.

(3) Any reference in this Act to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by the said section 5 of this Act.

(4) 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

## WORKS

Power to  
construct  
works.

5.—(1) Subject to the provisions of this Act the Company may make and maintain in the lines and situations and upon the lands delineated on the deposited plans and described in the deposited book of reference, and according to the levels shown on the deposited sections the following works, that is to say:—

Work No. 1 A breakwater (substantially of solid but partly of open construction) commencing at a point on the existing sea wall 45 yards north and 50 yards east measured from the south-east corner of the Black Rock Bathing Pool in the borough, extending seaward first in a southerly direction and thereafter curving to and proceeding in a south-easterly direction and terminating at a point 570 yards south and 185 yards east measured from the south-east corner of the said bathing pool;

Work No. 2 A breakwater commencing by a junction with Work No. 1 at a point 535 yards measured in a southerly



direction from the commencement of Work No. 1 and terminating at a point 50 yards measured in a north-easterly direction from the point of commencement;

Work No. 3 A breakwater commencing at a point on the existing sea wall in the borough 115 yards measured in a southerly direction from the south-east corner of the pavilion for the miniature golf course facing Marine Drive, extending seaward first in a southerly direction and thereafter curving to and proceeding in a westerly direction and terminating at a point 925 yards measured in a west-south-westerly direction from the point of commencement;

Work No. 4 A pier or breakwater commencing by a junction with Work No. 3 at a point 55 yards measured in an easterly direction from the termination of that work and terminating by a junction with Work No. 5 at a point 120 yards measured in a northerly direction from the point of commencement;

Work No. 5 A pier head commencing at a point 40 yards measured in a westerly direction from the termination of Work No. 4 and terminating at a point 65 yards measured in an easterly direction from the point of commencement;

Work No. 6 A pier or breakwater commencing at a point 390 yards measured in an east-south-easterly direction from the commencement of Work No. 1 and terminating at a point 220 yards measured in a southerly direction from the point of commencement;

Work No. 7 A reclamation embankment commencing by a junction with Work No. 1 at a point 195 yards measured in a southerly direction from the commencement of that work, extending in an easterly direction and terminating by a junction with Work No. 6 at a point 30 yards measured in a southerly direction from the commencement of that work;

Work No. 8 A quay or wharf (incorporating piers or stagings extending seaward therefrom) commencing by a junction with the commencement of Work No. 6, extending in an easterly direction and terminating by a junction with Work No. 3 at a point 100 yards measured in a southerly direction from the commencement of that work;

Work No. 9 A pier or staging partly of solid and partly of open construction (adjoining the west side of Work No. 3), commencing at a point 25 yards measured in a

PART II  
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westerly direction from the termination of Work No. 8 and terminating at a point 155 yards measured in a southerly direction from the point of commencement;

Work No. 10 An access ramp cut in the cliff commencing at a point on the landward side of Undercliff Walk in the borough 15 yards measured in a northerly direction from the commencement of Work No. 3 and terminating at a point on the cliff top 220 yards measured in a westerly direction from the point of commencement;

Work No. 11 A variation (including a widening on the eastern side, a diversion and an extension) of Riflebutt Road in the borough (to be constructed partly below the existing street levels) commencing at a point 10 yards measured in an easterly direction from the junction of Riflebutt Road with Roedean Road and terminating at a point 170 yards measured in an easterly direction from the south-east corner of the Black Rock Bathing Pool, incorporating an underpass below Marine Drive and a viaduct along the cliff face and over Undercliff Walk from the point on the cliff face at which the underpass emerges;

Work No. 12 A realignment of the southern part of Riflebutt Road commencing by a junction with Work No. 11 at a point 110 yards measured in a southerly direction from the commencement of that work, thence extending 150 yards measured in a southerly direction and terminating by a junction with Marine Drive;

Work No. 13 A slip road (to be constructed mainly in cutting) commencing by a junction with the south side of Marine Drive at a point 155 yards measured in an east-south-easterly direction from the south-eastern corner of the building known as Marine Gate and terminating by a junction with Work No. 11 at a point 300 yards from the commencement of that work;

Work No. 14 A temporary access road commencing at a point 155 yards measured in a westerly direction from the south-east corner of the Black Rock Bathing Pool, extending first in a southerly direction and thereafter curving to and proceeding in an easterly direction and terminating at a point 45 yards measured in a south-easterly direction from the south-east corner of the said bathing pool.

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



3) The Company may by means of Works Nos. 1, 3, 7 and 8 and of that part of Work No. 6 which extends from the termination of Work No. 7 to the commencement of Work No. 8, enclose, fill in and reclaim from the foreshore and bed of the sea so much of the foreshore and bed of the sea as lies between Works Nos. 1 and 3 and is situate within the limit of deviation of Works Nos. 7 and 8 and landward of those works.

5.—(1) The Company, in connection with or for the purposes of the works authorised by section 5 (Power to construct works) of this Act, may, within the limits of deviation and in addition to such works, execute or do any of the following works or things, that is to say:—

General  
power to make  
subsidiary  
works.

- (a) make junctions and communications (including the provision of steps and ramps) with any existing street intersected or interfered with by or contiguous to the works, and divert or widen or alter the line or alter the level of any existing street for the purposes of the works;
- (b) stop up any part of a street which they may consider unnecessary to retain or appropriate to throw into the works;
- (c) raise, sink or otherwise alter the position of any of the steps, areas, cellars, cellar-flaps, pavement lights, gratings, boundary walls, railings, fencings, windows, watercourses, pipes, spouts or wires belonging to any house or building and remove all other obstructions so as to cause in so doing as little delay and inconvenience to the inhabitants as the circumstances of the case will admit;
- (d) execute any works for the protection or improvement of any adjoining land or buildings;
- (e) execute any works and do any things necessary for the strengthening and supporting of any walls of adjoining buildings;
- (f) construct any embankments or retaining walls for supporting the works;
- (g) alter or remove any structure erected upon any street or land;
- (h) provide alternative means of access to premises the existing access to which has been or will be stopped up or interfered with by or as a result of the carrying out of the works;

PART II  
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- (i) temporarily or permanently use, strengthen, widen, improve, alter, divert or otherwise interfere with drains, sewers, submarine cables, telegraphic, telephonic, 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, gas or water in or through any apparatus or the traffic on any such street:

Provided that the powers conferred on the Company by this subsection shall not apply to any apparatus of the South Eastern Electricity Board and to which section 63 (For protection of electricity and gas undertakers) of this Act applies.

(2) Any lamp-post, 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.

(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 (i) 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 the appropriate authority may require.

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.

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

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

(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. 1878 c. 76.

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, 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 apparatus for which such apparatus is used. 1936 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. 1869 c. 73.

8) 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. 1961 c. 33.

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

10) Subject to the provisions of this Act, the Company for the Subsidiary purposes of or in connection with the works (other than works on the foreshore) Nos. 12 and 13 and so much of Work No. 11 as is not

PART II  
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on the foreshore) authorised by section 5 (Power to construct works) of this Act may, within the limits of deviation and in addition to such works, execute, place and keep, either permanently or temporarily, all such caissons, cofferdams, piles, piers, quays, abutments, embankments, cuts, channels, approaches, ways, slipways, landing-places, access works, pumping works, lay-bys, culverts, syphons, by-passes, arches, bridges (fixed or opening), ferries, walls, fences, valves and valve-chambers, embankments, banks, jetties, berthing heads, strong points, drains, sewers, sluices, mains, pipes, cables, fenders, moorings, mooring posts, mooring dolphins, mooring buoys, bollards, booms, dolphins, beacons, lights, signals, tele-communication installations, pontoons, stagings, sheds, buildings, engines, pumps, machinery, lifts, cranes, winches, capstans, tips, gantries, conveyors, staithes, tunnels, 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 such works.

Underpinning  
of houses  
near works.

8. The Company at their own cost and charges may, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 100 feet of any of the works, and the following provisions shall have effect:—

- (1) At least fourteen days' notice shall (except in case of emergency) be given to the corporation and to the owners, lessees, and occupiers of the house or building intended to be so underpinned or otherwise strengthened;
- (2) Each such notice shall be served in manner prescribed by section 30 of the Compulsory Purchase Act 1965;
- (3) If any owner or lessee or occupier of any such house or building shall, within seven days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration;
- (4) The Company shall be liable to compensate the owners, lessees and occupiers of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers granted by this section provided that the claim for compensation in respect of such loss or damage is made within three months from the date upon which any such owner, lessee or occupier either first discovered the loss or damage or by which he ought reasonably to have discovered it (whichever is the earlier);
- (5) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the Company may, from time to time after the completion of such underpinning or strengthening and during the execution of the work in connection with

1965 c. 56.



which such underpinning or strengthening was done, or within twelve months after the completion of that work, enter upon and survey such house or building and do such further underpinning or strengthening thereof as they may deem necessary or expedient or, in case of dispute between the Company on the one hand and the owner, lessee or occupier of the house or building on the other hand, as shall be settled by arbitration:

(6) If any underpinning or strengthening done by the Company pursuant to this section shall at any time within five years from the completion of the work in connection with which such underpinning or strengthening was done prove inadequate for the support or protection of the house or building against further injury arising from the execution of such work, the Company shall make compensation to the owner, lessee and occupier of the house or building for such injury, provided that the claim for compensation in respect thereof be made within three months from the discovery thereof:

(7) Nothing in this section nor any dealing with any property in pursuance of this section shall relieve the Company from the liability to compensate under any enactment:

(8) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Compulsory Purchase Act 1965.

