

River Wear Barrage Act 1974

CHAPTER xxxvii

ARRANGEMENT OF SECTIONS

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ELIZABETH II



1974 CHAPTER xxxvii

An Act to empower the Washington Development Corporation to construct a barrage with movable gates and a footbridge across the river Wear in the county of Tyne and Wear and in connection therewith to execute other works and to acquire lands; and for other purposes.

[19th December 1974]

WHEREAS—

(1) The Washington Development Corporation (in this Act called “the Corporation”) was established under the New Towns Act 1946 for an area of 5583 acres in the county of Tyne and Wear designated by the Washington New Town (Designation) Order 1964 and the Washington New Town (Designation) Amendment Order 1972:

1946 c. 68.

S.I. 1964/1162.

S.I. 1972/816.

(2) It is expedient that the level of the river Wear (in this Act called “the river”) be regulated within the area of the Corporation and that flood prevention works be constructed:

(3) Accordingly it is expedient that the Corporation should be empowered to construct, maintain and operate a barrage with movable gates and a footbridge across the river in the county of Tyne and Wear and that provision should be made for the regulation of navigation in connection therewith as in this Act provided:

(4) The council of the metropolitan district of Sunderland (in this Act called "the borough council") is authorised to exercise certain powers for the improvement and conservancy of the river and the port of Sunderland:

(5) It is expedient that the other provisions contained in this Act be enacted:

(6) The objects of this Act cannot be effected 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 by the mayor, aldermen and burgesses of the county borough of Sunderland, many of whose functions were transferred to the borough council by the Local Government Act 1972:

1972 c. 70.

(8) Plans and sections showing the lines, situations and levels of the works authorised by this Act, and a book of reference to such plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands which may be acquired or used compulsorily under the powers of this Act, have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, and with the clerk of the county council of the administrative county of Durham and the chief executive of the county council of Tyne and Wear, which plans, sections and book of reference are in this Act respectively referred to as the deposited plans, the deposited sections and the deposited book of reference:

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

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the River Wear Barrage Act 1974.

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

- Part I.—Preliminary.
- Part II.—Lands.
- Part III.—Works.
- Part IV.—Operation of barrage.
- Part V.—Miscellaneous.

PART I
—cont.
Division of
Act into
Parts.

3.—(1) In this Act, except as otherwise provided or unless the Interpretation. context otherwise requires—

- “ the Act of 1950 ” means the Public Utilities Street Works Act 1950; 1950 c. 39.
- “ the Act of 1965 ” means the Compulsory Purchase Act 1965; 1965 c. 56.
- “ the barrage ” means Work No. 1 or any part thereof and any works, apparatus or conveniences constructed or provided by the Corporation as a part of, or in connection with, or for the purposes of, that work or any part thereof;
- “ the barrage gates ” means the movable gates forming part of the barrage;
- “ the borough council ” means the council of the metropolitan district;
- “ the Corporation ” means the Washington Development Corporation;
- “ 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;
- “ functions ” includes powers and duties;
- “ land ” or “ lands ” includes land covered by water and any interest in land and any easement or right in, to or over land;
- “ level of high water ” means the level of mean high-water springs;
- “ the limits of deviation ” means the limits of deviation shown on the deposited plans;
- “ the metropolitan district ” means the metropolitan district of Sunderland;
- “ on ” in relation to any lands includes over or under;
- “ the railways board ” means the British Railways Board;

PART I
—cont.
1959 c. 25.

“ the river ” means the river Wear;

“ street ” has the same meaning as in the Highways Act 1959;

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

“ the tribunal ” means the Lands Tribunal;

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

1968 c. 59.

“ vessel ” means every description of vessel, whether with or without means of propulsion of any kind, and includes anything constructed or used to carry persons, goods, plant or machinery, or to be propelled or moved, on or by water, a seaplane on or in the water and a hovercraft within the meaning of the Hovercraft Act 1968;

“ the water authority ” means the Northumbrian Water Authority;

“ the works ” means the works authorised by this Act.

(2) Unless the context otherwise requires any reference in this Act to—

(a) any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any enactment including this Act;

(b) a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act;

(c) a work shall be construed as a reference to that work both during the execution and after the completion thereof.

(3) References in this Act to reference points shall be construed as references to National Grid reference points.

Application
of Part I of
Act of 1965.

1946 c. 49.

4.—(1) Part I of the Act of 1965 (except section 4, subsection (5) of section 24 and section 27 thereof and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of Part II of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under the said Part II as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 applies and as if the said Part II were a compulsory purchase order under the said Act of 1946.

1845 c. 18.

(2) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under Part II of this Act.

PART II

LANDS

5.—(1) Subject to the provisions of this Act, the Corporation may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require—

- (a) for the purposes of constructing or maintaining the works or of obtaining or improving access thereto or of operating the barrage;
- (b) for the purposes of obtaining materials or depositing spoil or other material excavated during the construction of the works;
- (c) otherwise for the purposes of this Act or other purposes connected therewith:

Provided that no spoil or other material shall by virtue of the powers of this section be deposited in any place below the level of high water otherwise than in such a position and subject to such conditions and restrictions as may be fixed by the Secretary of State.

(2) (a) The powers of the Corporation for the compulsory acquisition of land under this section shall not be exercised after 31st December, 1978.

(b) The power to acquire compulsorily any such land shall for the purposes of this subsection be deemed to have been exercised if, on or before 31st December, 1978, notice to treat has been served in respect of that land.

