

ELIZABETH II



1977 CHAPTER xi

An Act to confer further powers on the London Hydraulic Power Company; and for other purposes.

[22nd July 1977]

WHEREAS—

(1) The London Hydraulic Power Company (hereinafter referred to as “the Company”) were incorporated as the Wharves and Warehouses Steam Power and Hydraulic Pressure Company by the Wharves and Warehouses Steam Power and Hydraulic Pressure Company’s Act 1871, the Company’s name being changed to the present name by the London Hydraulic Power Act 1884: 1871 c. cxxi. 1884 c. lxxii.

(2) Under the London Hydraulic Power Acts 1871 to 1953 the Company have provided a network of pipelines, together with associated apparatus, mostly laid under streets in the Central London area, including three pipelines crossing the river Thames by means of bridges, one by means of the Rotherhithe Tunnel and one route passing under the river by means of the Tower Subway which is wholly owned by the Company:

(3) The Company’s existing pipelines, being designed to convey hydraulic power, are substantial structures capable of use for the conveyance of other things or for the accommodation of

cables and, if they were made available for use for such purposes, the need for breaking up streets for the laying of other apparatus for such purposes would or might be reduced:

(4) As a substantial part of the network of pipelines so provided by the Company may be no longer required for the supply of hydraulic power, it is expedient to authorise the Company to make their said pipelines available for use for such other purposes for which they may be found suitable:

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

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

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:—

Short title. 1.—(1) This Act may be cited as the London Hydraulic Power Act 1977.

(2) The London Hydraulic Power Acts 1871 to 1953 and this Act may be cited together as the London Hydraulic Power Acts 1871 to 1977.

Interpretation. 2.—(1) In this Act, unless the subject or context otherwise requires—

“Company” means the London Hydraulic Power Company;

“enactment” includes any byelaw, regulation or other instrument made under any Act;

“Executive” means the Health and Safety Executive;

“hydraulic power” means motive power by hydraulic pressure;

“land” includes any interest in land and any easement or right in, to or over land;

“pipeline” means any main, pipe or tube, or any length thereof, provided by the Company under the London Hydraulic Power Acts 1871 to 1953, and includes any other apparatus or works so provided in connection therewith, and any structure so provided for the lodging therein of any such apparatus, but does not include the subway acquired by the Company in pursuance of the Tower Subway Act 1897;

“ statutory undertakers ” means the British Railways Board, the London Transport Executive, the British Gas Corporation, the Central Electricity Generating Board, the London Electricity Board, the Post Office and the Thames Water Authority;

“ undertaking ” means the undertaking of the Company as from time to time authorised.

(2) In this Act any reference to the conveyance of any thing in a pipeline includes reference to the conveyance or transmission of any thing by means of cables or other apparatus accommodated in the pipeline.

(3) Any reference in this Act to any enactment shall be construed as reference to that enactment as amended by or under any other enactment, including this Act.

3.—(1) Subject to the provisions of this Act, notwithstanding anything in the London Hydraulic Power Acts 1871 to 1953, the Company may make available for use upon such terms and conditions as they think fit or use, for the purposes of the conveyance of any thing or things other than hydraulic power, the pipelines and lands forming part of their undertaking which are not for the time being required for the purpose of the supply of hydraulic power, or any such pipelines and lands, and may for those purposes exercise the powers conferred by those Acts with respect to any such pipelines as if exercised for the purpose of supplying water for hydraulic power.

Use of
Company's
pipelines.

(2) Except as may be authorised by or under any other enactment, it shall not be lawful to use a pipeline under this section for any purpose other than any of the following purposes:—

(a) the use of the pipeline as a duct for cables or other associated apparatus;

(b) the use of the pipeline for the conveyance or transmission of air (including the transmission of a vacuum) or water (being water having a temperature not exceeding 75 degrees Celsius), including the conveyance of solids in suspension in any such air or water, not being solids which—

(i) in combination with air or water, as the case may be, constitute a corrosive, explosive, flammable or toxic substance; or

(ii) in the event of escape from the pipeline would be likely to constitute such a substance.

