

Crouch Harbour Act 1974

CHAPTER xxxv

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ELIZABETH II



1974 CHAPTER XXXV

An Act to establish the Crouch Harbour Authority for the administration and control of the harbour formed by the rivers Crouch and Roach and adjacent waters in the county of Essex; to confer on the Authority powers necessary or expedient for the preservation, protection, regulation, management, maintenance and improvement of the said harbour and the navigation thereof; to enact provisions in connection with the matters aforesaid; and for other purposes.

[19th December 1974]

WHEREAS—

(1) The rivers Crouch and Roach and adjacent waters in the county of Essex form a harbour affording actual and potential facilities for navigation, commerce and recreation:

(2) At present there is no one with overall responsibility for regulating and controlling navigation in the said harbour, for administering existing facilities and for providing additional facilities:

(3) It is expedient that the said harbour, offering opportunities of improvement for the purposes of recreation and the enjoyment of leisure on water, should be administered by and under

the control of one authority charged with the preservation, protection, regulation, management, maintenance and improvement thereof:

(4) It is expedient in the public interest that for this purpose there should be incorporated a new body, to be known as the Crouch Harbour Authority:

(5) It is expedient that powers necessary or expedient for the preservation, protection, regulation, management, maintenance and improvement of the said harbour and the navigation thereof should be conferred on the Authority as in this Act contained and that the other provisions of this Act should be enacted:

(6) The purposes of this Act cannot be attained without the authority of Parliament:

1933 c. 51. (7) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

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:—

PART I

PRELIMINARY

Short title and commencement.

1.—(1) This Act may be cited as the Crouch Harbour Act 1974.

(2) Except Parts I, II and IV of this Act, the provisions of this Act shall not come into force until 1st April 1975 unless otherwise expressly provided in this Act.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Establishment of Crouch Harbour Authority.

Part III.—Duties and powers of Authority.

Part IV.—Officers and superannuation.

Part V.—Financial.

Part VI.—Harbour charges.

Part VII.—Miscellaneous and general.

Interpretation.

3.—(1) In this Act, unless otherwise expressly provided or the subject or context otherwise requires—

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847;

1847 c. 27.

“the Act of 1894” means the Merchant Shipping Act 1894;

1894 c. 60.

“the Act of 1964” means the Harbours Act 1964;

1964 c. 40.

“the Act of 1965” means the Compulsory Purchase Act 1965;

1965 c. 56.

- “ the Act of 1972 ” means the Local Government Act 1972;
- “ the Advisory Committee ” means the Crouch Harbour Authority Advisory Committee constituted by section 11 (Crouch Harbour Authority Advisory Committee) of this Act;
- “ the appropriate officer ” in relation to a constituent body means, in the case of the County Council, the Chelmsford Council, the Maldon Council and the Rochford Council the proper officer of those respective councils, in the case of the Water Authority the officer of that authority authorised for the purpose, in the case of the Advisory Committee the chairman of that committee, in the case of the Crouch Area Yachting Federation, the secretary of that federation and in the case of the owners the person nominated by the owners;
- “ the Authority ” means the Crouch Harbour Authority constituted by section 5 (Constitution of Authority) of this Act;
- “ charges ” means, in Part VI (Harbour charges) of this Act, charges payable to the Authority as harbour authority for the harbour;
- “ the Chelmsford Council ” means the Chelmsford District Council;
- “ the constituent bodies ” means the bodies specified in subsection (2) of section 5 (Constitution of Authority) of this Act and includes the owners; and “ constituent body ” shall be construed accordingly;
- “ the county ” means the county of Essex;
- “ the County Council ” means the Essex County Council;
- “ district ” has the same meaning as in the Act of 1972;
- “ dredging ” shall not include the dredging of oysters or other shellfish and “ dredge ” and “ dredged ” shall be construed accordingly;
- “ duties of customs or excise ” includes any tax, levy, surcharge or other sum to the collection of which the general provisions of the Customs and Excise Act 1952 relating to customs or excise have been applied by statute;
- “ the electricity board ” means the Central Electricity Generating Board and the Eastern Electricity Board or either of them;
- “ electricity work ” means any electric line, apparatus, building, structure or other work of any nature belonging to or maintained by the electricity board;
- “ enactment ” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

PART I
—cont.

- “ financial year ” means a period of twelve months commencing on 1st April;
- “ functions ” includes duties and powers;
- “ the gas corporation ” means the British Gas Corporation;
- “ gas work ” or “ water work ” means any main, pipe, apparatus, building, structure or other work of any nature belonging to or maintained by the gas corporation or the water company (as the case may be);
- “ the harbour ” means the area described in section 63 (Limits of harbour) of this Act and the lands, buildings, works, plant, property and conveniences forming part of the undertaking;
- “ the harbour lands ” means the lands within the limits of the harbour as defined in section 63 (Limits of harbour) of this Act;
- “ houseboat ” means any boat or barge or any vessel or structure or any part, remains or wreckage thereof, whether or not the same shall be floating at any state of the tide and whether or not the same shall be used or intended to be used for human habitation, but does not include any ship registered under the Act of 1894 or any boat or vessel bona fide used for navigation;
- “ hovercraft ” has the meaning assigned thereto by the Hovercraft Act 1968;
- “ hydrofoil vessel ” means a vessel, however propelled, designed to be supported on foils;
- “ land ” includes land covered by water and any interest or right in, to, over or attaching to land;
- “ level of high water ” means the level of mean high-water springs;
- “ local authority ” has the same meaning as in the Act of 1972;
- “ the Maldon Council ” means the Maldon District Council;
- “ mooring ” includes any buoy, pile, post, chain, pillar, sinker or like apparatus or convenience used for the mooring of vessels;
- “ officer ” includes any employee or servant;
- “ the owners ” means the several owners of the freehold interests in the harbour lands;
- “ pleasure craft ” means any vessel used wholly or mainly for recreation, not being either a vessel for the carriage of passengers or goods for hire or reward, or a vessel used solely as a houseboat, mooring stage or pontoon;
- “ the railways board ” means the British Railways Board;
- “ railway work ” means any railway of the railways board and any works connected therewith for the maintenance or operation of which the railways board are responsible and includes any lands held or used by the railways board for the purposes of such railway or works;

“the Rochford Council” means the Rochford District Council;

“seaplane” includes a flying boat and any other aircraft designed to manoeuvre on water;

“the specified waters” means—

(a) Fenn Creek below the confluence of Fenn Brook and Rettendon Brook;

(b) Clements Green Creek;

(c) Stow Creek;

(d) Bridgemarsh Creek and Althorne Creek;

(e) Fleet Hall Creek below Sutton Ford bridge (which crosses the creek approximately 700 metres from its confluence with the river Roach);

(f) Barton Hall Creek;

(g) Barling Hall Creek, Little Wakering Creek and Fleet Head Creek;

(h) Paglesham Pool and Lion Creek;

(i) Potton Creek, Mill Head and Havengore Creek as far as Havengore bridge (which crosses the creek approximately 900 metres from its confluence with the river Thames);

(j) The Middleway, Narrow Guts, New England Creek and Shelford Creek;

“statutory undertakers” means any persons authorised by any enactment to construct, work or carry on a railway, canal, inland navigation, gas, electricity or water undertaking or other public undertaking and includes the Post Office;

“subaqueous cable” means a subaqueous cable belonging to or used by the Post Office;

“telegraphic line” has the same meaning as in the Telegraph Act 1878;

1878 c. 76.

“tidal work” means so much of any work in the harbour as is on, under or over tidal waters or tidal lands below the level of high water;

“Trinity House” means the corporation of Trinity House of Deptford Strond;

“the undertaking” means the undertaking of the Authority as for the time being authorised by any enactment;

“vessel” means every description of vessel, however navigated, propelled or moved and includes any ship, lighter, keel, barge, boat, raft, pontoon, hovercraft, hydrofoil vessel and craft of any kind and any seaplane on the surface of the water and, in section 30 (Powers with respect to disposal of wrecks) and section 31 (Protection of Crown interests in wrecks) of this Act, any aircraft;

“the Water Authority” means the Anglian Water Authority;

PART I
—cont.

“ the water company ” means the Essex Water Company; and
“ works ” means works of every description other than
moorings laid down for pleasure craft.

(2) Any reference in this Act to a proper officer shall, in relation to any purpose and any local authority, be construed as a reference to an officer appointed for that purpose by that local authority.

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

Incorporation
of Acts.

4.—(1) The provisions of the Act of 1847 (except sections 6 to 13, 16 to 19, 24, 25, 32, 42, 43, 49, 50, 77, so much of the proviso to section 83 as follows the words “ the special Act ”, sections 84 to 90, 95, 97 to 99 and 101), so far as the same are applicable for the purposes of, and are not inconsistent with the provisions of, this Act, are hereby incorporated with and form part of this Act subject to the following modifications, that is to say:—

- (a) the expression “ special Act ” shall be read as a reference to this Act;
- (b) the expressions “ the promoters of the undertaking ” and “ the undertakers ” shall mean the Authority;
- (c) the expression “ the harbour, dock or pier ” shall mean the harbour;
- (d) the expression “ the prescribed limits ” shall mean the limits of the harbour;
- (e) the word “ vessel ” shall have the meaning assigned to it by section 3 (Interpretation) of this Act;
- (f) the word “ rates ” shall, in section 29 of the Act of 1847, be deemed not to include mooring rates;
- (g) nothing in section 33 of the Act of 1847 shall require the harbour to be open for the purposes described in that section to any hovercraft or hydrofoil vessel.

1946 c. 49.

(2) (a) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply to the compulsory acquisition of land under this Act and accordingly shall have effect as if this Act were a public general Act in force immediately before the commencement of the said Act of 1946.

(b) The provisions of section 27 of the Act of 1965 shall not apply in relation to any compulsory purchase under this Act.

(c) For the purposes of the acquisition by the Authority of land by agreement the provisions of Part I of the Act of 1965 (so far as applicable) other than sections 4 to 8, 10, 27 and 31 shall apply and in the said Part I as so applied—

- (i) “ the acquiring authority ” means the Authority;
- (ii) “ the special Act ” means this Act; and
- (iii) “ land ” has the meaning assigned to it in this Act.

PART II

ESTABLISHMENT OF CROUCH HARBOUR AUTHORITY

5.—(1) On 1st January 1975 there shall be constituted a harbour authority to be called “the Crouch Harbour Authority” for the purpose of exercising the functions assigned to them by this Act. Constitution
of Authority.

(2) The Authority shall consist of fourteen members who shall be appointed as follows:—

two by the County Council;

one by the Water Authority;

one by the Chelmsford Council and the Maldon Council acting jointly;

one by the Rochford Council;

five by the Advisory Committee;

one by the Crouch Area Yachting Federation;

two by the owners of whom one shall be appointed by any person appearing to the Authority to be the owner of the freehold interest in more than half of the harbour lands;

one by the Authority after consultation with the Advisory Committee.

(3) The members of the Authority appointed by the Advisory Committee shall be the Chairman of the Advisory Committee and one representative each of the interests of yachting, commercial sailing, other commercial users and professional fishing on the Advisory Committee.

(4) Not more than one member of the Authority for the time being appointed by the County Council shall be appointed otherwise than from the members of the County Council.

(5) The Authority shall be a body corporate with perpetual succession and a common seal.

(6) The provisions set out in the Schedule to this Act shall apply in relation to the Authority and the members thereof.

6.—(1) Each of the constituent bodies shall (subject to the provisions of subsection (5) of this section) before 1st January 1975, before 1st January 1978 and before 1st January in each fourth year thereafter make the respective appointments to the Authority specified in section 5 (Constitution of Authority) of this Act and each member so appointed shall, unless he shall previously die or resign or become disqualified, hold office— Appointment
of members
of Authority.

(a) in the case of the first appointment, from 1st January 1975 until 31st December 1977; and

PART II
—cont.

(b) in the case of other appointments (except appointments to fill casual vacancies), from 1st January next following his appointment for a term of four years.

(2) (a) Upon the first appointment of any of the members of the Authority, the appropriate officer of the constituent body making the appointment shall immediately after the appointment send to the proper officer of the County Council particulars of the member appointed, such particulars to include his name, address and description and the designation of the constituent body represented.

(b) Upon the subsequent appointment of any member of the Authority, the appropriate officer of the constituent body making the appointment shall immediately after the appointment send to the clerk of the Authority such particulars of the member appointed.

(3) A casual vacancy occurring in the office of a member of the Authority shall be filled as soon as practicable by the appointment by the constituent body by whom that member was appointed of a person to fill the vacancy and the person appointed shall come into office upon his appointment and, unless he previously dies, resigns or becomes disqualified, shall hold office during the remainder of the term of office of the person in whose place he is appointed:

Provided that it shall not be obligatory upon any constituent body to fill any vacancy occurring less than six months before the ordinary date of retirement from the office in which the vacancy occurs.