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

Correction
of errors in
deposited
plans and
book of
reference.

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

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the chief executive of the county council of Tyne and Wear and with every person who has the

PART II
—cont.

custody of a copy of the plans deposited in accordance with the Standing Orders of the Houses of Parliament, and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the land and execute the works in accordance with the certificate.

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

Acquisition
of part
only of
certain
properties.

7.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965 as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of subsection (1) of section 8 of the Act of 1965.

(2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house together with any park or garden belonging thereto, then, if the person on whom the notice is served, within twenty-one days after the day on which the notice is served on him, serves on the Corporation a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereinafter in this section referred to as “the land subject to the counter-notice”) the question whether he shall be required to sell the part shall, unless the Corporation agree to take the land subject to the counter-notice, be referred to the tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within twenty-one days after the day on which the notice to treat is served on him or if on such a reference to the tribunal the tribunal determines that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.

(4) If on such a reference to the tribunal the tribunal determines that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

(5) If on such a reference to the tribunal the tribunal determines that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Corporation are authorised to acquire compulsorily under this Act.

(6) If the Corporation agree to take the land subject to the counter-notice, or if the tribunal determines that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Corporation are authorised to acquire compulsorily under this Act.

(7) In any case where by virtue of a determination by the tribunal under subsection (4), (5) or (6) of this section a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the Corporation may, within six weeks after the tribunal makes its determination, withdraw the notice to treat, and if they do so shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.

(8) Where a person is under this section required to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, the Corporation shall pay to him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

8.—(1) The Corporation may, instead of acquiring any land which they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights over or in the Power to
acquire
easements
only.

PART II
—cont.

land as they may require for the purpose of constructing, using, maintaining, renewing or removing the works or for the purpose of obtaining access to the works or to the lands that they may acquire under this Act or for the purpose of doing any other thing necessary in connection with the works or lands.

(2) Accordingly the Corporation may give notice to treat in respect of any such easement or right describing the nature thereof; and “land” in the Act of 1965 as applied by this Act includes such easements and rights as aforesaid.

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

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

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

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

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

Disregard
of recent
improvements
and interests.

9. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land, by reason of any building erected, works executed or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was at the time of the erection, execution or making of the building, works,

improvement or alteration, directly or indirectly concerned, if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works, or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

PART II
—cont.

10.—(1) All private rights of way over any land that may be acquired compulsorily under this Act shall be extinguished on the acquisition of the land whether compulsorily or by agreement or on the entry on the land in pursuance of subsection (1) of section 11 of the Act of 1965 as applied by this Act, whichever is the sooner.

Extinction
of private
rights of
way.

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

1961 c. 33.

11.—(1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the Corporation any easement or right required for the purposes of this Act over or in the lands, not being an easement or right of water in which some person other than the grantor has an interest.

Grant of
easements
by persons
under
disability.

(2) The provisions of the Act of 1965 with respect to lands and rentcharges, so far as they are applicable, shall extend and apply to any such grant and to any such easement or right as aforesaid.

12.—(1) The Corporation may enter into and carry into effect agreements with any person being the owner of, or interested in, any land adjoining any portion either of the works or of land that may be acquired by the Corporation under this Act, with respect to the sale by the Corporation to him (subject to such reservations, restrictions or other provisions as to the Corporation may seem fit) of any land acquired by the Corporation under this Act and not required for the works.

Agreements
with
adjoining
owners.

(2) The Corporation may accept as satisfaction for the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Corporation for the purposes of this Act or any easement or right so required.

13.—(1) The Corporation may enter into, and carry into effect, an agreement or arrangement with the owner or occupier of any land acquired or to be acquired under this Act with respect to his reinstatement.

Power to
reinstale
owners or
occupiers
of property.

PART II
—cont.

(2) Any such agreement may provide for the exchange of land and for that purpose the Corporation may pay or receive money for equality of exchange.

Power to
use subsoil
of streets.

14. Subject to the provisions of this Act the Corporation may enter upon, take, use and appropriate so much of the subsoil and under-surface of any public street within the limits of deviation as may be necessary for the purposes of or in connection with the exercise of their functions under this Act without being required to purchase the same or any easement therein or thereunder.

PART III

WORKS

Power to
execute
works.

15.—(1) Subject to the provisions of this Act, the Corporation may, in the lines or situations shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections, construct within the metropolitan district the whole or part of all or any of the works hereinafter described, together with all necessary and proper works and conveniences connected therewith, namely:—

Work No. 1 A barrage (including a footbridge thereover) in the river, incorporating piers, abutments, movable gates and cills commencing at the west side of the river at reference point NZ 32435507 and terminating on the east side of the river at reference point NZ 32475505:

Work No. 1A An access road commencing by a junction with the unnamed road from Staithes House to Jubilee Terrace at reference point NZ 32385509 and terminating at reference point NZ 32425507:

Work No. 2 A flood wall on the west side of the river commencing at reference point NZ 31245410 and terminating at reference point NZ 31635415:

Work No. 3 A flood embankment on the south side of the river commencing at reference point NZ 31265402 and terminating at reference point NZ 31525400:

Work No. 4 A flood embankment on the south side of the river commencing at reference point NZ 31215389 and terminating at reference point NZ 31165393.

(2) The barrage shall be so constructed that when the barrage gates are in the lowered position there shall be provided three openings in the river each not less than 16 feet (4·877 metres) high above cill level and each not less than 48 feet (14·630 metres) wide.