1965 c. 56.

(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 at any reasonable time divert the traffic therefrom and prevent persons other than those bona fide going to or from any land, use or building abutting on the highway from passing along and using the same. Temporary stoppage of highways.

(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; 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; or

(c) as respects any highway upon which a service of stage carriages or express carriages is operated, unless not less

PART II  
—cont.

than forty-eight hours' previous notice is given to the traffic commissioners and to the holders of the road service licence under which that service is authorised.

(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.

As to  
Undercliff  
Walk.

10.—(1) Notwithstanding anything in this Act, the following provisions of this section shall have effect with respect to Undercliff Walk.

(2) Upon constructing Work No. 10 the Company shall in connection with that work construct to the reasonable satisfaction of the corporation a footpath leading from Marine Drive to Undercliff Walk and the said footpath shall, from and after its completion and thereafter during the period of construction of any of the Works Nos. 1 to 10 inclusive and of so much of Work No. 11 as will or may interfere with Undercliff Walk, be open to the public use.

(3) (a) The Company shall not exercise the powers of section 1 (Temporary stoppage of highways) of this Act in relation to any part of Undercliff Walk until the said footpath has been so completed.

(b) During the period commencing with the commencement of Work No. 10 and terminating with the restoration of Undercliff Walk to use as a public footpath the byelaws relating to the riding, driving or parking of vehicles on the Undercliff Walk made by the corporation under section 83 of the Public Health Acts Amendment Act, 1907, and confirmed by the Secretary of State on the 3rd December, 1963, shall cease to have effect in relation to that part of Undercliff Walk which is within the limits of deviation save in relation to a contravention thereof committed before the commencement of Work No. 10.

(4) The Company shall, after the completion of Works Nos. 1 to 10 inclusive and of so much of Work No. 11 as will or may interfere with Undercliff Walk or the western access paths to



Undercliff Walk restore with all reasonable dispatch so much of Undercliff Walk and of the said paths as has been used or interfered with by the Company to use as a public footpath and to a standard and condition reasonably satisfactory to the corporation and so much of Undercliff Walk and of the said paths as has been used or interfered with by the Company shall be maintained and repaired at the expense of the Company for a period of one year from the restoration thereof to use as a public footpath.

(5) Any dispute or difference which may arise between the Company and the corporation under any provisions of this section (other than a difference as to the construction thereof) shall be referred to and determined by arbitration.

11.—(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:—

(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 for the protection of all persons who may be expected to use the highway, including the blind and infirm, 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;

1957 c. 51.

(b) that traffic signs (within the meaning of the Road Traffic Regulation Act, 1967) 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;

1967 c. 76.

(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 for reinstatement or 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 made by the Minister 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.

1950 c. 39.

PART II  
—cont.

1967 c. 76.

(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 55 of the Road Traffic Regulation Act 1967:

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 55 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.

Laying out  
and repair of  
carriageways  
and footways.

12.—(1) Subject to the provisions of this Act, the Company may lay out Works Nos. 10, 11, 12 and 13 and any land acquired by them for the purposes of those works or any part thereof for carriageways and for footways as they may think proper and may sewer, level, pave, metal, flag, channel and complete such carriageways and footways and may, from time to time, execute all such works and do all such acts in, under or upon any of the carriageways and footways forming part of the said works as they may, from time to time, think proper for preserving, repairing or improving the said works and may for that purpose enter upon and break open the soil and pavement of such carriageways and footways and any sewers, drains or tunnels within or under the same causing as little inconvenience as may be in the execution of the powers hereby conferred and restoring the said carriageways, footways, sewers, drains or tunnels as nearly as practicable to the same condition as they were in before such breaking open.

(2) The powers conferred on the Company by this section shall cease to be exercisable from and after the vesting of Works Nos. 11, 12 and 13 in the corporation pursuant to section 17 (Vesting and maintenance of road works) of this Act.

Lighting  
of works.

13. Subject to the provisions of this Part of this Act, the Company may light Works Nos. 10, 11, 12 and 13 and may enter into and carry into effect any agreement with any other body or person with respect to lighting the same or any of them:

Provided that the prior consent in writing of the corporation (which shall not be unreasonably withheld, any question as to which shall be determined by arbitration) shall be obtained by the Company before they exercise the powers conferred by this section.



14. The Company may sell or dispose of all matters or things excavated or obtained in the construction of the works and all building and other materials of any houses, buildings or structures required by them for the purposes of this Act and not required for those purposes, and also all matters or things in, under or upon any road, street or other place altered by them for the purposes of this Act, and any matters or things obtained in the alteration of or interference with any drain or sewer under the powers of this Act:

PART II  
—cont.  
Power to sell  
materials.

Provided that—

- (1) the Company shall not under the powers of this section sell or dispose of any matter or thing if any person other than the Company before such sale or disposal proves to the satisfaction of the Company that he is the owner thereof;
- (2) if any person after such sale proves to the satisfaction of the Company that he was the owner of the matter or thing so sold the Company shall pay the proceeds to him.

15.—(1) For the purpose of facilitating the movement of vehicular traffic along, or the safety of the public on, the route of Works Nos. 11, 12 or 13, the Minister, on the application of the Company, may from time to time authorise the Company to or in the vicinity of the junction of any street with any of the works to erect or remove—

Power to  
prevent  
access to or  
from works.

- (i) walls, barriers or kerbs for the prevention, prohibition or limitation of access by vehicular or pedestrian traffic to or from such route from or to any such street; or
- (ii) notices prohibiting or limiting such access.

(2) Unless otherwise agreed in writing between the Company and the corporation, the Company shall, not less than twenty-eight days before the making of an application under subsection (1) of this section, give to the corporation written notice thereof and—

- (a) shall take into consideration any observations upon their proposals made by the corporation in writing within twenty-eight days after the service of such notice upon them; and
- (b) shall annex to their application to the Minister a copy of any such observations and of any correspondence between the Company and the corporation resulting therefrom.

(3) The Company shall give public notice of the making of an application under subsection (1) of this section in such manner as the Minister may direct.

PART II  
—cont.

(4) Any person removing or interfering with any such wall, barrier or kerb, or removing, defacing or failing to comply with any such notice, shall be liable on summary conviction to a fine not exceeding ten pounds.

Power to pump water and use sewers for removing water.

16. The Company may pump any water found by them in the execution of the works and may use for the discharge of any such water any available stream or watercourse or any sewer or drain, and for that purpose may, within the limits of deviation shown on the deposited plans, lay down, take up and alter conduits, pipes and other works and make any convenient connection with any such stream, watercourse, sewer or drain:

Provided that the Company shall not exercise the powers of this section in relation to any sewer or drain vested in the corporation or the sewers board without the consent of the corporation or that board (as the case may be) but the consent of the corporation shall not be unreasonably withheld and any question or difference as to whether such consent is so withheld shall be determined by arbitration.

Vesting and maintenance of road works.

17.—(1) In this and the next following section of this Act “the road works” includes—

- (a) Works Nos. 11, 12 and 13;
- (b) any works executed for the purposes of the said works under section 12 (Laying out and repair of carriageways and footways) or section 13 (Lighting of works) of this Act;
- (c) any subsidiary works executed for the purposes of the said works under paragraphs (a) or (f) of subsection (1) of section 6 (General power to make subsidiary works) of this Act;
- (d) any retaining walls constructed for the purposes of the said works under paragraph (d) of subsection (1) of the said section 6;
- (e) any works of a nature similar to the works referred to in paragraphs (c) and (d) of this subsection executed on tidal land under section 7 (Subsidiary works on foreshore) of this Act.

(2) The road works shall, from and after the date when all the works have been completed, be maintained and repaired by, and at the expense of, the Company for a period of one year and at the expiration of that period the road works, and the land upon or over which such works are constructed or executed, shall vest in the corporation and the road works shall thenceforth be maintainable at the public expense, for which purpose the corporation shall have all such other rights in relation



lands of the Company adjacent to the road works as may be necessary for the control, protection, improvement, repair and maintenance of the road works as highways maintainable at the public expense.