(4) The provisions of sections 80, 81, 82 and 85 of the Act of 1972 (which relate to the holding of office and voting) shall apply to the Authority as if the Authority were a local authority and such officer as shall be appointed for the purpose by the Authority were the proper officer of the local authority and as if references in those provisions to that Act were references to this Act:

Provided that in their application to the Authority the said sections 80, 81 and 82 shall have effect as if references to election or re-election of members of a local authority were references to the appointment or re-appointment of members of the Authority.

(5) The provisions of subsection (1) of this section shall have effect with reference to the appointment and terms of office of members of the Authority appointed by the Advisory Committee as if for the words "before 1st January 1975" there were substituted the words "at the first meeting of the Advisory Committee" and in paragraph (a) of that subsection for the words "1st January 1975" there were substituted the words "the date of his appointment".

7.—(1) A member of the Authority, who at the time of his appointment is a member of the constituent body by whom he is appointed shall, if he ceases to be a member of that constituent body, thereupon cease to be a member of the Authority but, subject to the provisions of subsection (4) of section 5 (Constitution of Authority) of this Act, shall be eligible for re-appointment:

PART II
—cont.

Qualification
for and
cessation of
membership
of Authority

Provided that a member of the Authority who becomes disqualified from being such a member by reason only of the termination of his term of office as a member of the constituent body by whom he was appointed shall, unless he previously dies or resigns or otherwise becomes disqualified, continue in office as a member of the Authority until the annual meeting next occurring after the date on which his term of office as a member of that body terminated.

(2) A member of the Authority may resign his membership by sending to the clerk of the Authority notice of his desire to do so and his resignation shall take effect upon the receipt of such notice by the clerk.

(3) Where any member of the Authority ceases to be a member of the Authority in pursuance of the preceding provisions of this section or becomes disqualified from being a member of the Authority or vacates his office by absence, the Authority shall forthwith notify the appropriate officer of the constituent body by whom the member was appointed of the casual vacancy so arising.

8. A person shall not be qualified to represent more than one constituent body and, if the same person shall be appointed a member of the Authority by more than one constituent body, he shall within one month after the second appointment choose under which appointment he will serve and give notice of his choice to the clerk of the Authority and thereupon the other appointment shall be deemed void and, if he fails to give such notice, the second and subsequent appointments shall be deemed void and a further appointment shall be made as if a casual vacancy had arisen.

Members not
to represent
more than one
constituent
body.

9.—(1) A constituent body may nominate a person or persons to act as deputy or deputies for all or any of the members of the Authority appointed by that body.

Nomination
of deputies.

(2) A person so nominated may attend, vote at and take part in any meeting, proceedings or business of the Authority or any committee or any sub-committee of the Authority (being a committee or sub-committee which a member for whom he is nominated as deputy is entitled to attend) which the member for whom he is nominated a deputy is unable to attend:

Provided that—

(a) at any meeting, proceedings or business of the Authority or a committee or sub-committee of the Authority a

PART II
—cont.

person so nominated shall not be entitled to represent more than one member and a member shall not be represented by more than one such person; and

- (b) a person so nominated shall be subject to the same provisions as to appointment to, qualification for, and disqualification from, office as apply to the member of the Authority for whom he is to act as deputy and shall not be entitled to act as deputy for any member of the Authority until notice of his nomination so to act has been given to the Authority by the appropriate officer of the constituent body making the appointment, specifying the member or members for whom he has been nominated to act as deputy.

Appointment
of chairman
and vice-
chairman.

10.—(1) The Authority shall at their annual meeting in each year appoint one of their number to be chairman and the chairman shall unless he resigns his office or ceases to be a member of the Authority continue in office until his successor is appointed.

(2) The Authority may at each annual meeting appoint one of their number to be vice-chairman and the vice-chairman shall unless he resigns his office or ceases to be a member of the Authority continue in office until immediately after the appointment of the chairman at the next annual meeting.

(3) A casual vacancy in the office of chairman or vice-chairman of the Authority shall be filled by the appointment by the Authority of one of their number at a meeting held as soon as practicable after the vacancy occurs and, where the office vacant is that of chairman, the meeting may be convened by such officer as shall be appointed for the purpose by the Authority.

(4) The person appointed under subsection (3) of this section to fill a vacancy shall, unless he previously dies, resigns or becomes disqualified, hold office during the remainder of the term of office of the person in whose place he is appointed.

Crouch
Harbour
Authority
Advisory
Committee.

11.—(1) There shall be established in accordance with this section the Crouch Harbour Authority Advisory Committee for the purposes hereinafter appearing.

(2) The first meeting of the Advisory Committee shall be held as soon as reasonably practicable after the first meeting of the Authority and on such day and at such time and place as may be appointed by the Authority who shall make arrangements for notice of the meeting to be sent by post to each member of the Advisory Committee not less than fourteen days before the day so appointed.

(3) Subject to the provisions of this section the Advisory Committee shall consist of not more than twenty-seven members appointed by the Authority of whom—

PART II
—cont.

- (a) one shall be appointed on the nomination of the Country Landowners' Association and the Essex Farmers' Union acting jointly;
- (b) two shall be appointed on the nomination of the Crouch Area Yachting Federation;
- (c) one shall be appointed on the nomination of the Crouch Estuary and Dengie Hundred Protection Association;
- (d) one shall be appointed on the nomination of the Eastern Sports Council;
- (e) two shall be appointed on the nomination of the Essex Association of Local Councils;
- (f) one shall be appointed on the nomination of the Essex Naturalists Trust;
- (g) two, to represent professional fishing interests in the harbour, shall be appointed on the nomination of the Kent and Essex Sea Fisheries Committee;
- (h) one shall be appointed on the nomination of the Nature Conservancy Council;
- (i) one shall be appointed on the nomination of the Port of London Authority;
- (j) one shall be appointed on behalf of the Roach Area Fairways and Conservation Committee;
- (k) one shall be appointed on the nomination of the Royal Yachting Association;
- (l) two, to represent commercial sailing interests in the harbour, shall be appointed on the nomination of the Ship and Boat Builders National Federation;
- (m) one shall be appointed on the nomination of Trinity House;
- (n) one, to represent amateur fishing interests in the harbour, shall be appointed after consultation with such persons (if any) appearing to the Authority to be representative of the said interests as the Authority consider appropriate;
- (o) two, to represent other commercial users of the harbour excluding those referred to in paragraph (l) of this subsection, shall be appointed after consultation with such persons (if any) appearing to the Authority to be representative of such users as the Authority consider appropriate;
- (p) four shall be appointed to represent the owners after consultation with the owners, due regard being had for representation of those of the owners with the larger

PART II
—cont.

interests, but so that one shall be nominated by any person appearing to the Authority to be the owner of the freehold interest in more than half of the harbour lands;

- (q) one, to represent the interests of wildfowlers in or around the harbour, shall be appointed after consultation with such persons (if any) appearing to the Authority to be representative of the interests of such wildfowlers as the Authority consider appropriate;
- (r) two may be appointed to represent such persons interested in the harbour, other than those mentioned in the preceding provisions of this subsection, as the Authority may from time to time think fit.

(4) If it appears to the Authority in the case of any of the appointments referred to in paragraphs (a) to (m) of the last preceding subsection that the body on whose nomination the appointment is to be made has refused or failed to nominate a member after being requested by the Authority so to do, or if the body on whose nomination any of the said appointments is to be made has ceased to have an identifiable existence, the appointment in question shall be made by the Authority after consultation with such persons (if any) appearing to the Authority to be representative of the interests represented, or formerly represented, by the nominating body specified in the relevant paragraph of the last preceding subsection as the Authority consider appropriate.

(5) The term of office of a member of the Advisory Committee shall be—

- (a) in the case of the first appointment, from the date of his appointment to 31st May 1977; and
- (b) in the case of other appointments (except appointments to fill casual vacancies), from 1st June next following his appointment for four years;

and, on ceasing to hold office, he shall be eligible for re-appointment:

Provided that a member of the Advisory Committee may at any time by notice in writing to the clerk of the Authority resign his office.

(6) The Advisory Committee may determine its own quorum and procedure.

(7) On a casual vacancy occurring on the Advisory Committee by reason of death, resignation or otherwise the vacancy shall be filled by the appointment of a new member in the same manner as the member in whose place he is appointed and he shall hold office during the remainder of the term of office of the member in whose place he is appointed.

(8) The Authority shall, except in a case of special urgency where it is not reasonably practicable so to do, consult the Advisory Committee on all matters substantially affecting the preservation, protection, regulation, management, maintenance and improvement of the harbour and the navigation thereof, and particularly, but without prejudice to the generality of the foregoing—

PART II
—cont.

(a) any application for the grant of a works licence under this Act; or

(b) any proposal to impose or vary any rates or charges; or

(c) any proposal to dredge, lay down moorings in, or change any navigational mark, light or channel of, the harbour.

(9) The Authority shall take into consideration any matter which relates to the preservation, protection, regulation, management, maintenance and improvement of the harbour and the navigation thereof and is from time to time referred to them by the Advisory Committee, whether or not that committee has been consulted on the matter so referred.

PART III

DUTIES AND POWERS OF AUTHORITY

12.—(1) It shall be the duty of the Authority, subject to the provisions of this Act, to take such steps from time to time as they may consider necessary or expedient for the preservation, protection, regulation, management, maintenance and improvement of the harbour and the navigation thereof.

General duty
and powers
of Authority.

(2) In the discharge of the duty imposed upon them by subsection (1) of this section, the Authority shall have regard to the desirability of conserving and enhancing the natural beauty and amenity of the countryside and of encouraging the provision and improvement of facilities for the enjoyment of the countryside and of open-air recreation in the countryside.

(3) The Authority may do all things which in their opinion are expedient for the purposes of the discharge of the duty imposed by subsection (1) of this section.

(4) The powers conferred on the Authority by this Act shall not be exercised except in pursuance of the discharge of the duty imposed upon them by subsection (1) of this section.

13.—(1) In furtherance of the provisions of section 12 (General duty and powers of Authority) of this Act it shall be lawful for the Authority in the exercise of their functions under this Act either themselves to provide, erect and maintain all such accommodation, houses, buildings, structures, erections, vehicles, plant, machinery, apparatus or equipment as the Authority may think

Ancillary
powers of
Authority

PART III
—cont.

necessary or expedient for the purposes of this Act or the enjoyment of the harbour or any facilities provided for those purposes, or to make arrangements (including arrangements providing for financial contributions to be made by the Authority) for the provision, erection and maintenance thereof by any other person.

(2) The Authority may enter into and carry into effect agreements or arrangements with any person for the provision, erection and maintenance by such person of any works, facilities, supplies or services which may be desirable for or in connection with the carrying into effect of any of the purposes of this section and by any such agreement or arrangement may agree to defray or to make contributions towards expenses incurred by the person thereunder.

(3) Nothing in this section shall authorise the Authority or any person—

(a) on land in which any other person has an interest, without the consent of such last-mentioned person, to do anything which apart from this section would be actionable at his suit by virtue of that interest;

(b) without the consent of the highway authority to do anything affecting any highway.

(4) Nothing in this or the last preceding section shall be construed as excluding or limiting the application of any other enactment prohibiting, regulating or restricting the doing of any particular thing or as authorising the doing of that thing by or under agreements or arrangements made with the Authority except in accordance with the provisions of such other enactment.

Power to promote and oppose legislation.

14. The Authority may promote or oppose Bills in Parliament, or may apply for, or oppose applications for, orders, byelaws, schemes or awards to be made under any enactment.

Provision in Bills promoted by County Council or Water Authority with respect to Authority.

15.—(1) The County Council or the Water Authority may, at the request of the Authority, include in any Bill which they promote in Parliament provisions for the benefit of the Authority or related to the exercise of the Authority's functions.

(2) The Authority may make such contributions towards the expenses incurred by the County Council or the Water Authority in connection with the promotion of any Bill as may be agreed between the Authority and the County Council or the Water Authority (as the case may be).

(3) The Authority shall give notice by advertisement in one or more local newspapers circulating within the districts of Chelmsford, Maldon and Rochford of the inclusion in a Bill promoted in Parliament by the County Council or the Water Authority of provisions for the benefit of the Authority or related to the exercise of the Authority's functions. Any such notice

shall be published not later than fourteen days after the deposit of the Bill in Parliament and the advertisement shall contain a concise summary of the purposes of such provisions and state the offices in the said districts at which copies of the Bill may be inspected and obtained.

PART III
—cont.

16.—(1) The Authority may for the purpose of any of their functions—

Power to
acquire and
dispose of
land.