(3) Subject to the provisions of subsection (2) of this section, the Corporation may maintain and may from time to time alter, extend, enlarge, replace, repair or renew the barrage within the limits of deviation or may remove the barrage.

PART III
—cont.

16. Subject to the provisions of subsection (2) of section 15 (Power to execute works) of this Act, in the execution of the works, or any part thereof, the Corporation may deviate from the lines or situations thereof shown on the deposited plans to any extent within the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 feet (0·915 metres) upwards and to any extent downwards except—

Power to deviate.

(1) in the case of the underside of the footbridge forming part of Work No. 1 the Corporation may not deviate to any extent whatsoever downwards; and

(2) in the case of the cills forming part of Work No. 1 the Corporation may not deviate to any extent exceeding 1 foot (0·305 metres) upwards.

17.—(1) Subject to the provisions of this Act the Corporation may from time to time erect, construct and maintain whether temporarily or permanently all such necessary works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance and use of the works:

Power to make subsidiary works.

Provided that no such works or conveniences shall be erected or constructed outside the limits of deviation.

(2) On the completion of each of the works the Corporation shall remove all temporary works placed by them under the powers of this section.

(3) The Corporation may, for the purposes of or in connection with the works on any lands abutting on lands within the limits of deviation, execute or do, by agreement with the owners and occupiers of such lands, any of the works or things referred to in subsection (1) of this section and any works necessary or convenient for the purpose of providing or facilitating access to or from the said lands or for preserving the amenities thereof.

(4) The Corporation shall not exercise the powers of this section below the level of high water without the consent of the borough council, which consent shall not be unreasonably withheld.

18. The Corporation may divert the footpaths in the metropolitan district between the points v and w and x and y respectively on the deposited plans to the positions shown on the deposited plans or such other positions within the limits of deviation as

Diversion of footpaths.

PART III
—cont.

may be necessary for the construction of the works and may stop up and cause to be discontinued as public highways so much of each of the said footpaths as will be rendered unnecessary by the diversion thereof as aforesaid.

Power to
stop up
streets
temporarily.

19.—(1) Subject to the provisions of this Act, the Corporation may for the purposes of or in connection with the exercise of their functions under this Act stop up, break up, interfere with, alter or divert temporarily all or any part of the carriageway or footway of any street or part of a street within the limits of deviation and may execute and do all necessary works and things for or in connection with such stopping up, breaking up, interference, alteration or diversion, and for keeping such carriageway or footway open for traffic, and may remove or alter any lamp-posts, posts and other erections upon the lands so affected.

(2) The Corporation shall provide reasonable access for all persons bona fide going to or returning from any premises in any street of which the carriageway or footway is stopped up, broken up, interfered with, altered or diverted under the powers of this section.

(3) The powers of subsection (1) of this section shall not be exercised in relation to a highway without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld, or any conditions so imposed are unreasonable, shall be determined by the Secretary of State.

1967 c. 76.

(4) The Corporation shall secure that traffic signs (within the meaning of section 54 of the Road Traffic Regulation Act 1967) are placed and, where so directed, operated in accordance with any directions in that behalf which may be given by the highway authority, so however that any such directions shall be subject to any directions given by the Secretary of State under section 55 of the said Act of 1967.

Power to
dredge.

20. Subject to the provisions of this Act and within the limits of deviation the Corporation may from time to time dredge or deepen or deposit material in the bed of the river for the purposes of or in connection with the construction, operation, maintenance, alteration, extension, enlargement, replacement, repair, renewal or removal of the barrage and may for such purposes alter or interfere with the bed, banks, soil or foreshore of the river and may use, appropriate or dispose of any materials other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894 dredged by them:

1894 c. 60.

Provided that no materials which have been dredged by the Corporation under this section shall be deposited in any place below the level of high water otherwise than in such a position and subject to such conditions and restrictions as may be fixed by the Secretary of State.

PART III
—cont.

21.—(1) The Corporation may, with the consent of the borough council (which consent shall not be unreasonably withheld) and subject to such reasonable conditions as the borough council may specify, for any of the purposes referred to in section 15 (Power to execute works), section 17 (Power to make subsidiary works) or section 20 (Power to dredge) of this Act, moor or anchor vessels, or cause vessels to be moored or anchored, in the river. Mooring in river.

(2) In the exercise of the powers conferred by subsection (1) of this section the Corporation shall not damage or injuriously affect any electricity cable of the North Eastern Electricity Board or, without the written consent of the board, interfere with any such cable 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 such cable.

22.—(1) Notwithstanding anything contained in any other enactment, the Corporation may, for the purposes of or in connection with the exercise of their functions under this Part of this Act, pump any water required by them for construction purposes from or into the river or pump any water found by them into the river or into any sewer or drain, and for any of those purposes may, within the limits of deviation, lay down, take up and alter conduits, pipes and other works and conveniences and make any convenient connections with the river or (as the case may be) with the sewer or drain. Power to pump and discharge water.

(2) The Corporation shall not under the powers of this section discharge water into any sewer or drain except with the consent of the water authority (which consent shall not be unreasonably withheld).

(3) Any difference arising between the Corporation and the water authority under the last foregoing subsection may be referred to arbitration by either of the parties (after giving notice in writing to the other of them).

23.—(1) Notwithstanding anything to the contrary in any other enactment or in any rule of law, but without prejudice to any requirement imposed on the Corporation by or under section 32 (Operation of barrage) of this Act, the Corporation may, in executing or doing in, on, under, or over the river any works or things authorised by or under the foregoing provisions of this Act, close the river or any part thereof to navigation: Temporary closing of river in connection with works

PART III
—cont.