8.—(1) The road works shall for the purposes of section 17 (Completion of road works) (relating to the vesting and maintenance of road works) of this Act be deemed to be completed when the corporation are satisfied that they have been completed and that arrangements have been made for the lighting thereof in accordance with their reasonable requirements and that they are open for public use or, in the case of a difference between the Company and the corporation as to whether the said requirements have been complied with or as to their reasonableness, the matter in dispute has been referred to and determined by the Minister and he has certified that the said works have been completed in accordance with his determination.

2) Before applying to the Minister for his determination the Company shall give to the corporation not less than seven days' notice of their intention to apply for the same.

19.—(1) Notwithstanding the foregoing provisions of this Act, after the completion of such part of the works as agreed between the Company and the corporation, or in default of agreement determined by arbitration, to render the continued use of Work No. 10 for vehicular traffic unnecessary, the said Work No. 10 shall not without the consent of the corporation (save in a case of emergency) be opened for or used by vehicular traffic; and the Company shall erect such barriers and take such other steps as the corporation may reasonably require for the purposes of this section.

2) (a) The temporary access road (Work No. 14) shall not be used for vehicular traffic after Work No. 11 is available for use for vehicular traffic or such later date as the corporation may from time to time specify for the purposes of this subsection.

b) If so required by notice in writing given by the corporation earlier than the date upon which Work No. 11 first becomes available for use for vehicular traffic, the said temporary access road shall be removed by the Company within such reasonable time as the corporation may specify and the land upon which the road was constructed shall be restored to its former condition to the reasonable satisfaction of the corporation.

20.—(1) Subject to the provisions of this Act, the Company may within the inner harbour from time to time construct, maintain, alter, improve, enlarge and extend such temporary or permanent works for the accommodation or convenience of vessels using the harbour as they think fit, including (without prejudice to the

Special provisions as to Works Nos. 10 and 14.  
Works for the accommodation of vessels.

PART II  
—cont.

generality of the foregoing) pontoons, stagings, quays, jetties, piers, approaches, slipways, landing places, berthing heads, mooring posts, mooring buoys, moorings, bollards, walkways, buoys, navigation marks and lights.

(2) In this section “the inner harbour” means the area enclosed by Works Nos. 3, 4, 5, 6 and 8 and an imaginary straight line drawn between the terminations of Works Nos. 5 and 6.

## Power to deviate.

21. In the construction of the works 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:

Provided that in the execution of so much of the works as is situate under Marine Drive in the borough, the Company shall not, without the consent of the corporation, deviate upwards to an extent exceeding 1 foot or, without such consent (which shall not be unreasonably withheld), deviate laterally in the construction of Work No. 11 from the centre line of that work as shown on the deposited plans.

## Harbour and other development to be within borough and petty sessional division of Brighton.

22.—(1) Subject to the provisions of this section, so much of the land within the added area as is not within the borough shall for all purposes be deemed to be within the borough, the parish and the petty sessional division of Brighton and to be within the King’s Cliff Ward.

(2) The provisions of this section shall have effect as from the expiry of twenty-eight days from the giving of notice referred to in paragraph (a) of subsection (1) of section 57 (Provisions relating to construction, use and maintenance of works) of this Act or, if counter-notice is served by the corporation within that period, as from the date upon which a certificate is given by the corporation or an independent expert under paragraph (b) of that subsection; and the date ascertained in accordance with these provisions shall as soon as practicable thereafter be certified in writing by the corporation to the Director General of Ordnance Survey:

Provided that—

- (a) during the period between the said date and the date when Works Nos. 1 and 3 have been completed the added area for the purposes of this section shall be deemed to include all the lands below the level of high water and within the limits of deviation of Work Nos. 1 to 8;



(b) for the purposes of 4 and 5 Victoria cap. 30 the provisions of this section shall not have effect until the corporation certify in writing to the Director General of Ordnance Survey that Works Nos 1 to 13 have been completed.

PART II  
—cont.

23.—(1) If the works authorised by section 5 (Power to construct works) of this Act are not completed before 1st October, 1979, then 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.

Period for completion of works.

(2) On the application of the Company the Minister may by order extend the period referred to in subsection (1) of this section.

(3) An order under subsection (2) of this section shall be subject to special parliamentary procedure.

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

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

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

(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.

25.—(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 Trinity House shall from time to time direct.

Provision against danger to navigation.

PART II  
—cont.

(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.

Abatement  
of works  
abandoned  
or decayed.

26.—(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.

(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 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 be recoverable from the Company as a simple contract debt.

Survey of  
tidal works.

27. 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.

28.—(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.

29.—(1) The Company shall at or near a tidal work during the whole time of the construction, alteration, extension, enlargement, replacement or relaying thereof exhibit every night from



to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Board of Trade may direct 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 III

#### USE OF HARBOUR AND HARBOUR CHARGES

30.—(1) Subject to the provisions of this section, the harbour shall be for the exclusive use of pleasure craft and other similar vessels and accordingly the Company shall not permit any vessel other than a pleasure craft to use the harbour: Harbour to be for use of pleasure craft.

Provided that the Company may permit the harbour to be used by any vessel—

- (a) being a vessel for the carriage of not more than twelve passengers;
- (b) being a fishing vessel within the meaning of section 19 of the Sea Fish Industry Act, 1951; 1951 c. 30.
- (c) being a vessel for the time being employed in connection with or for the purposes of the undertaking of the Company in connection with the harbour;
- (d) being a vessel for the time being employed in connection with or for the purposes of the functions of the corporation under this Act or any other enactment;
- (e) being a vessel for the time being employed in the supply of goods for use or for sale at any premises situate on the lands described in subsection (2) of section 40 (Power to develop works and lands) of this Act; or
- (f) being a vessel or a class of vessels as respects which the Minister, on the application of the Company, has given his written consent under this section.

(2) Unless otherwise agreed in writing between the Company and the corporation, the Company shall, not less than twenty-eight days before the making of an application under paragraph (f) of the proviso to subsection (1) of this section, give to the corporation written notice thereof and—

- (a) shall take into consideration any observations upon their proposals made by the corporation in writing within twenty-eight days after the service of such notice upon them; and
- (b) shall annex to their application to the Minister a copy of any such observations and of any correspondence between the Company and the corporation resulting therefrom.

PART III  
—cont.

(3) The harbour shall, on payment of any rates, dues and charges from time to time levied by the Company, be open to any vessel (whether for the unshipping of goods or the landing of passengers therefrom or otherwise) in any case where it is obliged to use the harbour from stress of weather, mechanical breakdown or other sufficient cause.

(4) In this section—

“the harbour” means those parts of the harbour limits in which the Company have power to levy dues and charges;

“pleasure craft” means any vessel not being a vessel for the carriage of passengers or goods for reward.

Harbour  
charges, etc.

1964 c. 40.

31. The Company shall have power to levy such dues and charges at the harbour and to make the use of the harbour (within the meaning of subsection (4) of section 30 (Harbour to be for use of pleasure craft) of this Act) and of the services and facilities provided thereat subject to such terms and conditions as they think fit and the provisions of sections 31, 32 and 42 of the Harbours Act 1964 (which relate to harbour charges and the accounts of harbour undertakings) shall not apply with respect to any of the dues and charges so levied, or to any accounts relating to the undertaking of the Company in connection with the harbour:

Provided that nothing in this section shall authorise the Company to levy any dues or charges on or in respect of any vessel for the time being employed in connection with or for the purposes of the functions of the corporation under this Act or to impose any terms or conditions on such vessels which may be inconsistent with, or restrictive of, the right of access conferred by paragraph (2) of section 57 (Provisions relating to construction, use and maintenance of works) of this Act.

Conditions  
relating to  
payment of  
charges.

32. Charges demanded at the harbour shall be payable subject to such conditions as the Company may from time to time specify in their published list of charges.

How charges  
to be paid.

33. The several charges which the Company for the time being demand, take and recover in respect of vessels shall be payable before the removal from the harbour of any vessel in respect of which they are payable and may be demanded, taken and recovered by such persons, at such places, at such times and under such regulations as the Company may from time to time appoint.



4.—(1) Charges payable to the Company shall be payable by owner of any vessel or goods in relation to which the charges payable.

PART III  
—cont.

As to  
payment of  
charges.

2) Where charges payable to the Company may be recovered from more than one person, the said persons shall be jointly and severally liable.

5. The Company may, if they think fit, require any person liable, or to become liable, to pay charges to the Company to deposit with their collector, or to guarantee such sum as, in the opinion of the Company, is reasonable having regard to the probable amount of the charges.

Deposit for  
charges.