(a) acquire by agreement, whether by way of purchase, lease, exchange or otherwise, any land within or outside the harbour;

(b) retain any land acquired by them for such time as they think fit;

(c) sell, lease, exchange (either with or without paying or receiving any money for equality of exchange) or otherwise dispose of, any land acquired by them which is no longer required for the purposes of or in connection with any of their functions in such manner, for such consideration and on such terms and conditions as they think fit; and

(d) sell, exchange or dispose of any rents reserved on the sale, lease, exchange or other disposition of any such land or interest:

Provided that the Authority shall not without the consent of the Secretary of State for the Environment dispose of any land otherwise than for a consideration worth not less than the current market value of that land but a person acquiring any land from the Authority shall not be concerned to inquire whether that consent is necessary or has been obtained.

(2) The Authority may be authorised, by means of an order made by them and submitted to and confirmed by the Secretary of State for the Environment, to purchase compulsorily any such land as aforesaid.

(3) The Authority may, for the purposes of the undertaking, manage, use or develop land belonging to them as they think fit.

(4) (a) For the purpose of the acquisition by the Authority of land by agreement, the provisions of Part I (other than sections 4 to 8 and sections 27 and 31) of the Act of 1965 shall apply to the exclusion of the Lands Clauses Acts.

(b) In the provisions of Part I of the Act of 1965 as applied to the purchase of land by agreement under this subsection—

(i) “the acquiring authority” means the Authority;

(ii) “the special Act” means this Act;

PART III
—cont.
1845 c. 20.

(c) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during construction shall be incorporated with this Act and, in construing the provisions so incorporated, “the special Act” shall mean this Act, “the Company” shall mean the Authority, “the railway” shall mean any work constructed by the Authority and for the measurement of distance the landward end of any such work shall be substituted for the centre of the railway.

Acquisition
of new
interests or
rights over
land.

17.—(1) The Authority may exercise the powers conferred by section 16 (Power to acquire and dispose of land) of this Act so as to acquire interests in land by way of the creation of new interests, as well as interests already in existence before the acquisition thereof by the Authority, and an interest may be so acquired either in perpetuity or for a term of years certain or so as to be terminable by notice.

(2) Where those powers are exercised so as to acquire compulsorily an interest in any land (in this section referred to as “servient land”) by way of the creation of a new interest (in this section referred to as “the new right”), the provisions of subsections (3) to (5) of this section shall have effect with respect to compensation in respect of the acquisition of the new right.

(3) (a) If the value of any interest in land to which this subsection applies is depreciated by the acquisition of the new right, the person entitled to that interest shall be entitled to compensation from the Authority of an amount equal to the amount of the depreciation.

(b) This subsection applies to any interest in any servient land, and to any interest in any land which, on the relevant date, is held with any servient land.

(4) Where the person entitled to an interest in land to which the last preceding subsection applies sustains loss or damage which—

- (a) is attributable to the acquisition of the new right; and
- (b) does not consist of depreciation of the value of that interest; and
- (c) is loss or damage for which, if his interest in the servient land had been compulsorily acquired under an order made under subsection (2) of section 16 (Power to acquire and dispose of land) of this Act and in pursuance of a notice to treat served on the relevant date, he would have been entitled to compensation by way of compensation for disturbance;

he shall be entitled to compensation from the Authority in respect of that loss or damage, in addition to compensation under the last preceding subsection.

(5) Subsections (3) and (4) of this section shall have effect without prejudice to any right of compensation under section 10 of the Act of 1965 (which relates to compensation for injurious affection) or the Land Compensation Act 1973 but, subject to the preceding provisions of this subsection, no person shall be entitled to compensation in respect of the compulsory acquisition of the new right in addition to that provided for in subsections (3) and (4) of this section.

PART III
—cont.

1973 c. 26.

(6) Subsection (7) of section 46 of the Water Resources Act 1963 shall apply to compensation in respect of an interest in servient land subject to a mortgage acquired under the provisions of this section as it applies to compensation in respect of depreciation of the value of an interest in land subject to a mortgage assessed under subsection (6) of the said section 46.

1963 c. 38.

(7) In this section “the relevant date” means the date of service of the notice to treat in pursuance of which the new right is acquired.

18.—(1) (a) Subject to the provisions of this subsection the Authority may by order extinguish any public right of way (other than a way which consists either in whole or in part of a carriageway within the meaning of the Highways Act 1959) over any land purchased by them under this Act.

Extinguish-
ment of
rights of
way,
easements, etc.
1959 c. 25.

(b) Where the Authority propose to make an order under this subsection, they shall prepare a draft of the order and, before submitting the order to the Secretary of State for the Environment for confirmation or confirming it as an unopposed order, shall publish in at least one local newspaper circulating in the area in which the public right of way to which the order relates is situated, and in the London Gazette, a notice—

- (i) stating the general effect of the proposed order;
- (ii) naming a place in the said area where a copy of the order and of any map or plan referred to therein may be inspected by any person free of charge at all reasonable hours during a period of six weeks from the date of the publication of the notice; and
- (iii) stating that, within the said period, any person may by notice to the Authority object to the confirmation of the order.

(c) Not later than the day on which the said notice is published or, if it is published on two or more days, the day on which it is first published, the Authority shall cause a copy of the said notice to be displayed in a prominent position at each end of the public right of way to which the order relates and shall serve on the highway authority and on the local authority of any district where the land over which the public right of way exists is situated—

- (i) a copy of the said notice;

PART III
—cont.

(ii) a copy of the proposed order; and

(iii) a copy of any map or plan referred to in the proposed order relating to a matter which in the opinion of the Authority is likely to affect the council so served.

(d) (i) If any objection to the proposed order is made before the expiration of six weeks from the publication thereof and the objection is not withdrawn, the Secretary of State shall not approve the order until he has caused a public local inquiry to be held into the matter.

(ii) If no objection is so made, or if made is withdrawn, the Authority may, instead of submitting the order to the Secretary of State, themselves confirm the order but without any modification.

(2) Where the Authority have resolved to purchase under this Act land over which a public right of way exists, it shall be lawful under the foregoing subsection for the Authority to make and (as the case may require) the Secretary of State to approve, in advance of the purchase, an order extinguishing that right as from the date on which the buildings to which the right of way gives access are vacated, or at the expiration of such period after that date as may be specified in the order, or as the Secretary of State in approving the order may direct.

(3) Upon the completion by the Authority of the purchase by them of any land under this Act, all private rights of way and all rights of laying down, erecting, continuing or maintaining any apparatus on, under or over that land and all other rights or easements in or relating to that land shall, unless otherwise agreed between the Authority and any person entitled thereto, be extinguished and any such apparatus shall vest in the Authority and any person who suffers loss by the extinguishment or vesting of any such right or apparatus as aforesaid shall be entitled to be paid by the Authority compensation to be determined under and in accordance with the Land Compensation Act 1961:

1961 c. 33.

Provided that this subsection shall not apply to—

(a) any right vested in statutory undertakers or a local authority of laying down, erecting, continuing or maintaining any apparatus;

(b) any right of access vested in such undertakers or local authority to apparatus if the Authority do not provide an adequate alternative right of access; or

(c) any apparatus belonging to or maintained by such undertakers or local authority;

and shall have effect as respects other matters subject to any agreement which may be made between the Authority and the person in or to whom the right or apparatus in question is vested or belongs.

(4) In subsection (3) of this section "apparatus" in the case of apparatus belonging to or used by the Post Office means any telegraphic line and includes any works constructed for the lodging therein of apparatus.

PART III
—cont.

(5) Subsection (7) of section 46 of the Water Resources Act 1963 shall apply to compensation in respect of any rights or easements in land subject to a mortgage acquired under the provisions of this section as it applies to compensation in respect of depreciation of the value of an interest in land subject to a mortgage assessed under subsection (6) of the said section 46. 1963 c. 38.

19.—(1) Every undertaking given to the Authority by the owner of a legal estate in land and every agreement made between the Authority and any such owner, being an undertaking or agreement given or made under seal in connection with the land and expressed to be given or made in pursuance of this section, shall be enforceable by the Authority against the person who entered into, or joined as a party to, such undertaking or agreement and against all persons deriving title by, through or under him. Undertakings and agreements binding successive owners.

(2) The Authority shall send a copy of any such undertaking or agreement to the proper officer of the council of each district in which the land to which the undertaking or agreement relates is situated and the proper officer shall cause it to be registered in the register of local land charges as a local land charge.

(3) Any person against whom such an undertaking or agreement is enforceable shall be entitled to require from the Authority a copy thereof.

20.—(1) Subject to the provisions of this Act and of section 29 (which prohibits any new piped supply of gas except with the consent of the gas corporation and in accordance with such conditions as may be attached to that consent) of the Gas Act 1972, of the Electricity (Supply) Acts 1882 to 1936 and of the Electricity Acts 1947 and 1957, the Authority may maintain, alter and improve the harbour and in connection with the harbour construct, maintain, alter, improve, enlarge and extend embankments, walls, footways, approaches, steps, landing places, piers, quays, jetties, slips, wharves, groynes, sea defences, buoys, navigation marks, cranes, lights, beacons, sewers, drains, water-courses, gas and water pipes, apparatus for electric light and power, warehouses, offices, sheds and other works and conveniences which may be found necessary for the accommodation of vessels or traffic or for the protection of the harbour: Power to maintain, alter and improve the harbour, etc. 1972 c. 60.

Provided that—

(a) the Authority shall not exercise the powers of this section on any land not for the time being belonging to or held by them except with the licence or consent of the owner and occupier of the land;

PART III
—cont.

(b) any electric light and power or other apparatus constructed and maintained under this section shall be so constructed, used and maintained that any electricity generated or conveyed by or used in or in connection with any such electric light and power or apparatus does not cause interference (whether by induction or otherwise) with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line.

(2) Nothing in this section shall exempt the Authority from the provisions of section 9 of the Act of 1964.

Liability for damage, etc., caused by Authority's works.

21. Nothing in this Act shall have the effect of depriving any person of his right at common law to compensation for loss or damage arising from pollution, siltation, scouring, an alteration of tidal flow or otherwise resulting from the carrying out by the Authority of works under this Act in the harbour.

Survey of tidal works.

22. The Secretary of State for Trade may at any time if he deems it expedient order a survey and examination of a tidal work and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Authority as a simple contract debt.

Power to dredge.

23.—(1) The Authority may—

- (a) deepen, dredge, scour and excavate and blast any rock in any portion of the harbour and the approaches thereto to the extent necessary to secure a sufficient waterway for vessels using or approaching the same or otherwise for the purposes of the undertaking; and
- (b) sell or otherwise dispose of or remove or deposit all sand, mud and other materials dredged up or removed as they think fit:

Provided that—

- (i) the balance (if any) of any sums received by the Authority from any such sale of materials dredged up or removed, after deduction of the costs certified by the Authority to have been reasonably incurred by them in such dredging or removal, or in case of dispute determined by arbitration, shall be paid by the Authority to the owners of the lands from which such materials are so dredged or removed in such proportions as the owners may between themselves agree or, failing agreement, as the Authority shall determine;
- (ii) the powers of paragraph (b) of this subsection shall not extend to wreck (within the meaning of Part IX of the Act of 1894) found by the Authority.

(2) No materials raised under the provisions of this section shall be deposited in any place below the level of high water otherwise than in such a position and under such restrictions and regulations as may be fixed by the Secretary of State for Trade.

(3) (a) In the exercise of the powers conferred by subsection (1) of this section the Authority shall not interfere with, damage or injuriously affect any electricity work, gas work or water work in or across the harbour or the approaches thereto without the consent of the electricity board, the gas corporation or the water company, as the case may be, which consent shall not be unreasonably withheld and any question whether consent has been unreasonably withheld shall be referred to and determined by arbitration.

(b) Before exercising the said powers within a distance of 90 metres of any such electricity work, gas work or water work where blasting operations are involved or in any other case within a distance of 45 metres of any such electricity work, gas work or water work the Authority shall give in writing to the electricity board, the gas corporation or the water company, as the case may require, as long notice as possible and in any event not less than twenty-eight days' notice in respect of their intention to exercise such powers.

(c) Any sand, mud and other materials dredged up and removed in the exercise of the said powers shall not be laid down or deposited in such a place or manner as to cover any such electricity work, gas work or water work or any subaqueous cable or impede any work of or connected with the inspection or repair of such electricity work, gas work, water work or subaqueous cable.

(4) (a) In the exercise of the powers conferred by subsection (1) of this section the Authority shall not interfere unreasonably with, damage or injuriously affect any railway work.

(b) Before exercising the said powers within a distance of 15 metres of any bridge of the railways board the Authority shall give to the railways board not less than twenty-eight days' notice in writing of their intention to do so and shall furnish to the railways board full particulars relating thereto, and the Authority shall not exercise such powers until the railways board have approved such particulars:

Provided that—

- (i) the approval of the railways board shall not be unreasonably withheld;
- (ii) such approval shall be deemed to have been given if the railways board have neither approved nor disapproved such particulars within twenty-eight days of their having been furnished;

and any question whether the approval of the railways board has been unreasonably withheld shall be referred to and determined by arbitration.