Provided that before exercising their powers under this section the Corporation shall give to the borough council or other the navigation authority for the river for the time being not less than fourteen days' notice of their intention so to do:

Provided further that the Corporation shall so execute or do such works or things as to ensure that at any time no more of the river is so closed than is reasonably necessary in all the circumstances and if it becomes necessary to close the river completely to navigation the Corporation shall use their best endeavours to secure that the minimum obstruction, delay or interference is caused to vessels which may be using or intending to use the river and that the minimum interference is caused to persons who may be using or intending to use the river for the purposes of trade or business (including the use of river water for cooling purposes).

(2) Without prejudice to the provisions of section 4 (Application of Part I of Act of 1965) of this Act neither the Corporation nor the borough council shall be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of any closure of the river under the foregoing subsection.

Sewers to
be removed
or filled up.

24. Subject to the provisions of this Act, the Corporation shall cause to be removed or filled up all such sewers, drains or watercourses or parts thereof situated within the limits of deviation as shall become unnecessary by reason of the exercise by the Corporation of any of their functions under this Part of this Act.

Application
of Act of
1950.

25. Subject to the provisions of this Act, the provisions of Part II of, and Schedule 4 to, the Act of 1950 shall apply in relation to any works executed or things done within the limits of deviation under section 15 (Power to execute works) or section 17 (Power to make subsidiary works) of this Act (in this section referred to as "the authorised works") as if the authorised works were executed for road purposes within the meaning of paragraph (a) of subsection (1) of section 21 of the Act of 1950 and were of the kind referred to in that section, as if the Corporation were a promoting authority for the purposes of the operation of the said provisions and as if any undertakers' apparatus affected thereby were in a street:

Provided that for the purposes of such application the provisions of the Act of 1950 shall have effect—

(a) so as to impose on the Corporation an obligation before commencing any of the authorised works to give notice to the undertakers concerned under paragraph 2 of

Schedule 4 to the Act of 1950 together with plans, sections and particulars of any of the authorised works to be commenced; and

PART III
—cont.

(b) as if the words in parentheses in paragraph 3 of the said Schedule relating to a road alteration were omitted from that paragraph.

26.—(1) A tidal work shall not be constructed, altered, extended, enlarged, replaced, renewed or removed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

Tidal works not to be executed without the approval of the Secretary of State.

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

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

(b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Corporation as a simple contract debt.

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

Provision against danger to navigation.

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

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

Abatement of works abandoned or decayed.

PART III
—*cont.*

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

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the Corporation, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Corporation as a simple contract debt.

**Survey of
tidal
works.**

29. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Corporation as a simple contract debt.

**Permanent
lights on
tidal works.**

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

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

**Lights on
tidal works
during
construction.**

31.—(1) The Corporation shall at or near a tidal work during the whole time of the construction, alteration, extension, enlargement, replacement, renewal or removal thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

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

PART IV

OPERATION OF BARRAGE

32.—(1) Notwithstanding anything to the contrary in any other enactment or in any rule of law, but subject to the provisions of this section the Corporation may use and operate the barrage, and, in particular, the barrage gates may be raised by the Corporation and kept in a raised position for such periods as they consider necessary or desirable to regulate the river upstream of the barrage notwithstanding that the river or any part thereof will thereby be closed to navigation and that the passage of vessels in the river may thereby be obstructed, delayed or interfered with, and neither the Corporation nor the borough council shall, as a result of such closure, be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of such obstruction, delay or interference.

(2) The Corporation may lower the barrage gates—

- (a) at any time when it appears to the Corporation that there is reason to believe that unless the barrage gates are lowered floods or inundations may be caused by the overflow of the river upstream of the barrage or in any other case of emergency;
- (b) for the purpose of enabling experiments to be carried out for or in connection with the development of the most effective use of the barrage;
- (c) for the purpose of testing the barrage;
- (d) for the purpose of exercising and instructing staff in the operation and control of the barrage;
- (e) for the purpose of maintaining, extending, enlarging, altering, replacing, repairing or renewing the barrage, on such occasions as may be reasonably necessary, or for the purpose of removing the barrage;
- (f) for the purpose of enabling the railways board to examine the condition of repair of the structure of the Victoria Viaduct and of enabling the statutory undertakers to place, maintain, alter, replace, repair, remove or renew apparatus in, under or over the river;
- (g) for the purpose of removing any deposit of silt which may accumulate in the river as a result of the construction or operation of the barrage;
- (h) for any other purpose at the request of—
 - (i) the borough council or other the navigation authority for the river for the time being for or in connection with their functions as such an authority; or
 - (ii) the water authority for or in connection with their functions as a water authority.

PART IV
—cont.

(3) The Corporation shall give to the borough council and the water authority as much notice as is reasonably practicable in the circumstances of their intention to lower the barrage gates under the last foregoing subsection and of their intention to raise the barrage gates after any such lowering; and the borough council shall be under a duty to take such steps to regulate the movement of vessels using the river as they may consider necessary or desirable in the light of such notice.

(4) (a) The powers of the Corporation to lower the barrage gates for any of the purposes mentioned in paragraphs (b) to (h) of subsection (2) of this section shall, in addition to any requirement imposed by or under the foregoing provisions of this section, be exercised in accordance with the provisions of a scheme made by the Corporation in agreement with the water authority:

Provided that any disagreement between the Corporation and the water authority upon the provisions of the scheme shall be referred to and determined by arbitration.