6. Nothing in section 30 of the Harbours Act 1964 shall require the Company to include in the list of ship, passenger and goods dues to be kept, as required by subsection (1) of that section, charges reduced by virtue of a compounding arrangement in respect of, or rebate allowed on, a due included in the said

Compounding  
arrangements  
and rebates.  
1964 c. 40.

7. If the owner of any vessel or goods shall at any time elude or evade, or attempt to elude or evade, payment of or wrongfully refuse to pay any charges payable by such owner to the Company at the time when the same shall become due and payable, he shall be liable to pay to the Company a sum of ten pounds or a sum equal to three times the amount of such charges (whichever shall be the greater), which sum shall be a debt due to the Company and shall be recoverable by the Company in any court of competent jurisdiction.

Penalty for  
evading  
payment of  
charges.

8. In addition to any other remedy given by the Act of 1847, incorporated with this Act, the Company may recover any charges payable to them as a debt in any court of competent jurisdiction.

Recovery  
of charges.

#### PART IV

##### MISCELLANEOUS

39. The powers of leasing conferred on the corporation by section 164 of the Local Government Act, 1933, or by any local enactment, may be exercised by the corporation in relation to the purposes of this Act in respect of any of the lands of the corporation described in the deposited book of reference, notwithstanding that the said lands or any part thereof have been made available for free and unrestricted use by members of the public.

Power to the  
corporation  
to lease  
certain lands.  
1933 c. 51.

40.—(1) Subject to the provisions of this Act the Company may lay out and develop any lands to which this section applies (any part of Works Nos. 1 to 9 inclusive) by the erection thereon of buildings and other structures and works, including without

Power to  
develop  
works and  
lands.

PART IV  
—cont.

prejudice to the generality of the foregoing, car parks (either over or underground), filling stations, hotels, restaurants, club premises, offices, theatres, cinemas, casinos, dance halls, ice rinks, playgrounds, boatyards, bowling alleys, shops, houses, flats and other residential accommodation and in connection with such development may construct, sewer, pave, flag, channel and kerb streets, bridges, roads and ways:

Provided that any development authorised by this section shall not by virtue only of this section be deemed for the purposes of the Town and Country Planning General Development Orders, 1963 to 1965, and any enactment amending or replacing the same, to be carried out in pursuance of an Act which designates specifically both the nature of the development and the land upon which it may be carried out.

(2) The lands to which this section applies are those parts of the foreshore, the bed of the sea and other lands which lie between Works Nos. 1 and 3 and are situate within the limits of deviation of Works Nos. 7 and 8 and landward of those works (but excluding any part of Undercliff Walk).

Provision of  
road system.

41.—(1) If, in the opinion of the Minister, any part of the authorised development will, when opened for use, either on its own account or in conjunction with some other portion of that development, produce conditions in the neighbourhood of the authorised development requiring road facilities additional to those which would otherwise then be available, that part of the authorised development shall not be opened for use unless and until such additional road facilities as the Minister certifies to be required to meet those conditions have been provided to his satisfaction:

Provided that—

(a) before issuing any certificate under this section, the Minister shall consult with the Company and the corporation as to the Minister's proposals in that respect and shall have regard to any representations which the Company or the corporation may make thereon;

(b) nothing in this section shall require the provision of road facilities to serve the authorised development when substantially completed other than those described on the signed plan or facilities comparable therewith.

(2) In this section—

“authorised development” means the works and any development carried out under section 40 (Power to develop works and lands) of this Act;



“opened for use” means in relation to any part of the authorised development which is an office, shop or dwelling, its occupation for the purpose for which it was erected and in relation to any other part of the authorised development, its opening to those who are permitted by the Company to use that part;

“the signed plan” means the plan numbered 23253 signed in triplicate by Lewis & Duvivier on behalf of the Company, by William Ogilvie Dodd on behalf of the corporation and by John Stanley Barry on behalf of the Minister, one copy of which has been retained respectively by the Company, the corporation and the Minister.

—(1) As from the date on which the Company acquire As to burial part of the burial ground of the Society of Friends fronting ground. lifebutt Road in the borough, that part of the said burial ground shall be freed and discharged from all rights and interests of any person who is a personal representative or relative of any deceased person whose remains are interred in the said part of the burial ground and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing of this Act attached thereto by reason of the said burial ground or any part thereof being a burial ground or otherwise.

2) Notwithstanding anything contained in any enactment but subject to the provisions of this Act, it shall be lawful as from the date on which the Company acquire any part of the burial ground referred to in subsection (1) of this section to use, deal with or dispose of that part of the said burial ground for the purposes or in connection with the works or for the erection of any building or for any other purpose in like manner as if no part thereof had ever been used or set apart for the purpose of the burial of human remains.

3) Before the Company carry out under the powers of this Act any work on any part of the burial ground referred to in subsection (1) of this section or otherwise deal with or dispose of same, they shall, unless otherwise agreed with the Secretary of the Society of Friends, remove or cause to be removed the remains of all deceased persons interred in such part.

4) Any agreement between the Company and the Secretary of the Society of Friends varying the obligations of the Company under this section with respect to the removal of the remains of deceased persons from the said burial ground or any part thereof shall require the approval of the Secretary of State.

5) Before entering into any such agreement the Company shall publish in accordance with the provisions of subsection (8) of this section notice under this subsection stating the effect of the proposed agreement.

PART IV  
—cont.

(6) When any such agreement has been approved by the Secretary of State the Company shall, before applying or using for the purposes of this Act any part of the said burial ground or proceeding to take action in pursuance of such agreement, publish in accordance with the said provisions of subsection (8) of this section notice under this section stating the effect of the agreement so approved.

(7) If no such agreement is made with respect to any part of the said burial ground the Company shall, before proceeding to remove any remains therefrom in pursuance of the powers of this section, publish notice in accordance with subsection (8) of this section stating their intention to do so.

(8) Any notice published under the foregoing provisions of this section shall be published at least once in each of two successive weeks in a newspaper circulating in the borough, with an interval between publications of not less than six days, and the Company shall display a like notice in a conspicuous place in the part of the burial ground referred to in subsection (1) of this section, and any notice published under subsection (6) or subsection (7) of this section shall have embodied in it the substance of subsections (9) to (12) and (14) and (16) of this section.

(9) At any time within two months after the first publication of such notice any person who is a personal representative or relative of any deceased person whose remains are interred in the part of the burial ground referred to in subsection (1) of this section, may give notice in writing to the Company of his intention to undertake the removal of such remains, and thereupon he shall be at liberty to cause such remains to be removed to and re-interred in any burial ground or cemetery in which burials may legally take place or to be removed to and cremated in an crematorium.

(10) If any person giving such notice as aforesaid fails to satisfy the Company that he is such personal representative or relative as he claims to be, the question shall be determined on the application of either party in a summary manner by the county court and the court shall have power to make an order specifying who shall remove the remains and as to the payment of the cost of the application.

(11) The expense of a removal and reinterment or cremation (not exceeding, in respect of remains removed from any one grave the sum of fifty pounds) shall be defrayed by the Company, such sum to be apportioned, if necessary, equally according to the number of remains in the grave.



PART IV  
—cont.

12) If—

- (a) within the aforesaid period of two months no such notice as aforesaid shall have been given to the Company in respect of the remains in any grave; or
- (b) within two months after such notice has been given no application has been made under subsection (10) of this section and the person who gave the notice fails to remove the remains; or
- (c) within two months after any order is made by the county court under the said subsection the person, not being the Company, specified in the order fails to remove the remains;

Company may either—

- (i) take action in pursuance of any such agreement as is referred to in subsection (6) of this section; or
- (ii) cause the remains of the deceased person to be removed and reinterred in such other burial ground or cemetery in which burials may legally take place as the Company think suitable for the purpose, or cremated in such crematorium as the Company think suitable for the purpose.

13) Upon the reinterment or cremation of any remains under this section a certificate of reinterment or cremation shall be sent to the Registrar General by the Company, giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated.

14) (a) Subject to the provisions of this subsection any monument or tombstone relating to the remains of any deceased person removed and reinterred under this section shall at the expense of the Company be removed and re-erected at the place of reinterment of such remains or at such other place as the county court may direct on the application either of such personal representative or relative as aforesaid or of the Company.

b) Any monument or tombstone relating to the remains of any deceased person removed and cremated under this section shall at the request of such personal representative or relative as aforesaid if no such request is made, may at the discretion, and in either case at the expense, of the Company be removed and re-erected at such place as the county court may direct on the application either of such personal representative or relative or of the Company.

PART IV  
—cont.

(c) Any monument or tombstone not re-erected in accordance with the provisions of paragraph (b) of this subsection shall be broken and defaced before being disposed of in such manner as the Company think fit.

(d) Where the Company consider that by reason of its ruinous condition any monument or tombstone removed under this subsection is unsuitable for re-erection it may be disposed of in such manner as the Company think fit.