PART III
—cont.
Dredging in
harbour.

24.—(1) Any person proposing to dredge in the harbour (in this section referred to as “the applicant”) shall give to the Authority at least three months’ notice in writing of the proposal and such notice shall be accompanied by plans, sections and particulars defining the nature and extent and manner of the dredging proposed to be carried out.

(2) If the Authority within the said period of three months give notice in writing to the applicant of—

(a) the terms and conditions subject to which the proposal would not be objectionable to the Authority; or

(b) their objection to the proposal, stating the grounds of their objection;

and such terms and conditions are, or such objection is, not withdrawn, the applicant shall not proceed to dredge in accordance with the proposal unless he complies with such terms and conditions or until the matter has been referred to the Secretary of State for the Environment and determined as provided in subsection (3) of this section.

(3) If any such terms and conditions are unacceptable to the applicant or if any such objection is made and not withdrawn, the Secretary of State shall either himself determine the matter or refer it for determination to an arbitrator to be appointed by him.

(4) If the Secretary of State or the arbitrator, as the case may be, determines that the terms and conditions are reasonable or that the objection is upheld, the applicant shall not proceed with the proposal save in accordance with such reasonable terms and conditions as may have been imposed but, if he determines that the terms and conditions are unreasonable, that the objection is overruled, or that the proposal or such terms and conditions shall be modified, the applicant may proceed with the proposal as from the date of such determination, subject to such modification as the Secretary of State or the arbitrator may impose.

(5) No materials taken up or collected by means of dredging shall be laid down or deposited in any place in the harbour below the level of high water except in such position as (subject to the provisions of paragraph (c) of subsection (3) of section 23 (Power to dredge) of this Act) may be approved by the Authority and subject to such conditions or restrictions as may be imposed by the Authority:

Provided that, if it appears to the applicant that any condition or restriction imposed by the Authority under this subsection is unreasonable, he may appeal to the Secretary of State for Trade whose decision shall be binding.

(6) Any person offending against the provisions of this section or who contravenes or fails to comply with any terms, condition or restriction imposed by the Authority (and, where appropriate,

upheld by the Secretary of State or the arbitrator, as the case may be) or any modification imposed by the Secretary of State or the arbitrator shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

PART III
—cont.

(7) Nothing in this section shall be construed as derogating from the rights and interests of any person (other than the applicant) who is or might be affected by dredging in the harbour.

25. The Authority may provide, purchase, take on lease, hire and use such vessels, machinery, apparatus and equipment as they may think necessary or expedient for the carrying on of the undertaking or otherwise effecting the purposes of this Act and may let the same on hire (with or without the services of their employees) for such reasonable sums and upon and subject to such terms and conditions as they may think fit or may sell and dispose of the same.

Power to
purchase
vessels,
equipment,
etc.

26.—(1) The Authority may from time to time license such number of tugs belonging to any person for such period, on such terms and conditions and on payment of such fee as the Authority think fit.

Power to
license
tugs, etc.

(2) It shall not be lawful otherwise than in emergency for any person to use or employ any tug for moving vessels within the harbour for fee or reward unless there is in force in relation thereto a licence granted under subsection (1) of this section.

(3) Any person who contravenes the provisions of this section or of the terms and conditions of a licence granted under subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

(4) In this section “tug” means any vessel other than a vessel of five tons gross or less.

27.—(1) This section and section 28 (Appeals under section 27 of this Act) of this Act shall come into force on 1st July 1975 and in the said sections “existing houseboat” means any houseboat moored or placed in the harbour before 1st September 1973.

As to
houseboats.

(2) It shall not be lawful without the written consent of the Authority (which may be given on such terms or conditions or subject to compliance with such requirements as the Authority think fit) to moor, place, keep or maintain in the harbour any houseboat whether or not the same shall have been so moored or placed before the passing of this Act:

PART III
—cont.

1952 c. 1.

Provided that—

- (a) if consent to the mooring or placing of an existing houseboat has been given before 1st July 1975 under section 110 (Restriction on houseboats and jetties) of the Essex County Council Act 1952, the consent of the Authority shall not be withheld unless the Authority are satisfied that continuance of the mooring, placing, keeping or maintaining of the houseboat would constitute a danger to or interfere with the navigation of vessels in the harbour and the Authority shall on the refusal of any consent under this subsection specify in writing the ground or grounds of such refusal;
- (b) nothing in this subsection shall prejudice or affect any obligation existing under any enactment to obtain the consent of the port health authority for the harbour to such mooring, placing, keeping or maintaining.

(3) Where application is made to the Authority for consent to moor, place, keep or maintain any houseboat in the harbour then, unless, within two months from the date on which the Authority receive such application, or within such extended period as may at any time be agreed upon in writing between the applicant and the Authority, the Authority give notice in writing to the applicant of their decision on the application, the consent sought in the application shall be deemed to have been refused.

(4) (a) If any houseboat shall be moored, placed, kept or maintained contrary to the provisions of subsection (2) of this section, the Authority may give notice in writing to the person having the control of the houseboat to remove it from the harbour within such period not being less than twenty-one days as they may specify.

(b) Any such notice may, if it is not practicable after reasonable inquiry to ascertain the name and address of the person having the control of the houseboat, be served by posting the same in a conspicuous position on such houseboat or on the land or foreshore near such houseboat and shall specify the period within which such removal shall be completed.

(5) (a) If any person fails without reasonable cause to comply with any notice given by the Authority under the provisions of subsection (4) of this section, he shall be liable to a fine not exceeding fifty pounds and the Authority may at any time after the expiration of the period specified in such notice remove the houseboat referred to in the notice or, if such person consents, demolish the houseboat and remove any debris or other material resulting from the demolition.

(b) Subject as is provided in subsection (6) of this section the costs and expenses reasonably incurred by the Authority in or

in connection with any such removal or demolition may be recovered by the Authority as a simple contract debt in any court of competent jurisdiction from the person having the control of such houseboat.

PART III
—cont.

(6) For the purposes of subsections (4) and (5) of this section the owner of any houseboat shall until the contrary be proved be deemed to be the person having the control thereof.

(7) (a) If the Authority remove any houseboat under the provisions of subsection (5) of this section the Authority may retain the same or the materials thereof and may and shall, if so required by the owner, sell or dispose of the same or of such materials and subject as hereinafter provided retain the proceeds of such sale or disposal.

(b) For the purpose of ascertaining the amount recoverable by the Authority under paragraph (b) of subsection (5) of this section in respect of the costs and expenses incurred by them in or in connection with the removal of any such houseboat, credit shall be given for the net amount (if any) received by the Authority of the proceeds of the sale (after deduction of any costs and expenses incurred by the Authority in effecting the same) of such houseboat or the materials thereof. If such net amount exceeds the amount of the costs and expenses incurred by the Authority in or in connection with such removal as aforesaid, they shall pay the amount of such excess to the owner of such houseboat.

(8) Nothing in this section shall be deemed to confer on the Authority any right, title or interest in or to any land in the harbour.

(9) As from 1st July 1975 Part VII (Houseboats) of the Essex County Council Act 1952 shall cease to apply within the harbour. 1952 c. 1.

28.—(1) Any person aggrieved by any refusal of consent or any requirement of the Authority as respects an existing houseboat under, and within the meaning of section 27 (As to houseboats) of, this Act may appeal to the Secretary of State. Appeals under section 27 of this Act.

(2) (a) The time within which an appeal under subsection (1) of this section may be brought shall be twenty-one days from the date on which notice of the refusal or requirement was given to the person desiring to appeal, or, in the absence of any such notice, the date on which by virtue of subsection (3) of the said section 27 consent was deemed to have been refused.

(b) The notice containing the refusal or requirement against which an appeal lies shall state the right of appeal to the Secretary of State and the time within which such an appeal may be brought.

(3) On the hearing of an appeal as respects an existing houseboat the Secretary of State may dismiss or allow the appeal or

PART III
—cont.

may vary the terms, conditions or requirements of any consent appealed against by substituting therefor any terms, conditions or requirements which the Authority could have prescribed or made under the said section 27 or may extend the time specified in a requirement appealed against.

(4) If an appeal is brought under this section, the Authority shall not take proceedings under subsection (5) of the said section 27 until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(5) On an appeal under this section the Authority shall give effect to the decision of the Secretary of State and in particular give any necessary consent.

Notice of effect of sections 27 and 28 of this Act.

29.—(1) The Authority shall before 1st April 1975 cause public notice to be given of the effect of section 27 (As to houseboats) and section 28 (Appeals under section 27 of this Act) of this Act by advertisement in one or more local newspapers published or circulating in the county and otherwise in such manner as the Authority think fit.

(2) In any proceedings it shall be presumed until the contrary is proved that the provisions of subsection (1) of this section have been complied with.

Powers with respect to disposal of wrecks.

30.—(1) In their application to the Authority, sections 530 and 532 of the Act of 1894 (which confer powers on the Authority with respect to, and with respect to anything in or on, any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto) shall have effect—

(a) subject to the provisions of section 31 (Protection of Crown interests in wrecks) of this Act; and

(b) in relation to a vessel sunk, stranded or abandoned before, as well as after, the passing of this Act.

(2) Subject to subsection (3) of this section and to any enactment for the time being in force limiting his liability, the Authority may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under section 530 of the Act of 1894 any expenses reasonably incurred by them under that section in relation to that vessel and not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the Authority an 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 section 530 of the Act of 1894 other than the power of lighting and buoying, the

Authority 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 Authority 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 31 he shall be at liberty to do so and the Authority shall not exercise the said powers 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 given to him by the Authority.

(4) Notice under subsection (3) of this section to the owner of any vessel may be served by the Authority 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 Authority, by displaying the notice at the offices of the Authority 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 abandoning thereof.

31.—(1) Without prejudice to section 741 of the Act of 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 Authority by sections 530 and 532 of the Act of 1894 shall not be exercisable—

Protection
of Crown
interests in
wrecks.

1906 c. 48

(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 a 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 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

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

PART III
—cont.

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

- (a) except with the consent of the Secretary of State for Defence and the Secretary of State for 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 Authority a direction by the Secretary of State for Defence or the Secretary of State for 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 Authority proceed 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 section 530 of the Act of 1894 or the power conferred by subsection (2) of section 30 (Powers with respect to disposal of wrecks) of this Act:

Provided that—

- (i) the Authority 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 30, 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 Secretary of State for Trade for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Authority by section 530 of the Act of 1894, the Authority shall hold and dispose of any wreck within the meaning of Part IX of the 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 wreck and on exercising the said power of sale in the case of any property the Authority shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Authority under that section.

PART III
—cont.

(4) Any limitation on the powers of the Authority 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 Act of 1894.

32.—(1) The Authority may, upon such terms and conditions as they think fit, grant to any person a licence (in this Act referred to as a “works licence”) to construct, alter, renew, extend or maintain a tidal work notwithstanding interference with public rights of navigation and other public rights by such work as constructed, altered, renewed, extended or maintained: Licensing
of works.

Provided that nothing in any such licence shall entitle a person to construct, alter, renew, extend or maintain a tidal work on land not owned or leased by him or by the Authority or in which he has no appropriate interest.

(2) Application for a works licence shall be made in writing to the Authority and shall be accompanied by plans, sections and particulars of the work to which the application relates, and in granting a works licence the Authority may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the date of the making of an application under subsection (2) of this section the Authority do not grant a works licence in respect of the application, they shall be deemed to have refused the application.

(4) The issue of a works licence under this section shall not confer statutory authority for the carrying out of the operations covered by the works licence.

(5) The Authority may charge a fee for granting a works licence but such fee shall not exceed an amount sufficient to enable the Authority to recover the reasonable costs arising from the application for, and the issue of, works licences.

(6) For the purposes of section 7 of the Telegraph Act 1878 1878 c. 76. any work proposed to be done under a works licence shall be deemed to be work proposed to be done in the execution of an undertaking authorised by an Act of Parliament.

(7) In the exercise of the powers conferred by the Authority by means of a works licence, the holder of the works licence shall not damage or injuriously affect any electricity work, gas work, water work or railway work or, without the written consent of

PART III
—cont.

the electricity board, the gas corporation, the water company or the railways board, as the case may require, interfere with any such work.

(8) So much of any work constructed, altered, renewed or extended under a works licence as is not in any district shall be deemed for all purposes to be within the district which it is nearest.

Appeals in
respect of
works licence.

33.—(1) Any applicant for a works licence who is aggrieved by—

- (a) the refusal of the Authority to grant the licence;
- (b) any terms or conditions upon which the licence is granted;
- (c) any modifications required by the Authority in the plans, sections and particulars submitted by the applicant;

may, within twenty-eight days from the date upon which the Authority notify the applicant of their decision or the date on which the Authority are under subsection (3) of section 32 (Licensing of works) of this Act deemed to have refused the application, appeal to the Secretary of State for Trade whose decision shall be binding upon the parties.