(3) Before the date on which a pipeline, or system of pipelines, is first used under this section for any purpose specified in subsection (2) above, the Company shall, in accordance with subsections (4) and (5) below, publish notice of intention so to

use it in one or more local newspapers circulating in the areas in which it is situated and in the London Gazette, and deliver a copy of that notice to each of the following:—

- (a) the Executive and, in the case of notice of intended use as a duct for any electric line, the Department of Energy;
- (b) the Greater London Council;
- (c) the council of any London borough in which any part of the pipeline, or the system of pipelines, to which the notice relates is situated;
- (d) the Common Council of the City of London if any part of the pipeline, or the system of pipelines, to which the notice relates is situated in the City of London or in Southwark Bridge;
- (e) the statutory undertakers; and
- (f) every person who has notified the Company of his desire to receive a copy of any such notice relating to any pipeline or system of pipelines, or the particular pipeline, or system of pipelines, to which the notice relates.

(4) The notice referred to in subsection (3) above shall be first published and delivered as mentioned in that subsection—

- (a) where the purpose for which it is intended that a pipeline or system of pipelines should be used is a purpose specified in subsection (2) (a) above, not less than 12 weeks before any part of the pipeline or system of pipelines is so used; and
- (b) where the purpose for which it is intended that a pipeline or system of pipelines should be used is, or includes, a purpose specified in subsection (2) (b) above, not less than 16 weeks before any part of the pipeline or system of pipelines is first so used, and the notice so delivered shall be accompanied by a map showing the pipeline, or system of pipelines, to which it relates.

(5) The notice referred to in subsection (3) above shall specify—

- (a) the points between which the pipeline runs and the route of the pipeline between those points, or the system of pipelines to which the notice relates;
- (b) what is proposed to be conveyed or transmitted in that pipeline or system of pipelines;
- (c) a place where a copy of a map showing the pipeline, or system of pipelines, may be inspected during a period of four weeks from the first publication of the notice or,

if copies of the notice to be delivered in accordance with subsection (3) above are not delivered before such publication, from the delivery of copies of the notice; and

- (d) such other particulars as may be required by the Executive, either generally or in relation to a particular proposal, and notified by the Executive to the Company;

and shall also state that within the said period of four weeks representations concerning health and safety with respect to the intended use of the pipeline, or system of pipelines, may be submitted to the Executive.

(6) A photostatic or other reproduction certified by the Secretary of the Company to be a true reproduction of a page, or part of a page, of any issue of a newspaper or the London Gazette, bearing its date and containing any notice published under subsection (3) above, shall be evidence of the publication of the notice and of the date of publication.

(7) When it appears to the Executive that notices have been published and delivered in accordance with subsections (3) to (5) above, they shall take into consideration any representations duly submitted in accordance with the notice and, after making such inquiries and investigations as they see fit, the Executive shall—

- (a) determine whether or not the intended use is authorised by subsection (2) above and, if so, shall deliver to the Company a certificate to that effect; and
- (b) if they are satisfied that the pipeline, or system of pipelines, can safely be used for the purpose intended so that, in the event of the use of the pipeline, or system of pipelines, for the purpose intended, no notice would be given under section 23 (2) of the Pipe-lines Act 1962 1962 c. 58. (restriction or prohibition on use of pipe-lines), as applied by subsection (1) of section 4 (Application of Pipe-lines Act 1962) of this Act, they shall notify the Company in writing of any requirements and conditions subject to which it may be so used.

(8) A notification given by the Executive under subsection (7) (b) above shall specify—

- (a) the pipeline, or system of pipelines, to which the notice relates;
- (b) the things of a particular kind, or things of a particular class, for the conveyance or transmission of which the pipeline, or system of pipelines, may be used; and
- (c) any requirements or conditions subject to compliance with which they are so satisfied.

(9) If the Executive are not satisfied as mentioned in subsection (7) (b) above, they shall so notify the Company in writing—

- (a) specifying the pipeline, or system of pipelines, and the intended purpose to which the notice relates; and
- (b) stating the reasons for their dissatisfaction.

(10) As soon as may be after the receipt by the Company from the Executive of any certificate under subsection (7) (a) above, or of any notification under subsection (7) (b) or (9) above, relating to any proposed use of a pipeline, or system of pipelines, the Company shall send a copy of the certificate or notification to each of the bodies or persons to whom they were, by subsection (3) above, required to deliver a copy of the notice of that proposal.