(e) The amount required to be paid by the Company in respect of the cost of removal and re-erection or disposal of any monument or tombstone under this subsection by or at the request of the said personal representative or relative or the county court shall not exceed the sum of fifteen pounds.

(f) The Company shall cause a record to be made of each monument or tombstone removed under this subsection containing—

- (i) a copy of the inscription thereon; and
- (ii) if it is intended to preserve the tombstone a statement of the place, if any, where it has been re-erected ;

and shall deposit a copy of the record with the Registrar General

(15) Any jurisdiction or power conferred on the county court by this section may be exercised by the registrar of the court.

(16) The removal of the remains of any deceased person under this section shall be carried out under the supervision and to the satisfaction of the medical officer of health of the borough.

Power to use  
subsoil of  
streets.

43. Subject to the provisions of this Act, the Company may enter upon, take, use and appropriate so much of the subsoil and under-surface of any public street within the limits of deviation shown on the deposited plans as shall be necessary for the purposes of the works without being required to purchase the same or any easement therein or thereunder.

Extinction  
of private  
rights of way.

44.—(1) All private rights of way over any land that may be acquired by agreement for the purposes of this Act shall, from the acquisition of the land, be extinguished.

(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 IV  
—cont.

5. The limits within which the Company shall have authority (including the powers to levy dues and charges) and within which powers of the harbour master may be exercised shall extend

Limits of  
the harbour.

(a) the added area; and

(b) the breakwaters, piers, quays, wharfs, walls and other harbour works authorised by or under this Act:

Provided that the powers of the Company to levy dues and charges shall not extend to vessels lying farther seaward than yards from any part of Works Nos. 1 or 3.

6. The Company may, for the purposes of constructing and maintaining the works or otherwise for the purposes of their harbour undertaking, from time to time deepen, dredge, scour, raise, alter and improve the foreshore and bed of the sea and cast any rock within the harbour limits, or any part or parts thereof, or the channels and approaches thereto, and may use, appropriate or dispose of the materials from time to time dredged from them:

Power to  
dredge.

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.

47.—(1) In their application to the Company, sections 530 and 532 of the Merchant Shipping Act, 1894 (which confer powers on the Company with respect to, and with respect to anything in or on, any vessel sunk, stranded or abandoned in any manner as to be an obstruction or danger to navigation at any harbour or in or near any approach thereto), shall have effect subject to the provisions of section 48 (Protection of Crown Interests in wrecks) of this Act.

Powers with  
respect to  
disposal of  
wrecks.

1894 c. 60.

(2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting their liability, the Company may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under the said section 530 any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of the proceeds of sale (if any) within the meaning of that section.

(3) Except in a case which is in the opinion of the Company a case of emergency, subsection (2) of this section shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said

PART IV  
—cont.

section 530 other than the power of lighting and buoying, the Company have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so; and if before the notice expires the Company receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under paragraph (b) of subsection (2) of the said section 48 of this Act he shall be at liberty to do so, and the Company shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Company.

(4) Notice under subsection (3) of this section to the owner of any vessel may be served by the Company either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom or, if the owner or any such place of business or abode is not known to the Company or is not in the United Kingdom, by displaying the notice at the office of the principal officer of the Company at or nearest to the harbour for the period of its duration.

(5) In this section the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof.

48.—(1) Without prejudice to section 741 of the Merchant Shipping Act, 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act, 1906, the powers conferred on the Company by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

(a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;

(b) except with the consent of the Secretary of State for Defence which may be given with or without such direction as is referred to in paragraph (b) of subsection (2) of this section, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—

(i) had been required to be placed at the disposal of Her Majesty or of a government department; and

Protection  
of Crown  
interests in  
wrecks.  
1894 c. 60.  
1906 c. 48.



(ii) was appropriated to the service, under the direction and control of the Secretary of State, of Her Majesty's ships of war.

PART IV  
—cont.

2) The Company shall give notice in writing to the Secretary of State and to the Board of Trade of any decision of the Company to exercise in relation to any vessel referred to in paragraph (b) of subsection (1) of this section any of the powers aforesaid other than the power of lighting and buoying and, except in a case which in the opinion of the Company is a case of emergency, shall not proceed with the exercise thereof—

(a) except with the consent of the Secretary of State and the Board of Trade, before the expiration of a period of fourteen days from the giving of the notice; or

(b) if before the expiration of the said period there is served on the Company a direction by the Secretary of State or the Board of Trade that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where, in any such case as aforesaid, the Company proceeds to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and if, before the expiration of the period aforesaid, such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of section 47 (Powers with respect to disposal of wrecks) of this Act:

Provided that—

(i) the Company shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of subsection (1) of this section, but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the said section 47 to have been duly served under paragraph (b) of this subsection;

(ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Board of Trade for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Company by the said section 530, the Company shall hold and

PART IV  
—cont.

dispose of any wreck within the meaning of Part IX of the said Act of 1894, raised, removed or recovered under that section and any surplus proceeds of sale within the meaning of that section in accordance with such directions (if any) as may be given to them by the receiver of such wreck; and on exercising the said power of sale in the case of any property the Company shall discharge any sums payable in respect of that property by way of duties of customs or excise, purchase tax, or surcharge in respect of sugar or molasses, and any sums so discharged shall be deemed to be expenses incurred by the Company under that section.

(4) Any limitation on the powers of the Company in relation to any vessel arising by virtue of subsection (1) or subsection (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on Trinity House by section 531 of the said Act of 1894.

Extension of powers of harbour master to give directions.

49. Section 52 of the Act of 1847, as incorporated with this Act, in its application to the Company and to the harbour master—

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

Directions of harbour master need not be in writing.

50. Section 53 of the Act of 1847, in its application to the Company and the harbour master, shall not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

Power to Company to make byelaws.

51.—(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:—

- (a) for regulating the navigation of vessels within the harbour including regulation of the speed and manner of navigation of vessels within the harbour and for preventing obstruction to vessels using the harbour;



- (b) for regulating or prohibiting the mooring, careening, beaching or anchoring and keeping of vessels in the harbour;
- (c) for regulating or prohibiting the placing, laying down, maintaining, using and having existing and future moorings in the harbour and for prescribing the patterns of moorings in the harbour;
- (d) for regulating and controlling in the harbour the navigation and speed of vessels mechanically propelled;
- (e) for regulating the launching of vessels within the harbour and the use of pontoons, slipways and landing places;
- (f) for securing the good and orderly conduct of persons in vessels or otherwise in the harbour;
- (g) for regulating or preventing the use of firearms in the harbour;
- (h) for the prevention of nuisances and offences against decency in the harbour;
- (i) for securing the safety of vessels and persons using, and of property within the harbour;
- (j) for regulating the removal or disposal of rubbish (including ballast, earth, clay or other refuse) and sewage from vessels in the harbour;
- (k) for the prevention of the disposal of such rubbish and sewage as aforesaid in the harbour;
- (l) for preventing the taking of vessels by unauthorised persons;
- (m) for regulating the movement, speed and parking of vehicles within the development south of the cliff as authorised by this Act.

(2) Before making any byelaws under subsection (1) of this section the Company shall consult with the corporation.

(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) The byelaws which may from time to time be made by the Company in exercise of the powers in that behalf conferred on them by section 83 of the Act of 1847 and by subsection (1) of this section may provide for the imposition of a fine not exceeding ten pounds and of a daily fine not exceeding five pounds, for the breach or non-observance of any of the byelaws.

(5) Subsections (2) to (7) of section 250 and section 252 of the Local Government Act, 1933, shall apply to all byelaws made 1933 c. 51.

PART IV  
—cont.

by the Company in respect of the undertaking 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.

(6) The said section 250, in its application to byelaws made under this section, shall have effect as if in subsection (6) of that section, after the word "confirm," where it firstly occurs in that subsection, the words "with or without modification" were inserted.

(7) The confirming authority for the purposes of the said section 250 shall be the Minister.

Power to  
sell or lease  
undertaking.

52. At any time after the works have been completed the Company may from time to time sell or lease the undertaking or any part thereof (hereafter in this section referred to as "such undertaking") and the purchaser or lessee (as the case may be) shall have and may exercise to the extent authorised by his conveyance or lease (as the case may be) all or any of the power conferred upon the Company by this Act in relation to such undertaking but shall be subject to all the restrictions, liabilities and obligations in respect of such undertaking to which the Company are subject and shall perform all the duties of the Company under this Act in respect of such undertaking.

Power to  
mortgage  
undertaking.

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

## PART V

## PROTECTIVE PROVISIONS

Appointment  
of directors by  
corporation.