(b) A scheme made under this subsection may—

(i) include provisions as to the circumstances and manner in which the barrage gates may be lowered (and thereafter raised) for all or any of the purposes referred to in the foregoing paragraph (which may include, in particular, purposes related to ensuring in any water-course satisfactory conditions of water quality) and as to the timing, periods and frequency of such raising and lowering;

(ii) make different provision as respects the lowering (and subsequent raising) of the barrage gates in different circumstances or manner or for different purposes.

(c) A scheme made under this subsection may be confirmed, varied, replaced or revoked by a subsequent scheme so made.

(5) In this section “statutory undertakers” means any company, body or person authorised by an enactment to supply electricity, gas or water and includes the railways board.

**Misuse of
barrage.**

33. Any person who without lawful authority or excuse—

(1) raises or lowers, or attempts to raise or lower, a barrage gate; or

(2) in any other way interferes, or attempts to interfere, with the barrage or the operation thereof;

shall be guilty of an offence and shall for every such offence be liable on summary conviction to a term of imprisonment not exceeding six months or to a fine not exceeding four hundred pounds, or both, or on indictment to a term of imprisonment not exceeding fourteen years or to a fine, or both.

PART V

MISCELLANEOUS

34.—(1) The Secretary of State may cause such local inquiries Local to be held as he may consider necessary for the purpose of any inquiries. of his functions under this Act.

(2) Subsections (2) to (5) of section 250 of the Local Government Act 1972 shall apply in relation to any such inquiry as if it were 1972 c. 70. an inquiry held in pursuance of subsection (1) of that section and the Corporation were a local authority.

35. Any question or difference which pursuant to this Act is Arbitration. to be settled by arbitration shall, except as otherwise provided by this Act, be referred to and determined by an arbitrator to be agreed upon between the parties in difference or, failing such agreement, to be appointed on the application of either party (after notice in writing to the other of them) by the Secretary of State.

36. It shall be the duty of the Corporation to maintain the Duty to barrage and all apparatus and machinery incidental thereto in maintain constant working order and good condition and from time to barrage. time as necessary to restore it to constant working order and good condition.

37.—(1) Notwithstanding any other provision of this Act the Transfer of Secretary of State, on the application of the Corporation, may functions. by order made by statutory instrument at any time after the completion of the works transfer to any public authority the functions conferred on the Corporation by this Act and thereafter that authority shall have and may exercise all or any of the powers conferred upon the Corporation by this Act or which the Corporation have or might exercise under this Act and shall be subject to all the liabilities and obligations to which the Corporation are subject under this Act and shall perform all the duties of the Corporation under this Act.

(2) Before in any case making application to the Secretary of State under subsection (1) of this section the Corporation shall give not less than three months' notice of their intention in that behalf to the borough council and the water authority and shall forward with the application any written representations in that behalf submitted to the Corporation by the borough council or the water authority within the period of such notice.

38. In its application to the Corporation section 51 of the New Extension of Towns Act 1965 (which relates to the service of notices) shall have section 51 effect as if the reference in subsection (1) of that section to that of New Act included references to this Act. Towns Act 1965.

1965 c. 59

PART V
—cont.Penalty for
obstructing
execution
of Act.

39. A person who wilfully obstructs or impedes any person acting—

- (a) in the execution of this Act or of any scheme made thereunder; or
- (b) in compliance with any notice or direction given under this Act;

shall be guilty of an offence and, if no other penalty for such offence is provided by or under this Act, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

For protection
of British
Gas
Corporation
and
Sunderland
and South
Shields Water
Company.

40. For the protection of the British Gas Corporation and the Sunderland and South Shields Water Company the following provisions shall, unless otherwise agreed in writing between the Corporation and the undertakers concerned, apply and have effect:—

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

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

“apparatus” means mains, pipes, valves, hydrants, stopcocks or other works or apparatus belonging to, or maintained by, the undertakers and includes any works constructed for the lodging therein of apparatus;

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

“position” includes depth or level;

“the undertakers” means the British Gas Corporation and the Sunderland and South Shields Water Company or either of them:

- (2) Notwithstanding anything in this Act or shown on the deposited plans the Corporation shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (3) The provisions of the Act of 1950 as extended by section 25 (Application of Act of 1950) of this Act shall not regulate the relations between the Corporation and the undertakers in respect of any matter or thing concerning which those relations are regulated in any respect by the following provisions of this section:
- (4) If the Corporation in the exercise of any of the powers of this Act acquire any interest in any land in which

any apparatus is placed, that apparatus shall not be removed nor shall any rights of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land be extinguished, until adequate alternative apparatus has been provided and is in operation to the reasonable satisfaction of the undertakers:

- (5) If the Corporation for the purposes of or in connection with the construction of any of the works in any land acquired or used under this Act, require the permanent removal of any apparatus from that land, they shall give to the undertakers written notice of such requirement with a plan and description and, where applicable, a section of the work proposed and of the proposed position of the alternative apparatus (if any) to be provided so as to provide adequate alternative apparatus in place of the apparatus to be removed:
- (6) If the Corporation require the undertakers to remove any apparatus permanently from any land under paragraph (5) of this section, or if in consequence of the exercise of the powers of this Act, including the raising of the level of the water of the river or the keeping of the water at a level so as to impede access to any apparatus in the bed of the river, the undertakers reasonably require to remove any apparatus, the Corporation shall afford to the undertakers the necessary facilities and rights for the provision in other land of the Corporation of adequate alternative apparatus and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that if the alternative apparatus, or any part thereof, is to be provided elsewhere than in other land of the Corporation and the Corporation are unable to afford such facilities and rights as aforesaid in the land in which the alternative apparatus or such part thereof is to be provided, the undertakers shall, on receipt of a written notice to that effect from the Corporation, forthwith use their best endeavours to obtain the necessary facilities and rights:
- (7) Any alternative apparatus to be provided in land of the Corporation in pursuance of paragraph (6) of this section shall be laid or constructed in such manner and in such line and position as may be agreed between the undertakers and the Corporation or, in default of agreement, settled by arbitration:
- (8) The undertakers shall, after the manner of laying or construction and the line and position of any alternative apparatus have been agreed or settled by arbitration

PART V
—cont.

as aforesaid, and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (6) of this section, proceed with all reasonable dispatch to lay or construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Corporation to be removed under the provisions of this section and in default the Corporation may remove the apparatus:

- (9) Notwithstanding anything in paragraph (8) of this section, if the Corporation give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the provision of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situate in any land of the Corporation, such work, instead of being executed by the undertakers shall be executed by the Corporation with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the Corporation to carry out the placing, erection, construction, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around such apparatus (where the apparatus is laid in a trench) within 30 centimetres above the apparatus:

- (10) Where in accordance with the provisions of this section the Corporation afford to the undertakers facilities and rights in land of the Corporation for the laying or construction, maintenance, repair, renewal and inspection of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Corporation and the undertakers or, in default of agreement, determined by arbitration:

Provided that—

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

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

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to any terms and conditions applicable to the apparatus constructed through the land of the Corporation for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the Corporation in respect of any alternative apparatus, and the terms and conditions subject to which the same are to be granted, are, in the opinion of the arbitrator, more or less favourable on the whole to the undertakers than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the Corporation by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

- (11) (a) Not less than twenty-eight days before commencing to carry out any works, or any operations for the dredging, deepening of, or the deposit of materials in, the bed of the river, being works or operations which are near to, or will or may affect, any apparatus of which the Corporation are aware and the removal of which has not been required by the Corporation under paragraph (4) of this section or any alternative apparatus provided in substitution for apparatus which is, or is to be, so removed, the Corporation shall submit to the undertakers a plan and description and, where applicable a section of the work or operations to be carried out;
- (b) Such works or operations shall be carried out in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the undertakers shall be entitled by their officers to watch and inspect the carrying out of such works or operations:

Provided that—

(i) if the undertakers, within fourteen days after the submission to them of any such plan, section and description, shall, in consequence of the works or operations proposed by the Corporation, reasonably require the removal of any apparatus and give written notice to the Corporation of such requirement, the foregoing provisions of this section shall apply and

PART V
—cont.

have effect as if the removal of such apparatus had been required by the Corporation under paragraph (4) thereof; and

(ii) nothing in this sub-paragraph shall preclude the Corporation from submitting at any time, or from time to time, but in no case less than twenty-eight days before commencing the carrying out of the works or operations, a new plan, section and description thereof instead of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to, and in respect of, such new plan, section and description;

- (c) The Corporation 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 notice to the undertakers as soon as reasonably practicable and a plan, section and description of the works or operations as soon as reasonably practicable thereafter, and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:
- (12) (a) In any case where paragraph (11) of this section applies, plans of any part of a tidal work to which that paragraph applies shall not be submitted by the Corporation to the Secretary of State for his approval under section 26 (Tidal works not to be executed without the approval of the Secretary of State) of this Act, and representations shall not be made to the Secretary of State to fix a position for the deposit of materials, dredged by the Corporation under section 20 (Power to dredge) of this Act, in any place below the level of high water, until plans and a description of that work or deposit have been approved by the undertakers or settled by arbitration under this section with or without conditions and if on the submission of plans or representations to the Secretary of State the Secretary of State requires any alteration of the plans or description so approved or settled under this section or of any conditions relating thereto, the Corporation shall, not less than twenty-eight days before commencing the work, inform the undertakers of any such alteration;
- (b) Subject to compliance with sub-paragraph (a) of this paragraph, if there shall be any inconsistency between any plans or description approved or deemed to be approved by the undertakers or settled by arbitration under the provisions of this section or of any conditions relating thereto and the plans approved by the Secretary of State under the said section 26, or any position,

condition or restriction fixed by the Secretary of State under the said section 20, the work shall be constructed or the deposit made in accordance with the plans approved by the Secretary of State and subject to any conditions or restrictions imposed by him under either of those sections:

- (13) If in consequence of the exercise of the powers of this Act the access to any apparatus the removal of which is not required under this section is materially impeded the Corporation shall provide alternative means of access to such apparatus:
- (14) The Corporation shall repay to the undertakers the reasonable expenses incurred by the undertakers, in, or in connection with—
- (a) the removal and relaying or replacing, alteration or protection of any apparatus and the provision, laying, construction or placing of any new apparatus under any of the provisions of this section;
 - (b) the cutting off of any apparatus from any other apparatus; and
 - (c) any other work or thing rendered reasonably necessary in consequence of the exercise by the Corporation of any of the powers of this Act:

Provided that subsections (3) and (4) of section 23 of the Act of 1950 (which imposes limitations on undertakers' rights to payment) shall, so far as applicable, extend and apply to any payment to be made under this paragraph as if the works in respect of which the payment is to be made were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act" there were substituted the words "agreed or settled by arbitration under section 40 (For protection of British Gas Corporation and Sunderland and South Shields Water Company) of the River Wear Barrage Act 1974":

- (15) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 19 (Power to stop up streets temporarily) of this Act, the Sunderland and South Shields Water Company shall be at liberty at all times to enter upon, with any necessary vehicles, and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary for inspecting, repairing, maintaining, renewing, replacing or removing any apparatus which at the time of the stopping up or diversion was in that street:

PART V
—cont.