(2) A person who appeals to the Secretary of State under this section shall give to the Authority notice of his appeal accompanied by a copy of his statement of appeal and the Authority shall within twenty-eight days from the receipt of such notice be entitled to furnish the Secretary of State with their observations on the appeal.

(3) (a) On an appeal under this section the Secretary of State may—

- (i) dismiss the appeal; or
- (ii) require the Authority to grant the licence upon such terms and conditions as the Secretary of State may determine; or
- (iii) require the Authority to approve the plans, sections and particulars without modifications or subject to such modifications as the Secretary of State may determine.

(b) The Authority shall give effect to any requirement made by the Secretary of State under paragraph (a) of this subsection.

Restriction on
construction
of works.

34.—(1) No person shall construct, alter, renew or extend a tidal work unless he has been granted a works licence in respect of that work and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with the plans, sections and particulars approved in pursuance of section 32 (Licensing of works) of this Act:

Provided that this subsection shall not apply to—

- (a) the construction, alteration, renewal or extension of any works specifically authorised by any enactment;
- (b) the renewal of any work in existence on 1st September 1973.

(2) Any person offending against the provisions of this section or who contravenes or who fails to comply with any term or condition upon which a works licence is granted by the Authority shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

(3) The Authority may by notice require a person who contravenes the provisions of this section to remove or abate within a reasonable time specified in the notice any work or operation to which the contravention relates and to restore the site thereof to its former condition and, if the person to whom the notice is given fails to comply with the notice, the Authority may carry out the work required by the notice and recover the cost of so doing from that person as a debt in any court of competent jurisdiction.

(4) Nothing in this section shall require the Water Authority to obtain a works licence in respect of the exercise of their functions.

(5) Nothing in this section shall affect the powers of the Post Office under the Telegraph Acts 1863 to 1916.

35.—(1) The Authority may provide, place, lay down, have, maintain and use moorings on land owned or leased by the Authority, or in which they hold an appropriate interest, and on any other land with the consent in writing of the owner and lessee thereof. Provision of moorings, etc

(2) The Authority may demand, receive and recover in respect of any vessel or houseboat using any of the moorings provided by the Authority under this section or moored to land owned or leased by the Authority such reasonable charges as may from time to time be prescribed by the Authority.

(3) The Authority may compound with any person with respect to the payment of the charges prescribed by the Authority under subsection (2) of this section.

(4) Before exercising the powers of subsection (1) of this section the Authority shall consult and have regard to the views of the Water Authority.

36.—(1) (a) The Authority may from time to time grant licences to any person to place, lay down, maintain, use and have existing and future moorings in the harbour: Licensing of moorings.

Provided that—

- (i) nothing in any such licence shall entitle a person to place, lay down, have, maintain and use any mooring on land

PART III
—cont.

not owned or leased by him or by the Authority or in which he has no appropriate interest;

- (ii) the Authority shall not unreasonably refuse to grant a licence to an owner or lessee of any land not leased by the Authority to place, lay down, have, maintain and use existing or future moorings on that land and any question whether the grant of a licence has or has not been unreasonably refused shall be determined by the Secretary of State for the Environment.

(b) Any licence granted under paragraph (a) of this subsection shall be valid only for such period not exceeding three years as may be specified in the licence.

(c) The Authority may charge a fee for granting a licence under paragraph (a) of this subsection, but such fee shall not exceed an amount sufficient to enable the Authority to recover the reasonable costs arising from the application for, and the issue of, licences.

(2) Nothing in this section shall relieve the Authority or any person licensed by or acting with the consent of the Authority from liability for damage caused by them to any electricity work, gas work or water work in the exercise of the powers of this section and the said powers shall be so exercised as not unreasonably to obstruct or render inconvenient the access to any such work.

1878 c. 76.

(3) For the purposes of section 7 of the Telegraph Act 1878 any work proposed to be done under a licence granted under paragraph (a) of subsection (1) of this section shall be deemed to be works proposed to be done in the execution of an undertaking authorised by an Act of Parliament.

(4) In this section “existing mooring” means any mooring placed or laid down in the harbour before 1st September 1973.

Penalty for
offences in
relation to
moorings.

37.—(1) Any person who—

- (a) wilfully obstructs any person acting under the authority of the Authority in setting out moorings; or
- (b) pulls up or removes any mooring or any part thereof; or
- (c) causes or permits a vessel to be moored except at a mooring provided or licensed by the Authority under section 35 (Provision of moorings, etc.) or section 36 (Licensing of moorings) respectively of this Act or at a quay, jetty, slipway or other work or to land owned or leased by the Authority; or
- (d) places, lays down or maintains any mooring not provided or licensed by the Authority under the said sections of this Act;

shall be guilty of an offence and for every such offence shall be liable to a fine on summary conviction not exceeding one hundred pounds.

(2) If any person contravenes paragraph (d) of subsection (1) of this section, the Authority may remove the mooring in question and recover from that person the expenses incurred in doing so.

PART III
—cont.

38.—(1) For the purpose of saving life and of rendering assistance to vessels in distress, the Authority may provide and maintain—

Life-saving
craft and
appliances.

(a) helicopters or other aircraft, lifeboats and similar vessels together with all necessary apparatus, equipment, works and conveniences connected therewith (including with the consent of the highway authority apparatus in a highway and including buildings, structures, landing grounds and landing places for the operation, maintenance or accommodation of the same and their crews);

(b) lifebuoys, lifelines and other life-saving appliances together with structures for their storage and safe-keeping.

(2) The Authority may enter into arrangements with any company, body or person for the provision and maintenance of any of the services and equipment referred to in subsection (1) of this section.

PART IV

OFFICERS AND SUPERANNUATION

39.—(1) The Authority may appoint such officers as the Authority think necessary for the efficient discharge of their functions.

Officers.

(2) An officer appointed under subsection (1) of this section shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the Authority think fit.

(3) A person shall, so long as he is, and for twelve months after he ceases to be, a member of the Authority, be disqualified from being appointed to any paid office of the Authority.

(4) Section 114 of the Act of 1972 (which provides for the taking of security by a local authority in respect of any officer employed by them and any other person likely to be entrusted with money or property belonging to them) shall have effect as if references therein to a local authority, and to officers employed by a local authority, included respectively references to the Authority and to officers employed by the Authority.

PART IV
—cont.

(5) Section 115 of the Act of 1972 (which relates to the accountability of officers of local authorities) shall have effect in relation to any officer employed by the Authority as it has effect in relation to officers employed by local authorities, subject to the necessary modifications.

(6) Section 117 of the Act of 1972 (which requires an officer of a local authority to disclose his interest in any contract of the authority) shall have effect in relation to any officer employed by the Authority as it has effect in relation to officers employed by local authorities, subject to the necessary modifications.

Power to provide dwelling-houses and make loans.

40.—(1) The Authority may, subject to such terms and conditions as they think fit—

(a) from time to time erect or provide on any lands belonging to them and may purchase, take on lease or hire elsewhere dwelling-houses for persons employed by them and (without prejudice to their power to impose other terms and conditions) permit the same to be occupied by such persons with or without payment of any rent or other charge;

(b) permit a person formerly in their employment or his dependants to continue to occupy a dwelling-house provided by them after his employment with the Authority has ceased and take from him such compensation for the retention of the dwelling-house as may be agreed without thereby creating a tenancy:

Provided that if the Authority permit any such person or his dependants to continue to occupy the dwelling-house for twelve months or longer they shall before the expiration of the period of twelve months grant him or them a tenancy of the dwelling-house on such terms and conditions as the Authority consider to be appropriate in the circumstances of the case;

(c) make loans to persons employed by them to assist such persons to acquire housing accommodation and guarantee loans made by building societies and other lenders to such persons for the purpose of house purchase;

(d) after persons have ceased to be employed by the Authority continue loans made to persons while they were in the employment of the Authority or continue to guarantee loans given by the Authority in respect of such persons.

(2) For the purposes of this section the provisions of sections 43 and 45 of the Housing (Financial Provisions) Act 1958 as amended by section 3 of the House Purchase and Housing Act 1959 and Part II of the Housing Subsidies Act 1967 shall, subject to any necessary modifications, apply to the Authority as if they were a county council.

1958 c. 42.
1959 c. 33.
1967 c. 29.

41. The Local Government Superannuation Regulations 1974 shall apply to persons in the service of the Authority as if such persons were in the service of a district council.

PART IV
—cont.

Superannuation.

42.—(1) The Authority may pay compensation—

Compensation for injury to or death of officers.

(a) to any of their officers who in the course of his employment sustains injury; or

(b) to a dependant of any of their officers who in the course of his employment dies or sustains injury resulting in death.

(2) Any compensation payable under this section may be paid either—

(a) by way of a lump sum; or

(b) by way of periodical payments of such amounts and at such times and for such periods as the Authority may from time to time determine having regard to all the circumstances.

(3) The payment of compensation under this section shall not affect any right or claim to damages or compensation which an officer of the Authority or his dependant may have against any person other than the Authority or, except so far as may be agreed when the compensation is granted, against the Authority.

43.—(1) The provisions of section 42 (Compensation for injury to or death of officers) of this Act shall extend so as to authorise the Authority to pay compensation to any voluntary assistant or to a dependant of a voluntary assistant.

Extension of section 42 to voluntary assistants, etc.

(2) In this section “voluntary assistant” means a person who, at the request or with the approval of the Authority, or an authorised officer of the Authority, performs any service or does anything, otherwise than for profit or reward, for the purposes of, or in connection with, the performance of any of the functions of the Authority.

PART V

FINANCIAL

44.—(1) The Authority shall make arrangements for the proper administration of their financial affairs and shall secure that a suitable person is charged with the administration of those affairs.

Finances and common fund.

(2) Except as otherwise expressly provided by this Act all the receipts of the Authority shall be carried to a common fund and all expenses incurred by the Authority shall be defrayed out of that fund.

PART V
—cont.
Accounts and
audit.

45.—(1) The Authority shall keep proper accounts and proper records in relation to those accounts and shall prepare proper statements of accounts in respect of each financial year.

(2) The accounts of the Authority shall at all reasonable times be open to inspection and transcription without payment by any member of a constituent body or by any officer of a constituent body authorised by that body for that purpose.

(3) The accounts of the Authority shall be audited in accordance with the provisions of Part VIII of the Act of 1972 as though the Authority were a joint committee within the meaning of section 154 (2) (e) of that Act but the period within which the resolution required by that paragraph must be passed shall be four months instead of six weeks and not less than one month's previous notice of the meeting at which the resolution is to be moved shall be given to every member of the Authority.

(4) A copy of the abstract of accounts of the Authority and of any report to the Authority made by any auditor shall be sent by the Authority to each constituent body as soon as may be after the completion of the audit.

(5) Section 42 of the Act of 1964 (which relates to the accounts of harbour undertakings) shall not apply to the undertaking.

Application
of revenue.

46.—(1) All moneys received by the Authority on account of revenue shall be applied—

- (a) in payment of the working and establishment expenses and cost of maintenance of the undertaking;
- (b) in payment of interest on moneys borrowed by the Authority;
- (c) in making the requisite provision for repayment of moneys so borrowed;
- (d) in payment of all other expenses (if any) properly chargeable to revenue.

(2) Subject to the provisions of subsection (1) of this section the Authority may apply the revenues of the Authority for all or any of the following purposes:—

- (a) in reduction of capital moneys borrowed;
- (b) in the renewal, construction, extension or improvement of any works or conveniences or in payment of any expenses which might otherwise have been defrayed out of capital moneys;
- (c) in providing a reserve fund in accordance with the provisions of section 48 (Reserve fund) of this Act.

47. Capital money received by the Authority on a disposal of land under section 16 (Power to acquire and dispose of land) of this Act shall be applied towards the discharge of any debt of the Authority or otherwise for any purpose for which capital money may properly be applied.

PART V
—cont.

Application of
capital money
on disposal
of land.

48.—(1) The Authority may if they think fit provide a reserve fund by setting aside such an amount as they may from time to time think reasonable to the maximum from time to time prescribed by the Authority.

Reserve fund.

(2) Any reserve fund provided under this section may be applied—

(a) in or towards meeting any deficiency on revenue account in any year; or

(b) in meeting any extraordinary claim or demand at any time arising against the Authority; or

(c) for defraying any expenditure for which capital is properly applicable, or in providing money for repayment of loans (but not in making any annual payment required to be made in respect of loans); or

(d) for defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any building, works, plant, equipment or article;

and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

(3) Resort may be had to the reserve fund provided under this section although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

49. It shall be the duty of the Authority so to exercise and perform their functions under this Act as to secure that, taking one year with another, the revenues (excluding any deficiency contribution made by a local authority under subsection (1) of section 51 (Contributions by local authorities) of this Act) of the Authority are, so far as is reasonably practicable, not less than sufficient to meet their outgoings properly chargeable to revenue account.