54. Notwithstanding anything in any other enactment or in the memorandum and articles of association of the Company—

- (1) The corporation may appoint two persons (in this section referred to as "nominee directors") as directors of the Company as an addition to the other directors and may appoint another such person in the place of any nominee director who ceases or becomes unqualified to be a director of the Company:

Provided that—

- (a) the appointment of any nominee director shall be subject to the reasonable approval of the other directors of the Company;



(b) no nominee director shall be a member or officer of the council of the borough.

PART V  
—cont.

- (2) The nominee directors shall retire from office at the general meeting of the Company for the election of directors in every year and shall be re-eligible forthwith or by anticipation and except as by this section otherwise provided the nominee directors shall have the same powers and be subject to the same provisions and regulations as the other directors.
- (3) A certificate in writing signed by the town clerk of the borough of the appointment, resignation, disqualification or incapacity of any nominee director shall as soon as conveniently may be after the event therein certified has occurred be deposited at the registered office of the Company and shall as between the corporation and the Company and also as between the Company and the nominee director named in the certificate be conclusive evidence of the fact thereby certified.
- (4) The provisions of sections 181 to 184 inclusive of the Companies Act, 1948, shall not apply to the nominee directors 1948 c. 38.
- (5) No vacancy in the nominee directors shall invalidate the proceedings of the directors.
- (6) No nominee director shall be entitled to receive any remuneration from the Company.

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

(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; and

“the inner harbour” means the area enclosed by Works Nos. 3, 4, 5, 6 and 8 and an imaginary straight line drawn between the terminations of Works Nos. 5 and 6.

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

PART V  
—cont.

(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) shall be referred to and determined by arbitration.

## General provisions relating to land and apparatus.

56.—(1) (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.

(2) Subsection (4) of section 6 (General power to make subsidiary works) of this Act shall not apply to any apparatus.

(3) 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.

(4) 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.

## Provisions relating to construction, use and maintenance of works.

57.—(1) (a) Before commencing to exercise the powers conferred on it by Part II (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 work and the financial resources which are and will be available to the Company for the purpose of the works.

(b) If within the period of twenty-eight days from the giving of the said notice 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, phased in a satisfactory manner and constructed to satisfactory standards, the Company shall not commence to exercise the powers conferred by the said Part II—

(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 at



independent expert 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.

For the purposes of this paragraph the independent expert shall be appointed (in default of agreement between the Company and the corporation) by the President of the Institution of Civil Engineers, in the case of a question as to the phasing or construction of the works, and by the President of the Institute of Chartered Accountants in England and Wales, in any other case.

(2) The Company shall at all reasonable times afford to the corporation and to all persons duly authorised by them access both sea and land to any part of the works during and after the completion of the construction of the works for the purpose of ascertaining whether such of the provisions of this Act as apply and have effect for the protection of the corporation are being complied with.

(3) 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 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.

PART V  
—cont.

(4) From and after the opening of the harbour for the use of vessels the Company shall secure that at all times when the water is at the level of mean low-water springs—

- (a) the depth of water is not less than 8 feet in the area (other than so much thereof as lies within a distance of 10 yards from any part of the works) substantially enclosed by the whole or parts of Works Nos. 1, 2, 3, 4, 5 and 6 and by an imaginary straight line drawn from a point on Work No. 6 90 yards measured in a northerly direction from the termination of that work in a direction west (true) for a distance of 100 yards and thence such a line drawn in a direction west-south-west (true) to the breakwater Work No. 1;
- (b) the depth of water is not less than 8 feet in the area within the inner harbour (other than so much thereof as lies within a distance of 10 yards from any part of the works) substantially enclosed by the whole or part of Works Nos. 3, 4, 5 and 6 and by an imaginary straight line drawn from a point on Work No. 6 30 yards measured in a northerly direction from the termination of that work in the direction of the termination of Work No. 9 for a distance of 170 yards and thence in a southerly direction to the breakwater Work No. 3;
- (c) the depth of water is not less than 8 feet in a channel not less than 200 feet wide lying between the terminations of Works Nos. 2 and 3, and in a channel not less than 80 feet wide lying between the terminations of Works Nos. 5 and 6;
- (d) the depth of water is not less than 6 feet in the area within the inner harbour lying south of the said imaginary straight line referred to in paragraph (b) of this subsection as extended to the termination of Work No. 9 and east of that line as drawn south (true) to the breakwater Work No. 3; and
- (e) the depth of water in the remainder of the inner harbour is not less than five feet at any point.

(5) The exercise by the Company of the powers conferred by section 9 (Temporary stoppage of highways) of this Act in relation to any highway shall not prejudice or affect the right of the corporation to maintain, inspect, repair, renew or remove any apparatus or their right for that purpose to enter upon or break open a highway.



5) The Company shall, at all times during the construction of works, provide—

(a) sufficient and satisfactory sanitary conveniences for the workmen employed in connection with the works, and

(b) sufficient and satisfactory facilities for the parking of vehicles used by such workmen or otherwise used in connection with the construction of the works,

each case to the reasonable satisfaction of the corporation.

7) The Company shall secure, throughout the construction of works, that as little disturbance as is reasonably practicable (having regard to then current engineering construction practice) caused thereby to the amenities enjoyed by residents of and visitors to the borough and to persons using the Black Rock Fishing Pool including in particular (without prejudice to the generality of the foregoing) disturbance of amenities caused by noise, dust and smoke and by the carrying out of work between the hours of nine in the evening and seven in the morning; and for that purpose the Company shall whenever necessary consult the corporation and provide them with such information as may be reasonably necessary to enable the corporation to assess the likely effect of the Company's proposals.

(8) The Company shall not discharge or permit to be discharged into the waters of the harbour, or on to the foreshore or to the sea, any sewage or trade effluent, and shall so far as may be reasonably practicable secure that no sewage or trade effluent is discharged or carried into the waters of the harbour.

(9) The Company shall provide, for the use of persons visiting and using such of the works and buildings as lie seaward of Undercliff Walk, and the area of water enclosed by Works Nos. 1, 3, 7 and 8 and an imaginary straight line drawn between the termination of Works Nos. 1 and 3, such number of sanitary conveniences, in such situations and constructed, finished and maintained to such standards, as may be reasonably necessary.

(10) (a) The Company shall provide and place, in suitable positions, a reasonably sufficient number of receptacles for refuse and litter and of notices drawing the attention of the public to the importance of avoiding the pollution or defacement of refuse or litter of the harbour.

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

PART V  
—cont.

(c) The Company shall secure that floating refuse or litter is cleared from the waters of the inner harbour at such intervals as may be reasonably necessary to maintain a satisfactory standard of cleanliness in these waters.

Plans of works including works affecting apparatus.

58.—(1) In this section—

“ authorised work ” means any work (other than a work of maintenance) and any act or thing executed or done by the Company in exercise of the powers conferred by section 6 (General power to make subsidiary works) or section 7 (Subsidiary works on foreshore) of this Act;

“ plans ” means plans, elevations, sections, drawings, particulars (distinguishing between permanent and temporary works) and specifications as may be appropriate to the authorised work concerned;

“ relevant work ” means any authorised work which in any way affects any highway or apparatus.

(2) (a) Before commencing any authorised work the Company shall (except in case of emergency) furnish to the corporation plans thereof for their reasonable approval.

(b) The Company shall not commence any authorised 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.

(c) Without prejudice to the generality of the foregoing provisions of this subsection, but subject to the provision for arbitration contained in the foregoing paragraph if the plans relate to a proposed extension, enlargement or alteration of an existing work proposed in exercise of the powers conferred by subsection (2) of section 5 (Power to construct works) of this Act the corporation may either disapprove the plans on any ground on 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.

(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) An authorised 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 authorised work is to be commenced.

5) 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 24 (Tidal works not to be executed without approval of Board of Trade) of this Act the authorised work shall be constructed in accordance with the plans approved by the Board of Trade.

6) The following further provisions shall have effect in relation to relevant works:—

(a) Upon signifying their approval or disapproval of the plans relating to any relevant work the corporation may specify any temporary or permanent protective works which in their reasonable opinion should be carried out before the commencement of the relevant 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; the Company shall not commence the relevant work to which the plans relate until such temporary or permanent protective works have been completed to the reasonable satisfaction of the corporation;

(b) If within twenty-eight days after the plans relating to a relevant work have been furnished to them the corporation give notice to the Company that, in consequence of the nature of the relevant work, it is reasonably necessary that the corporation should themselves execute any part of the relevant work, that part of such relevant 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; and the reasonable expenses incurred by the corporation in or in connection with the execution of such a relevant work shall be a debt due from the Company to the corporation and shall be recoverable by the corporation as a simple contract debt.

PART V  
—cont.

(7) The fact that any work or thing has been constructed, 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 foregoing provisions of this Part of this Act.

Restriction  
on exercise  
of certain  
powers and  
transmission  
of powers to  
corporation.