- (16) Notwithstanding anything in section 22 (Power to pump and discharge water) of this Act, no use shall be made by the Corporation in the construction of the works of pumping or other like modes of removing water found by them except where reasonably necessary or in the case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water, and the provisions of section 26 of the Act of 1950 shall apply to, and in relation to, the laying down, taking up or altering of conduits, pipes or other works and conveniences for the purpose of pumping water found by the Corporation under the said section 22 as if executed by the Corporation as operating undertakers within the meaning of section 26 of the Act of 1950:
- (17) The provisions of section 26 of the Act of 1950 shall apply to and in relation to the removal or filling up of any sewer, drain or watercourse, or part thereof, under section 24 (Sewers to be removed or filled up) of this Act as if executed by the Corporation as operating undertakers within the meaning of the said section 26:
- (18) If by reason or in consequence of the construction, user or failure of any of the works, or any subsidence resulting therefrom, any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of gas or water shall be caused, the Corporation shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply and shall—
- (a) make reasonable compensation to the undertakers for any loss sustained by them; and
 - (b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;
- by reason or in consequence of any such damage or interruption:
- Provided that—
- (i) nothing in this paragraph shall impose any liability on the Corporation with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the undertakers or their contractors or workmen;

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

- (19) The expenses of all repairs or renewals of any apparatus which may be rendered necessary by reason or in consequence of the construction or failure of the works or any subsidence resulting from the works shall be borne by the Corporation and paid by them to the undertakers:
- (20) The Corporation shall bear and pay any cost reasonably incurred by the undertakers in the reasonable employment of watchmen and inspectors during the execution of any works which will or may interfere with or affect any apparatus:
- (21) (a) Any difference arising between the Corporation and the undertakers under this section shall be referred to and determined by a single arbitrator to be appointed by agreement between the parties, or failing agreement, to be appointed by the President of the Institution of Civil Engineers on the application of either party (after giving notice in writing to the other party);
- (b) In determining any difference under this section the arbitrator shall have regard to any duty or obligation the undertakers may be under in respect of any apparatus and may if he thinks fit require the Corporation to carry out any temporary or other works so as to avoid, as far as may be reasonably possible, interference with the use of any apparatus.

41.—(1) The Corporation shall be responsible for and make good to the railways board all costs, charges, damages and expenses which may be occasioned to or reasonably incurred by the railways board in respect of the repair and maintenance of the structure of the Victoria Viaduct of the railways board across the river by reason of the works or the operation or failure thereof.

For protection
of railways
board.

(2) Except in case of emergency (when they shall give such notice as may be reasonably practicable) the railways board may give to the Corporation not less than twenty-eight days' notice requiring the Corporation to lower the barrage gates for the purposes described in paragraph (f) of subsection (2) of section 32 (Operation of barrage) of this Act and the Corporation shall thereafter lower the barrage gates under such terms and conditions as may be agreed with the railways board.

PART V
—cont.For protection
of water
authority.

42. For the protection of the water authority the following provisions shall, unless otherwise agreed in writing between the Corporation and the water authority apply and have effect:—

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

“ authorised work ” means any of the works and includes any works, conveniences or connections laid down, taken up, altered or made pursuant to the powers of section 22 (Power to pump and discharge water) of this Act and any works of removal or filling up pursuant to the powers of section 24 (Sewers to be removed or filled up) of this Act;

“ construct ” includes alter, extend, enlarge, replace, renew or remove, and “ constructed ” and “ construction ” shall be construed accordingly;

“ dredging operation ” means an operation authorised by section 20 (Power to dredge) of this Act;

“ plan ” includes sections, specifications and particulars and a description of the method of carrying out the work;

“ protective works ” means any temporary or permanent works constructed, or measures taken, under paragraph (3) or paragraph (7) of this section necessary—

(i) to protect a watercourse from injury or to ensure the flow of all water which but for the construction of the authorised work would have flowed through a watercourse;

(ii) for the protection of the water resources of the area of the water authority;

“ scouring ” includes disturbance or collapse of the foreshore or bed of the river or any other watercourse;

“ watercourse ” has the meaning assigned to it by the Water Resources Act 1963;

“ water resources ” has the meaning assigned to it by the Water Resources Act 1963;

(b) For the purposes of this section a certificate issued by the Corporation as to completion of any of the works, and signed by a duly authorised officer, or any duly authenticated copy of such a certificate, shall be admissible and received as evidence that such certificate has been made and that the work to which it relates is completed:

(2) (a) The Corporation shall, before commencing to construct any authorised work, or to carry out any dredging operation, deliver to the water authority for their approval, which shall not be unreasonably withheld, a plan 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 Corporation their disapproval thereof and the grounds for their disapproval, they shall be deemed to have approved the plan;

(c) Not less than fourteen days before commencing a work of maintenance or repair of the barrage the Corporation 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:

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

(a) in the case of a dredging operation, to prevent pollution of any stream (within the meaning of the Rivers (Prevention of Pollution) Act 1951 including 1951 c. 64. any controlled waters within the meaning of the Clean Rivers (Estuaries and Tidal Waters) Act 1960) or of 1960 c. 54. water contained in underground strata, arising from the disposal of materials taken up or collected in the course of the operation; and

(b) in the case of an authorised work or a dredging operation—

(i) to prevent pollution of any such stream;

(ii) to safeguard a watercourse against damage; or

(iii) to secure that the efficiency of a watercourse for land drainage purposes is not impaired;

by such work or operation;

PART V
—cont.

and such conditions shall be complied with under the supervision (if given) and to the reasonable satisfaction of the water authority:

- (4) The Corporation in the exercise of the powers of section 5 (Power to acquire lands) and section 20 (Power to dredge) of this Act shall not deposit any spoil or other material otherwise than in such place as may be approved and subject to such conditions and restrictions as may be imposed by the water authority (any dispute as to whether such approval is unreasonably withheld or such conditions or restrictions are reasonably imposed being referable to arbitration):

Provided that, in the event of any inconsistency between the terms of any approval, condition or restriction of the water authority under this paragraph and any requirement, condition or restriction of the Secretary of State imposed under section 20 (Power to dredge) of this Act the Corporation shall be deemed to have complied with the provisions of this paragraph if they have complied with the requirement, condition or restriction of the Secretary of State:

- (5) (a) Subject to the provisions of this section, an authorised work shall be constructed to the reasonable satisfaction of the officer of the water authority appointed for the purpose who shall be given reasonable notice of the date and time on and at which the work is to be commenced;
- (b) The Corporation shall at all reasonable times during the construction of an authorised work afford to the said officer of the water authority and his duly authorised representatives access to such authorised work for the purposes of inspection:
- (6) If there shall be any inconsistency between any plans approved or deemed to be approved by the water authority or settled by arbitration under the provisions of this section and the plans approved by the Secretary of State under section 26 (Tidal works not to be executed without the approval of the Secretary of State) of this Act or (being plans of the fish pass to be constructed as an incident to Work No. 1) approved by the Minister of Agriculture, Fisheries and Food pursuant to section 19 of the Salmon and Freshwater Fisheries Act 1923 the Corporation shall be deemed to have complied with the requirements of the water authority if they have constructed the authorised work in accordance with the plans approved by the Secretary of State or (as the case may be) the said Minister:

(7) If by reason of—

(a) the construction, maintenance or repair of any authorised work;

(b) the failure of any authorised work or of the Corporation to maintain it; or

(c) any dredging operation;

a watercourse shall at any time be injured by scouring or otherwise, the quality of water therein suffers deterioration or its efficiency as a watercourse is impaired by siltation or otherwise, the water authority may by notice in writing require the Corporation to make good such injury or deterioration and restore it to a proper standard of efficiency as a watercourse within such period as may be reasonably required and if the Corporation do not comply with the requirement within the period, or in a case of emergency, the water authority may make good such injury or deterioration and restore it to a proper standard of efficiency as a watercourse and recover the reasonable cost thereof (including where appropriate a proper proportion of the overhead charges of the water authority) from the Corporation:

(8) If the water authority have reasonable grounds for believing that damage to a watercourse is likely to take place or its efficiency as a watercourse 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 Corporation or as, in default of agreement, may be settled by arbitration and recover the reasonable cost thereof (including where appropriate a proper proportion of the overhead charges of the water authority) from the Corporation:

(9) Any additional expense which may be reasonably incurred by the water authority in maintaining any protective works which become part of a watercourse shall on demand be repaid to the water authority by the Corporation:

(10) Without prejudice to the powers conferred on the water authority by section 111 of the Water Resources Act 1963, the water authority for the purpose of performing or in connection with the performance of any of their functions shall be entitled at all reasonable times to inspect any of the authorised works: 1963 c. 38.

(11) The Corporation shall indemnify and hold harmless the water authority from all claims, demands or expenses which may be made on or against them or which they

PART V
—*cont.*

may have to pay by reason or in consequence of any injury or damage which may be caused or result to a watercourse or to the water resources of the area of the water authority by or in consequence of the construction, maintenance or repair of an authorised work or of the failure or want of repair thereof or any subsidence caused by the construction thereof or in consequence of any act or omission of the Corporation, their contractors, agents, workmen or servants whilst engaged upon an authorised work or any such other work as aforesaid:

Provided that the water authority shall give to the Corporation reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Corporation:

- (12) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the water authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Corporation from any liability under the provisions of this section:
- (13) Any difference arising between the Corporation and the water authority under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

Crown rights.

43. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this Act authorises the Corporation to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

- (1) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose; or
- (2) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

**Saving for
water
authority.**

44. Nothing in this Act shall affect the exercise by the water authority of their statutory powers and functions nor alter or affect the statutory or other rights, powers or privileges of the water authority.

45.—(1) Section 289 of the Town and Country Planning Act 1971 shall apply to this Act as if it had been passed during the Session 10 & 11 Geo. 6; and accordingly the said Act of 1971 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

PART V
—cont.
Saving for town and country planning.
1971 c. 78.

(2) Any development authorised by this Act shall not be deemed for the purposes of the Town and Country Planning General Development Order 1973 to be development authorised by an Act which designates specifically both the nature of the development and the land upon which it may be carried out.

S.I. 1973/31.

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

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

47. All the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act shall be paid by the Corporation.

Costs of Act.

— cor. —

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