As to
revenues of
Authority.

50.—(1) In this section “the Act of 1961” means the Trustee Investments Act 1961.

Investment of
moneys in
reserve fund.

(2) Pending the application of moneys in any reserve fund provided under section 48 (Reserve fund) of this Act for the

1961 c. 62.

PART V
—cont.

purpose for which the reserve fund was established, the moneys in the reserve fund shall (unless applied in any other manner authorised by any enactment) be invested in accordance with the provisions of this section.

(3) Sections 1, 2, 5, 6 and 12 of the Act of 1961 (which relate to the investment powers of trustees) shall have effect in relation to any such moneys, and in relation to any investments or other property for the time being representing any such moneys, as if they constituted a trust fund and the Authority were the trustees of that trust fund; and subsection (2) of section 7 of that Act shall have effect in relation to sections 1, 2, 5 and 6 of that Act as applied by this subsection as it has effect in relation to those sections as applied by subsection (1) of section 7 of that Act:

Provided that the provisions of the Act of 1961 as so applied shall have effect in relation to the fund subject to the following modifications:—

- (a) subsection (1) of section 2 of that Act shall have effect with the substitution for the words “equal in value” of the words “respectively in the proportions of one to three in value (in this Act referred to as ‘the prescribed proportion’)”;
- (b) paragraph (b) of subsection (3) of the said section 2 and sub-paragraph (b) of paragraph 3 of the Second Schedule to that Act shall have effect with the substitution, for the words from “each” to the end, of the words “the wider-range part of the fund is increased by an amount which bears the prescribed proportion to the amount by which the value of the narrower-range part of the fund is increased.”;

and section 13 of that Act shall not apply in relation to the fund.

(4) The Authority shall be included among the authorities to which section 11 of the Act of 1961 applies.

(5) Any income arising from any such moneys, investments or property as are mentioned in subsection (3) of this section shall be carried to the common fund established under section 44 (Finances and common fund) of this Act.

Contributions
by local
authorities.

51.—(1) A local authority may on such terms as may be agreed and whether to meet an anticipated revenue deficiency or otherwise defray or contribute towards, or undertake to defray or contribute towards, expenditure incurred or to be incurred by the Authority for the purposes of this Act.

(2) A local authority may from time to time guarantee either the principal of or the interest on any moneys borrowed by the Authority under this Act, or both such principal and interest.

(3) In this section "local authority" has the meaning assigned thereto in the Local Loans Act 1875.

PART V
—cont.

1875 c. 83.

52.—(1) The Authority may borrow such sums as may be necessary for any of the purposes of this Act.

Power to borrow.

(2) Every sum borrowed under subsection (1) of this section shall be repaid within such period from the date of borrowing as the Authority may, with the consent of the Secretary of State for the Environment, determine.

(3) Moneys borrowed by the Authority under subsection (1) of this section shall be charged indifferently on all the revenues of the Authority and any securities created by the Authority shall rank equally without any priority.

(4) The provisions of Part I (except paragraphs 16 to 18) of Schedule 13 to the Act of 1972 and of any regulations made thereunder shall extend and apply to the Authority and to money borrowed by the Authority as if—

(a) the Authority were a local authority;

(b) the money so borrowed were borrowed under Part I of the said schedule;

(c) the revenues of the Authority and any sums paid to the Authority by local authorities under subsection (1) of section 51 (Contributions by local authorities) of this Act were the revenues of a local authority;

and subject to any other modifications which may be necessary to adapt the said Part I and regulations for the purposes of this section.

53. It shall not be lawful to exercise the powers of borrowing conferred upon the Authority by this Act otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Saving for powers of Treasury.

1946 c. 58.

PART VI

HARBOUR CHARGES

54.—(1) In addition to their powers to demand, take and recover ship, passenger and goods dues under section 26 of the Act of 1964 the Authority may demand, take and recover in respect of any dracone or floating dock, crane rig, drilling rig or other floating plant which is not a ship, as defined by section 57 of the Act of 1964, entering, using or leaving the harbour such charges as they think fit; and the provisions of sections 30, 31, 32

Power to make certain charges.

PART VI
—cont.

and 34 of the Act of 1964 shall, with any necessary modifications, apply to the charges authorised by this subsection as they apply to ship, passenger and goods dues.

(2) (a) The Authority may demand, take and recover such reasonable charges in respect of anything done or provided by them or on their behalf as they may determine.

(b) In this subsection “charge” does not include ship, passenger or goods dues as defined by section 57 of the Act of 1964 or a charge authorised by subsection (1) of this section.

Charges
leviable in
certain
adjacent
waters.

55. The powers of the Authority under section 26 (2) of the Act of 1964 for the levying of ship, passenger and goods dues at the harbour and all other the powers of the Act of 1964, this Act and the enactments incorporated therewith for the levying and payment of or otherwise in connection with such charges shall extend to any vessel in any lake, pit, pond or other substantially enclosed water or river, stream or watercourse adjacent to the harbour and from which for the time being such vessel may be navigated (whether or not through a lock or other similar work) into the harbour.

Conditions
relating to
payment of
charges.

56. Charges shall be payable subject to such conditions as the Authority may from time to time specify in their published list of charges, including any condition that charges or particular charges shall be deemed not to have been paid unless there is affixed to such part of the vessel in respect of which the charge has been remitted as may be so specified, such mark or notice as may be supplied by the Authority as evidence of payment.

As to
payment of
charges.

57.—(1) The several charges which the Authority are for the time being authorised under any enactment to demand, take and recover in respect of vessels and goods shall be payable before the removal from the harbour of any vessel or goods in respect of which the charges are payable, and may be demanded, taken or recovered by such persons, at such places, at such times and under such regulations as the Authority may from time to time appoint.

(2) Charges payable to the Authority shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(3) Where charges payable to the Authority may be recovered by them from more than one person, those persons shall be jointly and severally liable.

Penalty for
evading
payment of
charges.

58. 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 Authority

when the same shall become due and payable, he shall be liable to pay to the Authority a sum of fifty 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 Authority and shall be recoverable by the Authority in any court of competent jurisdiction.

PART VI
—cont.

59. Any person claiming the return of the whole or any part of any charges paid to the Authority shall make his claim, and produce all documents and give all information required by the Authority in proof thereof, within three years from the time of payment; and in default thereof the claim shall cease to be enforceable.

Claims for
repayment
of charges.

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

Deposit for
charges.

61. In addition to any other remedy given by this Act and by the Act of 1847, as incorporated with this Act, and whether the demand required by section 44 of that Act has been made or not, the Authority may recover any charges payable to them as a debt in any court of competent jurisdiction.

Recovery of
charges.

62.—(1) Vessels belonging to or employed in the service of the fire or police authority or the Water Authority shall, as respects their use in the exercise of the functions of such authority, be exempt from the payment of ship, passenger and goods dues within the meaning of the Act of 1964.

Exemptions
for certain
vessels, etc.

(2) All vessels engaged or employed in saving life and all persons engaged or employed in exercising or using any lifeboat or apparatus for saving life and all persons brought ashore from any vessel in distress shall at all times have free ingress, passage and egress to, along and from the harbour.

PART VII

MISCELLANEOUS AND GENERAL

63.—(1) In this section—

Limits of
harbour.

“the landward limits” means a line drawn across the river Crouch along the downstream face of the railway bridge at National Grid reference point TQ 76739408 and a line

PART VII
—cont.

drawn across the river Roach along the weir at Stamford Mills at National Grid reference point TQ 88669024;

“the seaward limit” means a line commencing at position latitude $51^{\circ} 37' 00''$ North; longitude $00^{\circ} 57' 19''$ East (Foulness Point) and drawn therefrom on a bearing of approximately 058° true to position latitude $51^{\circ} 41' 36''$ North; longitude $01^{\circ} 9' 00''$ East and then on a bearing of 270° true to position latitude $51^{\circ} 41' 36''$ North; longitude $00^{\circ} 56' 25''$ East (being a position east of Tillingham on the coast of the Dengie peninsula).

(2) The limits within which the Authority shall exercise jurisdiction as harbour authority shall comprise so much of the rivers Crouch and Roach, the specified waters and the sea (including all islands, rivers, streams, creeks, waters, watercourses and channels therein) as for the time being lies within the landward limits, the seaward limit, the seashore and the banks of the said rivers and waters and is at or below the level of high water.

Byelaws.

64.—(1) The Authority may from time to time make byelaws, as they think fit, for all or any of the following purposes:—

- (a) for the regulation of the mooring, careening, beaching or anchoring and keeping of vessels and houseboats in the harbour;
- (b) for the regulation of the placing, laying down, maintaining, using and having existing and future moorings in the harbour and for the prescription of patterns of moorings in the harbour or on banks belonging to the Authority adjoining the harbour;
- (c) for securing the good and orderly conduct and the safety of persons in charge of or using vessels or houseboats in the harbour;
- (d) for preserving order and preventing and suppressing nuisances and offences against decency in the harbour;
- (e) for the prevention or regulation of the deposit or disposal of—
 - (i) rubbish (including ballast, stones, earth, clay or other refuse and any other abandoned article or material whether liquid or solid but not including any substance the discharge or escape of which into the

harbour is subject to the provisions of the Prevention of Oil Pollution Act 1971) in the harbour, whether or not from any vessel or houseboat;

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—cont.
1971 c. 60.

(ii) sewage from any vessel or houseboat in the harbour;

- (f) for the regulation and control in the harbour of the navigation and speed of vessels and the prevention of obstruction to vessels using the harbour;
- (g) for regulating the launching of vessels within the harbour and the use of pontoons, slipways and landing places;
- (h) for securing the safety of vessels and persons using, and of property in the harbour;
- (i) for preventing damage to any land or property of the Authority situated in the harbour;
- (j) for preventing or minimising the outbreak and spreading of fire on land of the Authority or under their control, including regulating or prohibiting the lighting of fires thereon;
- (k) for the preservation of flora and fauna in the harbour:

Provided that—

- (i) before making or altering byelaws under this section or the Act of 1847 the Authority shall consult with the constituent bodies and with such other persons as the Advisory Committee may consider appropriate;
- (ii) no byelaw made under this section shall render unlawful the doing on private land outside the harbour of any act with the lawful authority of the owner or occupier.

In this paragraph “private land” means any land other than land to which the public has access (whether as of right or by express or implied permission).

(2) Byelaws made under this section may relate to the whole of the harbour or to any part thereof, and may make different provisions for different parts thereof; and in paragraph (e) of subsection (1) of this section the expression “harbour” shall include any lake, pit, pond or other substantially enclosed water or river, stream or watercourse adjacent to the harbour and from which for the time being vessels may be navigated (whether or not through a lock or other similar work) into the harbour.

PART VII
—cont.

(3) The byelaws which may from time to time be made by the Authority 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 on summary conviction not exceeding one hundred pounds and in the case of a continuing offence a further fine not exceeding ten pounds for each day during which the offence continues after conviction therefor.

(4) Subsections (3) to (8) of section 236 and section 238 of the Act of 1972 shall apply to all byelaws made by the Authority in respect of the undertaking as if they were a local authority and a person designated for the time being by the Authority for that purpose of the Authority were the proper officer of the local authority, and all fines imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of fines.

(5) The confirming authority in relation to byelaws made under this section or under section 83 of the Act of 1847 shall be the Secretary of State for the Environment.

(6) Where so provided by the byelaws, any duly authorised officer of the Authority, any constable or any person called to the assistance of such officer or constable may without warrant other than this Act arrest any person who is committing or has committed any offence against any such byelaw and whose name or residence is unknown to and cannot be ascertained by such officer or constable.

1952 c. 1.

(7) As from 1st April 1975 sections 62 and 63 of the Essex County Council Act 1952 shall cease to apply in any part of the harbour but all byelaws made in pursuance of those sections by the Burnham on Crouch Urban District Council and in force immediately before the said date in any part of the harbour shall until amended or revoked continue in full force and effect within the part of the harbour to which they apply immediately before the said date.

1933 c. 51.

(8) Nothing in this section or in any byelaws made thereunder shall restrict or conflict with any byelaws made from time to time by the County Council under and by virtue of the provisions of section 249 of the Local Government Act 1933 or section 235 of the Act of 1972.

Byelaws
relating to
certain
dangerous
goods.

65.—(1) The Authority may make byelaws as to the loading and discharging by vessels within the harbour of dangerous goods (which expression in this section does not include dangerous

goods to which byelaws made by the Authority under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply), and as to the bringing, handling, transport or storage of such goods within the harbour, and generally as to the precautions to be observed with respect to such goods while within the harbour, and such byelaws may in particular provide—

PART VII
—cont.

1875 c. 17.
1928 c. 32.