59.—(1) The Company shall not construct or erect, to the south of the cliff face, any work, building or structure to a greater height than the height, at the time of such construction or erection, of that part of the cliff face which lies immediately to the north thereof.

(2) After the construction of the works the Company shall not exercise the powers of section 46 (Power to dredge) of this Act 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 so far as reasonable, 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.

(3) (a) The Company shall not exercise the powers of section 52 (Power to sell or lease undertaking) or section 53 (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.

(4) If, pursuant to any provision contained in any agreement for lease or lease granted by the corporation to the Company in relation to the lands of the corporation shown on the deposited plans, the corporation exercise any power of re-entry conferred thereby, then as from the date of such re-entry the provision



Section 52 (Power to sell or lease undertaking) of this Act in relation to the transmission of powers, restrictions, liabilities, obligations and duties conferred or imposed upon the Company shall (with any necessary modifications) have effect as if the Company had on the date of re-entry completed a sale of the undertaking to the corporation and as if the conveyance thereof had been transferred to the corporation all such powers, restrictions, liabilities, obligations and duties modified as aforesaid.

PART V  
—cont.

2. The following provisions shall unless otherwise agreed in writing between the Company and the sewers board apply and have effect:—

For the protection of the sewers board.

(1) In this section—

“ apparatus ” means any drain, sewer or other apparatus or work of the sewers board and includes any structure for the lodging therein of apparatus;

“ authorised work ” means any work (other than a work of maintenance), and any act or thing executed or done by the Company in exercise of the powers conferred by section 6 (General power to make subsidiary works) or section 7 (Subsidiary works on foreshore) of this Act, which in any way affects any apparatus;

“ plans ” means plans, elevations, sections, drawings, particulars (distinguishing between permanent and temporary works) and specifications as may be appropriate to the authorised work concerned:

- (2) (a) Before commencing any authorised work the Company shall furnish to the sewers board plans thereof for their reasonable approval;
- (b) The Company shall not commence any authorised work unless the plans so required to be submitted to the sewers board have been approved in writing by that board or, if the board shall disapprove the plans or approve them subject to any condition that is unacceptable to the Company, until the plans have been settled by arbitration:
- (3) If the sewers board do not within twenty-eight days of the submission to them of any plans pursuant to paragraph (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:

PART V  
—cont.

- (4) Upon signifying their approval or disapproval of the plans relating to any authorised work the sewers board may specify any temporary or permanent protective works which in their reasonable opinion should be carried out before the commencement of the authorised work to ensure the stability of any 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 sewers board:
- (5) An authorised 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 sewers board as aforesaid or settled by arbitration and shall be constructed to the reasonable satisfaction of the sewers board who shall be given reasonable notice of the date and time on and at which the work is to be commenced:
- (6) If there shall be any inconsistency between any plans approved or deemed to have been approved by the sewers board or settled by arbitration under the provisions of this section and—
- (a) the plans approved by the Board of Trade under section 24 (Tidal works not to be executed without approval of Board of Trade) of this Act; or
- (b) so far as they are not inconsistent with plans so approved by the Board of Trade, plans approved or deemed to have been approved by the corporation or settled by arbitration under the provisions of section 58 (Plans of works including works affecting apparatus) of this Act;
- the authorised work shall be constructed (as respects any such inconsistency as is mentioned in sub-paragraph (a) of this paragraph) in accordance with the plans so approved by the Board of Trade and (as respects any such inconsistency as is mentioned in sub-paragraph (b) of this paragraph) in accordance with the plans approved by the sewers board:
- (7) (a) If within twenty-one days after the plans relating to an authorised work have been furnished to them the sewers board give notice to the Company that, in consequence of the nature of the authorised work, it is



reasonably necessary that the sewers board 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 sewers board 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 sewers board in or in connection with the execution of such an authorised work shall be a debt due from the Company to the sewers board and shall be recoverable by the sewers board as a simple contract debt:
- (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 sewers board 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:
- (9) The exercise by the Company of the powers conferred by section 9 (Temporary stoppage of highways) of this Act in relation to any highway shall not prejudice or affect the right of the sewers board to maintain, inspect, repair, renew or remove any apparatus or their right for that purpose to enter upon or break open a highway:
- (10) The Company shall be responsible for and make good to the sewers board all costs, charges, damages and expenses which may be occasioned to the sewers board 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 sewers board against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the sewers board by reason of such construction, failure, subsidence, act or omission as is referred to in paragraphs (a), (b) and (c) of this subsection:

PART V  
—cont.

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 sewers board or their contractors or workmen;

(ii) the sewers board 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:

(11) Any difference which may arise between the Company and the sewers board under this section (other than a difference as to the construction of this section) shall be referred to and determined by arbitration.

Indemnity  
to Shoreham  
authorities.

61.—(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—

- (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 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) or 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 by 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 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 paragraph (3) of the principal section or under subsection (3) of section 36 (Indemnity to Shoreham authorities) of the Brighton Skydeck Act 1965; 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;

1965 c. xxxiv.

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;

1949 c. lix.

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

PART V  
—cont.  
For the  
protection  
of the  
Postmaster  
General.

62.—(1) Where in pursuance of the powers conferred by subsection (1) of section 6 (General power to make subsidiary works) of this Act the Company stops up or diverts the whole or any portion of a street the following provisions of this subsection shall unless otherwise agreed in writing between the Company and the Postmaster General have effect in relation to so much of any telegraphic line belonging to or used by the Postmaster General as is under, in, upon, over, along or across the land which by reason of the stopping up or diversion ceases to be a highway (in this subsection referred to as “the affected line”); that is to say:—

- (a) The power of the Postmaster General to remove the affected line shall be exercisable notwithstanding the stopping up or diversion of the street or part of the street so, however, that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of three months from the date of the sending of the notice referred to in the next following subsection, unless before the expiration of that period the Postmaster General has given notice to the Company of his intention to remove the affected line or that part thereof, as the case may be;
- (b) The Postmaster General may by notice in that behalf to the Company abandon the affected line or any part thereof and shall be deemed as respects the affected line or any part thereof to have abandoned it at the expiration of the said period of three months, unless before the expiration of that period he has removed it or given notice of his intention to remove it;
- (c) The Postmaster General shall be entitled to recover from the Company the expenses of providing in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line a telegraphic line in such other place as he may require;
- (d) Where under paragraph (b) of this subsection the Postmaster General has abandoned the whole or any part of the affected line it shall vest in the Company and the provisions of the Telegraph Acts, 1863 to 1962, shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(2) As soon as practicable after the whole or any portion of a street has been stopped up or diverted in pursuance of the powers referred to in subsection (1) of this section the Company shall send by post to the Postmaster General a notice informing him of such stopping up or diversion.



3) Notwithstanding anything in the said section 6 or in section 7 (Subsidiary works on foreshore) or section 20 (Works for the accommodation of vessels) of this Act, 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. 1949 c. 54.

3. For the protection of the undertakers the provisions of this section 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 or works (as respectively defined in the Electric Lighting Act, 1882) belonging to or maintained by that board; and 1882 c. 56.

(b) in relation to the South Eastern Gas Board any mains, pipes or other apparatus belonging to or maintained by the board;

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

“specified work” means any work carried out or thing done under the powers of section 5 (Power to construct works), section 6 (General power to make subsidiary works), section 8 (Underpinning of houses near works) and section 12 (Laying out and repair of carriageways and footways) of this Act;

“in” in a context referring to apparatus includes under, over, 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) The provisions of section 6 (General power to make subsidiary works) of this Act shall not apply to any apparatus of the South Eastern Gas Board:

(3) Subject to the provisions of paragraph (13) of this section, if the Company for the purposes of this Act

PART V  
—cont.

acquire any interest in or use or appropriate 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:

- (4) (a) The Company, for the purpose of or in connection with the execution of any specified 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;
- (c) If the Company require the undertakers to remove any apparatus, or if in consequence of the execution of any specified 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 adequate 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 land 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:

- (5) (a) Any alternative apparatus to be constructed in land of the Company in pursuance of paragraph (4) 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 manner of construction and the line and situation of any alternative apparatus has been agreed, or settled by arbitration, as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (c) 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 of such removal by the undertakers, the Company may remove the apparatus:

PART V  
—cont.