(11) A pipeline shall not be used under this section for any purpose until a notification has been given by the Executive under subsection (7) (b) above in respect of the use of the pipeline for that purpose; and, unless otherwise authorised in pursuance of another notice under subsection (3) above—

- (a) a pipeline, or system of pipelines, to which any notification given by the Executive under subsection (7) (b) above relates, shall not be used for the conveyance or transmission of any thing otherwise than in accordance with the specification in that notice, or any requirements or conditions so specified; and
- (b) a pipeline, or system of pipelines, to which any notification given by the Executive under subsection (9) above relates, shall not be used for any purpose specified in that notification.

(12) In the event of a contravention of subsections (2), (3), (10) or (11) above, the Company shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000; and, if a contravention of subsection (2) or (11) above is continued after conviction, the Company shall be guilty of a further offence and so liable in respect thereof to a fine not exceeding £50 for each day on which the contravention is continued.

Application of
Pipe-lines
Act 1962.
1962 c. 58.

4.—(1) Section 23 (2) of the Pipe-lines Act 1962 (restriction or prohibition on use of pipe-lines) shall apply in relation to any pipeline, or system of pipelines, specified in a notice published under subsection (3) of section 3 (Use of Company's pipelines) of this Act as it applies in relation to pipe-lines under the said Act of 1962.

(2) The provisions of the Pipe-lines Act 1962 specified in Part I of the Schedule to this Act shall, as from the date on which notification is given to the Company under subsection (7) (b) of the said section 3, apply as if the pipeline, or system of pipelines,

specified in that notification were a pipe-line to which that Act applies, subject to the modifications specified in Part II of that Schedule and to any other necessary modifications.

5. In section 3 (Power to sell and lease lands) of the London Hydraulic Power Act 1953, for the word "undertaking" there shall be substituted the words "supply of motive power by hydraulic pressure". Consequential amendment of local Act. 1953 c. viii.

6. The provisions of section 3 (Use of Company's pipelines) of this Act have effect without prejudice to the following provisions in the London Hydraulic Power Acts 1871 to 1953 so far as those provisions have effect:— Saving for local Act provisions.

In the London Hydraulic Power Act 1884— 1884 c. lxxii.

Section 17 (Company not exempt from action &c.);

In the London Hydraulic Power Act 1889— 1889 c. vii.

Section 14 (Company not exempt from general Acts);

In the London Hydraulic Power Company's Act 1893— 1893 c. lx.

Section 14 (Company not exempt from general Acts);

In the London Hydraulic Power Company's Act 1903— 1903 c. xvii.

Section 15 (Company not exempt from general Acts);

In the London Hydraulic Power Act 1953—

Section 3 (Power to sell and lease lands) as amended by this Act.

7.—(1) When an offence under section 3 (Use of Company's pipelines) of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar employee of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly. Miscellaneous provisions relating to legal proceedings.

(2) Where the affairs of a body corporate are managed by its members the provisions of subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where the commission by any person of an offence under the said section 3 is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with, and convicted of, the offence by virtue of this subsection whether or not proceedings for the offence are taken against any other person.

(4) The time within which proceedings for an offence under the said section 3 may be commenced by virtue of subsection (3) above shall, instead of being six months in accordance with section 104 of the Magistrates' Courts Act 1952, be twelve months.

1952 c. 55.

(5) (a) In any proceedings for an offence under the said section 3 it shall be a defence for the person charged to prove that he took all reasonable precautions, and exercised all due diligence, to avoid the commission of such an offence.

(b) If in any case the defence provided under paragraph (a) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Saving for
electricity
undertakers.

1882 c. 56.

8. Electrical apparatus installed in a pipeline shall be so constructed, installed and used as to prevent interference with, or with the working of, any electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to, or maintained by, the London Electricity Board or the Central Electricity Generating Board.

Saving for
Port of
London Act
1968.

1968 c. xxxii.

1962 c. 58.