- (a) for regulating the places at which vessels are to load or discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;
- (b) for regulating the places at which vessels carrying dangerous goods are to be moored; and
- (c) for the due enforcement of the byelaws.

(2) Where a person is charged with an offence against a byelaw in force under this section it shall be a defence for that person to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and, if that person is charged as the owner or master of a vessel, that in addition all reasonable means were taken by the master to prevent the commission of the offence.

(3) The confirming authority in relation to byelaws made under this section shall be the Secretary of State for the Environment.

(4) Byelaws made under subsection (1) of this section may contain provisions for the imposing on persons offending against any of the byelaws of fines not exceeding, on summary conviction, one hundred pounds, and, on conviction on indictment, one thousand pounds.

(5) Before in any case making any byelaws under this section the Authority shall consult the Confederation of British Industry.

(6) Nothing in any byelaw made under subsection (1) of this section shall prejudice or affect the operation of the Merchant Shipping (Dangerous Goods) Rules 1965 as amended by the Merchant Shipping (Dangerous Goods) (Amendment) Rules 1968 and the Merchant Shipping (Dangerous Goods) (Amendment) Rules 1972.

66.—(1) The Authority may grant upon such terms and conditions as they may think fit licences for pleasure craft to be let for hire or to be used for carrying passengers for hire within the harbour, and to the boatmen having the charge of or

Power to
license
pleasure craft
and boatmen.

PART VII
—cont.

navigating such craft or persons assisting them, and may charge such reasonable annual fees for such licences, for any craft and for any boatman or other such person, as the Authority think fit.

(2) Any such licence may be granted for such period as the Authority may think fit and may be suspended or revoked by the Authority whenever they shall deem such suspension or revocation to be necessary or desirable in the interests of the public:

Provided that the existence of the power to suspend or revoke the licence shall be plainly set forth in the licence itself.

(3) No person shall at any time—

- (a) let for hire within the harbour a pleasure craft which is not so licensed, or the licence for which is suspended; or
- (b) carry, or permit to be carried, passengers for hire within the harbour in a pleasure craft unless the craft, and the boatman in charge thereof and the navigator, are so licensed and any such licence is not suspended:

Provided that this subsection shall not be taken to require the licensing as a boatman of a person who takes on hire within the harbour a pleasure craft for purposes other than for profit.

(4) No person shall carry or permit to be carried in any pleasure craft licensed pursuant to this section a greater number of passengers for hire than shall be specified in the licence applying to such craft, and every owner of any such craft shall, before permitting the same to be used for carrying passengers for hire, paint or cause to be painted, in letters and figures not less than 2.5 centimetres in height and 2 centimetres in breadth, on a conspicuous part of the craft, his own name and also the number of persons which it is licensed to carry, in the form “ Licensed to carry . . . persons ”.

(5) Any person who shall act in contravention of the provisions of this section shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding fifty pounds or for a second or subsequent offence to a fine not exceeding one hundred pounds.

(6) Any person aggrieved by the withholding, suspension or revocation of any licence under the provisions of this section may appeal to a magistrates’ court after the expiration of two clear days after such withholding, suspension or revocation:

Provided that the person so aggrieved shall give twenty-four hours’ written notice of such appeal, and the ground thereof, to

the clerk of the Authority, and the court shall have power to make such order as it sees fit and to award costs which shall be recoverable summarily as a civil debt.

PART VII
—cont.

(7) The powers of the Chelmsford Council, the Maldon Council and the Rochford Council under section 172 of the Public Health Act 1875 and section 94 of the Public Health Acts Amendment Act 1907 (as amended by section 64 (Licensing of boatmen and pleasure boats) of the Essex County Council Act 1952) shall as from 1st April 1975 cease to have effect in the harbour, but an existing licence issued under the powers of the said Acts shall be deemed to be a licence for the purposes of subsection (1) of this section.

1875 c. 55.

1907 c. 53.

1952 c. 1.

(8) Nothing in this section shall apply to any pleasure craft which is required by the Act of 1894 to have a passenger certificate or to any hovercraft currently registered in the United Kingdom:

Provided that this subsection shall not be taken to preclude the licensing of boatmen having charge of or navigating pleasure craft requiring passenger certificates and falling within classes IV, V, VI and VI (A) as defined in the Merchant Shipping (Passenger Ship Construction) Rules 1965.

(9) In this section “pleasure craft” means any vessel of not more than 100 tons gross.

67.—(1) Any duly authorised officer of the Authority may require any person in or seeking access to the harbour or any vessel using the harbour to state truly his name and address and the nature and place of his business therein or his purpose therein, or in seeking access thereto, and may require any such person to produce for inspection by such officer any pass or other authority which may have been issued to him by or on behalf of the Authority, and any person who fails to comply with any such requirement shall be guilty of an offence and liable to a fine not exceeding twenty pounds.

Powers of
interrogation,
removal and
search.

(2) Section 298 of the Customs and Excise Act 1952 shall have effect for the purposes of this Act as if the harbour were the dock area of a port within the meaning of subsection (2) (c) of that section.

1952 c. 44.

68.—(1) The owner or master of a vessel adrift in the harbour shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding fifty pounds.

Vessels adrift.

(2) It shall be a defence for the owner or master of a vessel charged with an offence under subsection (1) of this section to prove that the vessel did not become adrift as the result of any neglect or default on his part.

PART VII
—cont.

Extension of powers of harbour master to give directions.

69. Section 52 of the Act of 1847, in its application to the Authority and to the harbour master—

- (a) shall extend to empower the harbour master to give directions prohibiting the mooring or anchoring of vessels in any particular part or parts of the harbour; and
- (b) shall not be construed as requiring 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.

70. Section 53 of the Act of 1847, in its application to the Authority and the harbour master, shall not be construed as requiring 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.

Marking harbour and approaches.

71.—(1) The Authority may provide, place and erect in or outside the harbour and the approaches thereto in such places as they deem proper, lightships, lighthouses, buoys, beacons, guiding posts or signs for the guidance of vessels proceeding to or from the harbour.

(2) The Authority may maintain and repair any lightships, lighthouses, buoys, beacons, guiding posts or signs provided and erected by them under subsection (1) of this section.

(3) The Authority shall have the powers and be subject to the duties of a local lighthouse authority as set out in Part XI of the Act of 1894.

Authority to be public body for purposes of Local Authorities (Goods and Services) Act 1970.
1970 c. 39.

72. The Authority shall be deemed to be a public body for the purposes of the Local Authorities (Goods and Services) Act 1970.

Powers of local authorities and statutory undertakers.

73.—(1) In this section “local authority” means the Greater London Council or the council of any London borough, the County Council or the council of any county bordering the county or the council of any district within the county.

(2) It shall be lawful for any local authority or statutory undertakers to enter into and carry into effect agreements or arrangements with the Authority for the accomplishment of the purposes of this Act and for those purposes to appropriate and use any land or property for the time being belonging to or held by them and such agreements or arrangements may include provision for the defraying of or making of contributions by the Authority towards expenditure incurred in connection therewith.

PART VII
—cont.

74. The Authority shall be a body to which sections 173 to 178 of the Act of 1972 (which make provision for the payment of allowances to members of local authorities and other bodies) apply.

Payment of
members'
allowances.

75.—(1) The Authority may enter into a contract with any person whereby, in consideration of payments by the Authority by way of premium or otherwise, that person undertakes to pay to the Authority such sums as may be provided in the contract in the event of any member of the Authority meeting with a personal accident, whether fatal or not, while he is engaged on the business of the Authority.

Insurance by
Authority
against
accidents to
members.

(2) Any sum received by the Authority under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to, or to the personal representatives of, the member of the Authority in respect of an accident to whom that sum is received.

(3) The provisions of the Life Assurance Act 1774 shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Insurance Companies Act 1958 to be a policy of insurance upon the happening of personal accidents.

1774 c. 48.

1958 c. 72.

(4) In this section, the expression "member of the Authority" includes a member of a committee or sub-committee of the Authority who is not a member of the Authority.

76. The Authority may accept gifts from any company, body or person for or in connection with the exercise of any of their functions under this Act, including gifts of land.

Acceptance
of gifts.

77. For the purposes of this Act and any byelaw made thereunder, the jurisdiction of all justices of the peace having jurisdiction at any time within any part of the harbour, shall extend throughout the harbour.

Jurisdiction
of justices.

PART VII
—cont.

For protection
of Anglian
Water
Authority.

78. For the protection of the Water Authority the following provisions shall, unless otherwise agreed in writing between the Authority and the Water Authority, apply and have effect:—

(1) In this section, except where the context otherwise requires—

“ authorised work ” means any work proposed to be executed under section 12 (General duty and powers of Authority), or section 20 (Power to maintain, alter and improve the harbour, etc.) of this Act or any of the incorporated provisions of the Act of 1847 or any other thing proposed to be done under section 13 (Ancillary powers of Authority) or any of the said provisions which may interfere with, or with the use of, a sea defence work or a watercourse, but does not include—

1930 c. 44.

(i) any works authorised under section 63 of the Land Drainage Act 1930; or

1961 c. 48.

(ii) any structure for the erection, alteration or repair of which the consent of the Water Authority is required under section 31 of the Land Drainage Act 1961;

“ construct ” includes carry out, place, lay down, alter, renew or remove, and “ constructed ” and “ construction ” shall be construed accordingly;

“ dredging operation ” means an operation authorised by section 23 (Power to dredge) of this Act;

“ plan ” includes sections and particulars;

1930 c. 44.

1961 c. 48.

1973 c. 37.

“ sea defence work ” includes a river wall or defence work for the time being vested in or under the control of the Water Authority for the purposes of the Land Drainage Act 1930, the Land Drainage Act 1961 and the Water Act 1973;

“ watercourse ” means a watercourse, as defined in section 81 of the Land Drainage Act 1930, subject to the control of the Water Authority;

“ wreck raising operation ” means an operation authorised by sections 530 or 532 of the Act of 1894 as modified by section 30 (Powers with respect to disposal of wrecks) of this Act:

(2) (a) The Authority shall, before commencing to construct any authorised work, or to carry out any dredging operation or any wreck raising operation, deliver to the Water Authority for their approval, which shall not be unreasonably withheld, a plan defining the nature, extent and manner of the work or operation and (in the case

of a dredging operation) particulars as to the place and manner of disposal of matter taken up or collected in the course of such operation;

- (b) Any work or operation to which sub-paragraph (a) of this paragraph applies shall not be constructed or carried out otherwise than in accordance with such plan and in such manner as may be approved by the Water Authority in accordance with that sub-paragraph or as may be settled by arbitration:

Provided that, if the Water Authority do not within two months after the delivery of such plan signify to the Authority their disapproval thereof and the grounds for their disapproval, they shall be deemed to have approved the plan;

- (c) The Authority shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but in such a case they shall give to the Water Authority notice as soon as reasonably practicable, and a plan defining the nature and extent of the operation as soon as reasonably practicable thereafter, and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances;
- (d) Not less than fourteen days before commencing a work of maintenance or repair of an authorised work which may interfere with a sea defence work or with the efficiency of a watercourse for land drainage purposes the Authority shall, except in case of emergency, submit to the Water Authority for their information a notice of intention to commence the work and a description of the work;
- (e) Sub-paragraph (a) of this paragraph shall not apply in any case to which sub-paragraph (d) thereof applies:

- (3) In giving their approval to a plan delivered under paragraph (2) of this section the Water Authority may attach to their approval such conditions (including conditions requiring the construction of protective works by, and at the expense of, the Authority during the carrying out of the work or operation) as are reasonably necessary—

(a) in the case of a dredging operation, to prevent pollution of any stream (including any controlled waters within the meaning of the Clean Rivers (Estuaries and Tidal Waters) Act 1960) or of water contained in underground strata, arising from the disposal of materials taken up or collected in the course of the operation; and

PART VII
—cont.

(b) in the case of an authorised work, a dredging operation or a wreck raising operation, to prevent pollution of any such stream, to safeguard a sea defence work or watercourse against damage, or to secure that the efficiency of a watercourse for land drainage purposes is not impaired:

- (4) If, by reason of the construction of any authorised work, the carrying out of any dredging operation or wreck raising operation, the maintenance or repair of an authorised work, or the failure of such a work, or of the Authority to maintain it, a sea defence work is interfered with or the efficiency of a watercourse for land drainage purposes is impaired, the Water Authority may—

(a) make good the sea defence work or watercourse so as to restore it to its former standard of efficiency; or

(b) where necessary, construct some other work in substitution therefor;

and may recover from the Authority the reasonable cost of so doing; and for the purposes of this paragraph such cost shall include a proper proportion of the overhead charges of the Water Authority and any cost of executing works needed for remedying any subsidence of the defence wall or of the substituted work during such reasonable period as may be agreed between the Authority and the Water Authority, or, failing agreement, settled by arbitration:

- (5) If the Water Authority have reasonable grounds for believing that a sea defence work or a watercourse is likely to be damaged or the efficiency of a watercourse for land drainage purposes is likely to be impaired in any of the circumstances mentioned in the last foregoing paragraph, they may carry out such protective works as may be agreed between the Water Authority and the Authority or as, failing agreement, may be settled by arbitration, and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the Water Authority) from the Authority:
- (6) Any difference arising between the Authority and the Water Authority under this section shall be determined by arbitration.