- (6) Notwithstanding anything in paragraph (5) of this section, 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 (where the apparatus is laid in a trench) within 12 inches above the apparatus:

- (7) 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 specified work the arbitrator shall—

(i) give effect to all reasonable requirements of the Company for ensuring the safety and efficient operation of the specified 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 any terms and conditions applicable

PART V  
—cont.

to the apparatus 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, less favourable on the whole to the undertakers than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation by the Company to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

- (8) (a) Not less than twenty-eight days before commencing to execute any specified 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 (4) of this section, the Company shall submit to the undertakers a plan, section and description of the work to be executed;
- (b) Such work shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration of 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 (4) 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 subparagraph (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 subparagraph (b) of this paragraph so far as reasonably practicable in the circumstances:

(9) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the Company shall provide an alternative means of access to such apparatus:

(10) The Company shall repay to the undertakers the reasonable costs, charges and expenses incurred by the undertakers in or in connection with—

(a) the removal and relaying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this section;

(b) the cutting off of any apparatus from any other apparatus; and

(c) any other work or thing rendered reasonably necessary in consequence of the exercise by the Company of any of the powers of this Act:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act, 1950 (which 1950 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 the 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 1 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 63 (For protection of electricity and gas undertakers) of the Brighton Marina Act 1968":

PART V  
—cont.

(11) If by reason or in consequence of the execution, user or failure of any of the specified works or any subsidence resulting from any of those works any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the undertakers or any interruption in the supply of gas or electricity by the undertakers shall be caused, the Company shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply, and shall—

(a) make reasonable compensation to the undertakers for any loss sustained by them; and

(b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

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

Provided that—

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

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

(12) Notwithstanding the stopping up temporarily or permanently of any street or highway or part of a street or highway under the powers of section 6 (General power to make subsidiary works) or section 9 (Temporary stoppage of highways) of this Act the undertakers, their engineers or workmen and others in their employ shall at all times have such powers and rights (including rights of access) in respect of any apparatus situate in such street or highway or part thereof as they had immediately before such stopping up and shall be at liberty to execute or do all such works and things in, upon or under such street or highway or part thereof as may be necessary for inspecting, repairing, maintaining renewing or removing such apparatus:



Provided that this paragraph shall not apply in any case in which any street or highway or part of a street or highway is permanently stopped up and the apparatus therein is replaced by adequate alternative apparatus by or at the cost of the Company:

PART V  
—cont.

- (13) Where by reason or in consequence of the stopping up of any street under the powers of this Act any apparatus is rendered derelict, useless or unnecessary the Company shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Company) and the reasonable cost of and incidental to, the cutting off of such apparatus from any other apparatus and of, and incidental to, the execution or doing of any works or things rendered necessary or expedient by reason or in consequence of such apparatus being so rendered derelict, useless or unnecessary:

Provided that the Company shall not under the provisions of this paragraph be required to pay the undertakers the value of any apparatus rendered derelict, useless or unnecessary if to the reasonable satisfaction of the undertakers other apparatus shall at the expense of the Company have been provided and laid and made ready for use in substitution for the apparatus so rendered derelict, useless or unnecessary:

- (14) The Company shall so far as is reasonably practicable exercise the powers of section 15 (Power to prevent access to or from works) of this Act so as not to obstruct or render less convenient the access to any apparatus:
- (15) (a) Any difference which may arise between the Company and the undertakers under this section shall be determined by an arbitrator;
- (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 the use of any apparatus.

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

For protection of British Railways Board, the corporation and of certain coast protection authorities.

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

“the determined site” means any place on the beaches to the east of any tidal work and within a distance of 1,500 feet therefrom which the protected

PART V  
—cont.

authorities agree is suitable in all the circumstances (taking account of the intention of the Company and of the protected authorities respectively to maintain the conditions as to littoral drift in the vicinity of any such work or, as the case may be, to restore those conditions, so far as may be, to those which would be likely to have obtained had no such work been constructed) for the deposit of any shingle required to be deposited by the Company in implementation of this section or, in default of agreement, which is determined by arbitration as being so suitable;

“the protected authorities” means the British Railways Board, the Newhaven Urban District Council, the Chailey Rural District Council and the corporation:

(2) Before constructing any tidal work the Company shall carry out or cause to be carried out an initial survey to establish the then present estimated amount of shingle to the east and to the west of the proposed tidal work and such survey shall cover a distance of 1,500 feet east and 3,000 feet west of the said proposed works and shall be carried out to the reasonable satisfaction of the protected authorities:

(3) If at any time after the commencement of the construction of the tidal works it is agreed between the Company and the protected authorities or in default of agreement determined by arbitration that there appears to be such an accumulation of shingle (additional to the amount ascertained by the said initial survey) on the area surveyed or either of them under the initial survey as to render reasonably necessary the carrying out of a further survey, the Company shall, on each occasion that such an accumulation occurs, carry out or cause to be carried out a further survey of a nature similar to the initial survey:

Provided that if at the expiration of the period of ten years after the initial survey no accumulation of shingle exceeding 30,000 cubic yards has occurred on the areas surveyed under the initial survey or either of them the Company shall not thereafter be required to carry out or cause to be carried out any further survey under this paragraph:

(4) The Company shall supply the protected authorities with full details of the results of any survey including photographic and other evidence:



(5) If at any time after the construction of any tidal work there is an accumulation of shingle (additional to the amount ascertained by the initial survey carried out under paragraph (2) of this section) on the beaches to the east of and within a distance of 1,500 feet from any part of such work or to the west of and within a distance of 3,000 feet from any such part and it is agreed between the Company and the protected authorities or in default of agreement determined by arbitration that—

(a) such accumulation exceeds 30,000 cubic yards and is wholly or partly attributable to the existence of the tidal work; and

(b) it is likely to detract materially from the defences against the sea of the harbour works of the British Railways Board at Newhaven or the coast within the urban district of Newhaven, the rural district of Chailey or the borough by depriving those works or beaches on that coast of shingle; and

(c) in the case of any such accumulation on the beaches to the east of any part of a tidal work, it is prevented from being dispersed naturally in an easterly direction due to the existence of the tidal work;

the Company shall, if so required by notice in writing given by the protected authorities or by any of them deposit on the determined site, at such reasonable times and in accordance with such reasonable requirements as to the manner of deposit as may be prescribed by the corporation for the purpose of avoiding, so far as practicable, any disturbance of the amenities enjoyed by residents of, and visitors to, the borough, a quantity of shingle not greater than so much of such accumulation as is agreed between the Company and the protected authority or authorities concerned or in default of agreement determined by arbitration to be attributable to the existence of such work and to be necessary to make good the said defences:

(6) For the purpose of enabling the Company to comply with any requirement for the deposit of shingle from time to time established under paragraph (5) of this section the corporation shall, by notice in writing to the Company, specify a place or places on the beaches in the borough from which shingle to a total quantity sufficient to meet that requirement may be removed by the Company, and the quantities of shingle which may be removed from each such place, and the Company

PART V  
—cont.

shall be entitled to remove quantities of shingle not greater than those so specified from those places at such reasonable times and in accordance with such reasonable requirements as to the manner of removal and transport to the place of deposit as may be prescribed by the corporation for the purpose of avoiding, so far as practicable, any disturbance of the amenities enjoyed by residents of, and visitors to, the borough:

Provided that nothing in this paragraph shall relieve the Company from their obligation under paragraph (6) of this section to deposit such quantity of shingle as is required by the provisions of that paragraph:

- (7) Any difference arising under this section between the Company and any of the protected authorities or between any of the protected authorities (other than a difference as to the construction of this section) shall be settled by arbitration and, in relation to any such difference, the Company and each of the protected authorities shall, on giving notice in writing to the arbitrator, be entitled to be treated as parties to the reference to him.

## PART VI

## GENERAL

## Inquiries.

1933 c. 51.

65. The Minister 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.

As to  
exercise of  
powers by  
Board of  
Trade.

66. 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.

67. Where under this Act any difference (other than a difference as to the construction thereof) 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 application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

PART VI  
—cont.

68. 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, or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose.

Crown rights.

69. Nothing in this Act shall exempt the Company from the provisions of sections 9 and 10 of the Harbours Act, 1964.

Saving for  
Harbours  
Act 1964.  
1964 c. 40.

70. 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 or may be, authorised or regulated by or under this Act.

Saving for  
town and  
country  
planning.  
1962 c. 38.

71. 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.

## SCHEDULE

## ADDED AREA

The area below the level of high water delimited by—

- (a) imaginary straight lines joined in sequence by reference to the following National Grid co-ordinates (related to grid values shown and indicated on Ordnance Survey Maps and Plans), that is to say, from TQ 3431602879 to TQ 3466802759, thence to TQ 3466801590, thence to TQ 3319001844, thence to TQ 3319003005, thence to TQ 3325002979, thence to TQ 3330002969, thence to TQ 3335002966 and thence to TQ 3338302967; and
- (b) two imaginary lines parallel to and 50 yards seaward from the seaward faces of Works Nos. 1 and 3 respectively constructed, such lines commencing at the level of high water and terminating respectively at the first point of intersection with any of the imaginary straight lines referred to in paragraph (a) hereof or projection in continuation of the first or last of these straight lines in the sequence.

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