9. Without prejudice to the estates, rights, interests, privileges, liberties or franchises of the Port of London Authority or any power, authority or jurisdiction vested in them, nothing in this Act, or in section 26 of the Pipe-lines Act 1962 as applied by section 4 (2) of this Act, shall authorise the use of any of the Company's pipelines for any purpose which may, by interference with electrical apparatus or otherwise, interfere with public rights of navigation in the Thames, as defined in the Port of London Act 1968, except under and in accordance with a works licence granted under that Act.

Saving for
Health and
Safety at Work
etc. Act 1974.

1974 c. 37.

10.—(1) Subsection (2) of section 43 of the Health and Safety at Work etc. Act 1974 (determination of fees) shall have effect as if the relevant statutory provisions therein referred to included the provisions of this Act.

(2) Subsection (1) of section 80 of the Health and Safety at Work etc. Act 1974 (repeal or modification of certain provisions by regulations) shall have effect as if the provisions to which that subsection applies included any provision of this Act.

Costs of Act.

11. All costs, charges and expenses of, and incidental to, the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

SCHEDULE

Section 4(2).

PROVISIONS OF THE PIPE-LINES ACT 1962 APPLIED

1962 c. 58.

PART I—PROVISIONS OF PIPE-LINES ACT 1962

- Section 23 (power of the Executive to impose requirements in relation to pipe-lines), including, for the purpose of subsection (3) of that section, section 20 (2);
- Section 25 (power of the Secretary of State to prevent source of danger on abandonment or cesser of use of pipe-lines), subject to the modification in Part II of this Schedule;
- Section 26 (notice to the Executive of change of use of pipe-lines), subject to the modifications in Part II of this Schedule;
- Section 33 (notification of accidents to the Executive);
- Section 36 (notification of abandonment, cesser of use and resumption of use of pipe-lines), subject to the modification in Part II of this Schedule;
- Section 37 (arrangements for notification of accidents to fire, police and other authorities);
- Section 38 (notification of change of ownership of pipe-line);
- Section 40 (avoidance of interference with telegraphic and other lines);
- Subsection (2) of section 42 (inspectors);
- Section 46 (penalties for uttering false documents or giving false information), so far as it relates to sections 37 and 38 above;
- Subsection (1) of section 47 (provisions as to inquiries and hearings);
- Section 48 (determination of compensation);
- Section 49 (service of documents);
- Section 50 (variation or revocation of requirements), subject to the modification in Part II of this Schedule;
- Section 52 (reckoning of periods);
- Section 54 (offences by bodies corporate);
- Section 56 (access to pipe-lines by customs officers);
- Section 69 (saving for law of nuisance).

SCHEDULE
—cont.

PART II—MODIFICATIONS

1. In the said section 25, for the references to the Secretary of State there shall be substituted references to the Executive.
2. In subsection (1) of the said section 26—
 - (a) for the words “ constructed pursuant to a pipe-line construction authorisation or in accordance with a notice given for the purposes of subsection (1) of section two of this Act is ” there shall be substituted the words “ in respect of which notification has been given under section 3 (7) (b) of the London Hydraulic Power Act 1977 is, after the giving of that notification, ”;
 - (b) for the words “ stated in the application for the grant of that authorisation or, as the case may be, the notice ” there shall be substituted the words “ specified in that notification ”;
 - (c) for the word “ proposed ” there shall be substituted the word “ authorised ”;
 - (d) for the words “ three weeks ” in both places where they occur there shall be substituted the words “ twelve weeks ”; and
 - (e) after the words “ has first been ” there shall be inserted the word “ so ”.
3. In the said section 36, for the reference to the Secretary of State there shall be substituted reference to the Executive.
4. In the said section 50, for the reference to the Secretary of State there shall be substituted reference to the Secretary of State or the Executive.

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London Hydraulic Power Act 1977

CHAPTER xi

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6. Saving for local Act provisions.
7. Miscellaneous provisions relating to legal proceedings.
8. Saving for electricity undertakers.
9. Saving for Port of London Act 1968.
10. Saving for Health and Safety at Work etc. Act 1974.
11. Costs of Act.

SCHEDULE—Provisions of the Pipe-lines Act 1962 applied.

Part I—Provisions of Pipe-lines Act 1962.

Part II—Modifications.