For
protection
of certain
statutory
undertakers.

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

- (1) In this section “the undertakers” means the electricity board, the gas corporation and the water company, or any of them, as the case may be:

- (2) (a) The provisions of subsection (1) of section 20 (Power to maintain, alter and improve the harbour, etc.) of this Act shall not apply to any electricity work, gas work or water work except with the written consent of the undertakers;
- (b) In the exercise of the powers of the said section 20 the Authority shall not damage or injuriously affect any electricity work, gas work or water work or without the consent in writing of the undertakers interfere with any such work and the said powers shall be so exercised as not to obstruct or render less convenient, so far as is reasonably practicable, the access to any electricity work, gas work or water work:
- (3) (a) Before granting to any person a works licence to carry out works at, over, under or within 45 metres of any electricity work, gas work or water work the Authority shall submit to the undertakers particulars of the proposed works and furnish them with such further particulars with respect thereto as the undertakers may reasonably require;
- (b) Upon the grant of a licence in respect of which notice is required to be given under sub-paragraph (a) of this paragraph, the Authority shall supply to the undertakers to whom the notice is given a copy of the licence upon the grant thereof and any conditions subject to which it is granted:
- (4) (a) Nothing in section 34 (Restriction on construction of works) of this Act shall apply to the construction, alteration, renewal or extension by the undertakers of any electricity work, gas work or water work from time to time authorised under or by virtue of any enactment or any consent, wayleave or other instrument given or made under any enactment or make it unlawful for the undertakers to carry out in an emergency any work not so authorised necessary for the protection of or to ensure the efficient operation of any electricity work, gas work or water work subject to any directions necessary for the protection of navigation from time to time given by the Authority to the undertakers concerned;
- (b) Nothing in section 24 (Dredging in harbour) of this Act shall make it unlawful for the undertakers to carry out in an emergency any dredging necessary for the protection of or to ensure the efficient operation of any electricity work, gas work or water work;
- (c) If in an emergency the undertakers carry out any work or dredging they shall inform the Authority as soon as practicable of the works or dredging being carried out:

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—cont.

- (5) Except in a case which is, in the opinion of the Authority, an emergency, the Authority shall before raising, removing or destroying any vessel, sunk, stranded or abandoned in the harbour and within a distance of 135 metres of any electricity work, gas work or water work give the undertakers as long notice as is practicable of their intention to do so:
- (6) Nothing in this section or in subsection (3) of section 23 (Power to dredge) of this Act shall impose on the Authority any duty or any liability with respect to damage to any electricity work, gas work or water work unless it be shown that the Authority knew or ought reasonably to have known of the presence and positioning of that work:
- (7) Any difference which may arise between the Authority and the undertakers under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

For protection
of Post Office.

80. For the protection of the Post Office the following provisions shall, unless otherwise agreed in writing between the Authority and the Post Office, apply and have effect:—

- (1) In the exercise of the powers conferred by subsection (1) of section 23 (Power to dredge) of this Act within a distance of 135 metres of any subaqueous cable where blasting operations are involved, or in any other case within a distance of 45 metres of any subaqueous cable, the Authority shall give in writing to the Post Office as long notice as possible and in any event not less than 28 days' notice in respect of their intention to exercise such powers:
- (2) Except in a case which is, in the opinion of the Authority, an emergency, the Authority shall before raising, removing or destroying any vessel which is sunk, stranded or abandoned in the harbour within a distance of 180 metres of any subaqueous cable give to the Post Office as long notice as is practicable of their intention to do so:
- (3) Nothing in this section or in subsection (3) of section 23 (Power to dredge) of this Act shall have effect in relation to any subaqueous cable unless it can be shown that the Authority knew or ought reasonably to have known of the presence and position of such cable.

As to nature
conservation.

81.—(1) In this section—

- “ the council ” means the Nature Conservancy Council;
- “ the protected lands ” means (a) the lands indicated by red colouring on the signed plan (being parts of sites of

special scientific interest notification of which was given before the passing of this Act) and (b) such other lands (forming parts of sites of special scientific interest notification of which was given after the passing of this Act) as may be agreed between the Authority and the council;

PART VII
—cont.

“the signed plan” means the plan signed in duplicate by John Spencer Mills on behalf of the County Council and by Robert Edward Boote on behalf of the council;

“site of special scientific interest” means any areas of land in respect of which notification has been given to any local planning authority under section 23 of the National Parks and Access to the Countryside Act 1949.

1949 c. 97.

(2) In the performance of the duty imposed upon them by subsection (1) of section 12 (General duty and powers of Authority) of this Act, the Authority shall not undertake, or give permission to others (except the owners of any interest in the land) to undertake, within the harbour the laying of any moorings or the carrying out of any works within, under or over the protected lands in any case where such moorings or works would, in the opinion of the council, be detrimental to the purposes for which the lands of which the protected lands form part were the subject of a notification as a site of special scientific interest and should not be allowed.

82. Where under this Act any matter is to be referred to or determined by arbitration the reference shall be to a single arbitrator to be agreed upon between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers. Arbitration.

83. Sections 233 and 234 of the Act of 1972 (which relate to the service of notices and the authentication of documents) shall apply to the Authority as if the Authority were a local authority, as if the clerk of the Authority were the proper officer of the local authority and as if references in those sections to that Act were references to this Act. Application of sections 233 and 234 of Act of 1972.

84.—(1) In any proceedings—

(a) a document purporting to be certified by the clerk of the Authority as a copy of a resolution, order or report passed, made or adopted by the Authority or by any committee thereof on a specified date shall be evidence that that resolution, order or report was duly passed, made or adopted by the Authority or that committee on the said date;

Evidence of appointments, authority, etc.

PART VII
—cont.

(b) a document purporting to be so certified as a copy of a minute duly drawn up, entered and signed in accordance with paragraph 41 of Schedule 12 to the Act of 1972 of the proceedings of a meeting of the Authority or of any committee thereof on a specified date shall be evidence to the same extent as the original minute;

(c) a document purporting to be signed by the clerk of the Authority certifying the appointment of or any authority given to an officer of the Authority or any committee thereof shall be evidence that that appointment or authority was duly made or given by the Authority or that committee.

(2) In this section the expression “ officer ” includes a servant, solicitor or agent.

Inquiries.

85. The Secretary of State may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Act, and section 250 of the Act of 1972 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Authority were a local authority.

Crown rights.

86. Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular, nothing herein contained shall authorise the Authority to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners or belonging to a government department or held in trust for Her Majesty for the purpose of a government department without the consent in writing of such commissioners on behalf of Her Majesty or, as the case may be, the consent in writing of that government department first had and obtained for that purpose.

Saving for
Dumping at
Sea Act 1974.
1974 c. 20.

87. Nothing in this Act shall affect the restrictions imposed by the Dumping at Sea Act 1974.

Saving for
Coast
Protection
Act 1949.
1949 c. 74.

88.—(1) Except as provided in subsection (2) of this section, nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Board of Trade or the Secretary of State for Trade to certain operations and contain other provisions for the safety of navigation).

(2) An application for consent under the said sections 34 to 36 to—

PART VII
—cont.

(a) the carrying out of any operations for which a works licence is required under section 34 (Restriction on construction of works) of this Act; or

(b) the deposit of any materials for which the approval of the Authority is required under subsection (5) of section 24 (Dredging in harbour) of this Act;

shall not be determined, until application has been made to the Authority for a works licence or for such approval (as the case may be) and the Authority have notified the applicant of their decision upon his application or, where there is an appeal in respect of any decision given, or deemed to have been given, by the Authority upon that application, the appeal has been dealt with.

89. The provisions of the Town and Country Planning Act 1971, and any restrictions or powers imposed or conferred in relation to land by or by virtue of those provisions, shall apply and may be exercised in relation to any land notwithstanding that the development thereof is, or may be, authorised or regulated by or under this Act.

Saving for town and country planning.
1971 c. 78.

90.—(1) The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto shall, unless otherwise agreed, be borne by the County Council and the Water Authority in equal shares.

Costs of Act.

(2) (a) The County Council and the Water Authority may without the consent of any sanctioning authority borrow the respective sums requisite for the payment of the amounts of the said costs, charges and expenses payable by them and they shall repay all moneys so borrowed within such periods as they may respectively determine, not exceeding five years from the day of borrowing.

(b) The provisions of Part I of Schedule 13 to the Act of 1972 so far as they are not inconsistent with this Act shall extend and apply to money borrowed under this subsection by the County Council as if it were borrowed under the said Part I and the period fixed by this subsection for the repayment of the money borrowed shall as respects that money be the period fixed by the said Part I.

Section 5.

SCHEDULE

PROVISIONS WITH RESPECT TO THE AUTHORITY

MEETINGS OF AUTHORITY

1. The first meeting of the Authority shall be held on such day and at such time and place as may be appointed by the proper officer of the Essex County Council and the said officer shall make arrangements for notice of the meeting to be sent by post to each member of the Authority not less than fourteen days before the day so appointed.

2.—(1) The first meeting of the Authority shall be the annual meeting for the year then current and thereafter the first meeting held after the 1st January in any year shall be the annual meeting.

(2) The Authority shall in every year after the first year hold an annual meeting and at least three other meetings for the transaction of general business which as near as may be shall be held at regular intervals.

(3) The chairman of the Authority may call a meeting of the Authority at any time.

(4) If the chairman refuses to call a meeting of the Authority after a requisition for that purpose, signed by three members of the Authority, has been presented to him, or if, without so refusing, the chairman does not call a meeting within seven days after such requisition has been presented to him, any five members of the Authority, on that refusal or on the expiration of seven days, as the case may be, may forthwith call a meeting of the Authority.

CHAIRMAN OF MEETING

3.—(1) At a meeting of the Authority the chairman of the Authority, if present, shall preside.

(2) If the chairman of the Authority is absent from a meeting of the Authority, the vice-chairman of the Authority, if present, shall preside.

(3) If both the chairman and vice-chairman of the Authority are absent from a meeting of the Authority, such member as the members of the Authority present shall choose shall preside.

APPOINTMENT OF COMMITTEES

4.—(1) The Authority may appoint a committee for the exercise of any of the functions of the Authority which in the opinion of the Authority can be better regulated and managed by means of the committee and may delegate to a committee so appointed the exercise of any such functions except the power of borrowing money.

(2) Any such committee (other than a committee for regulating and controlling the finance of the Authority) may comprise persons who are not members of the Authority:

Provided that at least two-thirds of the members of every committee shall be members of the Authority.

PROCEEDINGS OF AUTHORITY AND COMMITTEES

5. The proceedings of the Authority, or of any committee appointed by them, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or qualification of, any person as a member, or as chairman or vice-chairman, of the Authority or committee; and, in particular, any such proceedings shall not be invalidated by the absence from the first or any other meeting of the Authority or any such committee of any member of the Authority who pursuant to subsection (2) of section 5 (Constitution of Authority) of this Act is to be appointed by the Authority or by the Advisory Committee.

6. Minutes of the proceedings of a meeting of the Authority, or of any committee appointed by them, purporting to be signed at the same or next ensuing meeting of the Authority, or, as the case may be, at the same or any subsequent meeting of the committee, by the person presiding thereat, shall be evidence of the proceedings, and shall be received in evidence without further proof; and until the contrary is proved, every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held, and all the proceedings had at the meeting to have been duly had, and, if the proceedings are the proceedings of the committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

7. If a member of the Authority or any person acting as deputy for him in accordance with the provisions of section 9 (Nomination of deputies) of this Act has any pecuniary interest in any contract or proposed contract to which the Authority is, or would be, a party and is present at a meeting of the Authority or of any committee of the Authority at which that contract is the subject of consideration, he shall at that meeting as soon as practicable after the commencement thereof disclose that fact and shall not vote on any question with respect to that contract.

8. Subject to the provisions of this schedule the procedure and business of the Authority shall be regulated in such manner as the Authority may from time to time determine.

AUTHENTICATION OF AUTHORITY'S SEAL

9. The application of the seal of the Authority shall be authenticated by the signatures of the chairman of the Authority or some other member thereof authorised by the Authority to authenticate the application of the seal thereof and of such officer as shall be authorised by the Authority to act in that behalf.

APPEARANCE IN LEGAL PROCEEDINGS

10. Section 223 of the Act of 1972 (which relates to the appearance of local authorities in legal proceedings) shall have effect in relation to the Authority as it has effect in relation to a local authority within the meaning of that Act.

