

ELIZABETH II



1983 CHAPTER xiv

An Act to empower the Dwyfor District Council (Cyngor Dosbarth Dwyfor) to construct works at Pwllheli Harbour; to confer powers on them as the harbour authority for that harbour and for the provision of facilities therein; and for other purposes.

[1st December 1983]

WHEREAS—

(1) The Dwyfor District Council otherwise known as Cyngor Dosbarth Dwyfor (and hereinafter referred to as “the Council”) are the harbour authority for Pwllheli Harbour (hereinafter referred to as “the harbour”):

(2) The harbour which is a fishery harbour as defined in section 21 of the Sea Fish Industry Act 1951 comprises an inner harbour of refuge and an outer harbour and the lands, quays, roads, works and conveniences comprised in that inner harbour are vested in or granted to the Council: 1951 c. 30.

(3) It is expedient to empower the Council to construct in the harbour the works described in this Act and to confer further powers on the Council in relation to the harbour:

“Glandon Peninsula” means so much of the peninsula near the eastern boundary of the area of Pwllheli Community commonly known as Glandon Peninsula as lies within the red boundary line shown on the signed map;

“the harbour” means the harbour of Pwllheli the area whereof is described in section 16 (Area of harbour) of this Act and so far as the same is not within that area includes the harbour estate;

“harbour estate” means the piers, wharves, quays, berths, roads, bridges, sheds and other works and conveniences, and the lands, buildings and property of every description and of whatever nature, which are for the time being vested in, occupied or administered by the Council for the purposes of this Act;

“the harbour undertaking” means the undertaking of the Council in connection with the harbour, as from time to time authorised, or any part thereof;

“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 plan and sections;

“moorings” includes floating jetties, pontoons, buoys and like apparatus or facilities;

“the signed map” means the map signed in triplicate by the Right Honourable the Lord Aberdare, the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred, one copy of which has been deposited at each of the following offices:—

(a) the office of the Clerk of the Parliaments, House of Lords;

(b) the Private Bill Office, House of Commons; and

(c) the office of the clerk and chief executive officer of the Council;

“the standard scale” has the meaning given by section 37 of the Criminal Justice Act 1982;

1982 c. 48.

“statutory maximum” means the prescribed sum as defined in section 32(9) of the Magistrates’ Courts Act 1980;

1980 c. 43.

“tidal work” means so much of any work authorised by this

PART I
—cont.

Act or by any enactment repealed by this Act as is on, under or over tidal waters or tidal lands below the level of high water;

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

1968 c. 59.

“vehicle” means a vehicle of any description and includes a trailer, caravan or machine of any kind drawn or propelled along or over land whether by animal or mechanical power and includes a hovercraft within the meaning of the Hovercraft Act 1968 or any other amphibious vehicle;

“vessel” means a ship, boat or raft of any description and includes any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily); and includes a hovercraft within the meaning of the Hovercraft Act 1968 or any other amphibious vehicle or a seaplane;

“water authority” means the Welsh Water Authority;

“the works” means the works authorised by section 4 (Power to construct works) of this Act, and any works constructed under section 6 (Subsidiary works) of this Act for or in connection with or subsidiary to either of those works and includes those works as extended, enlarged, altered, replaced or relaid under subsection (2) of the said section 4.

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

Incorporation
of Act of 1847.

3.—(1) The Act of 1847 (except sections 6 to 22, 24 to 27, 31, 32, 42, 43, 48 to 50, 84 to 90, 95 to 98 and 101), so far as applicable to the purposes and not inconsistent with the provisions of this Act is hereby incorporated with this Act.

(2) In construing the Act of 1847 as so incorporated—

(a) the expression “the harbour, dock or pier” shall mean the harbour, the expression “the special Act” shall mean this Act, and the expression “the undertakers” shall mean the Council;

(b) section 23 shall be read and have effect as if the words “provided that no such lease be granted for a longer term than three years” were omitted;

- (c) section 33, as modified by section 26(3) of the Harbours Act 1964 (and paragraph (a) above) shall be read and have effect as if the reference to charges payable by virtue of the said section 26 and this Act included charges payable under section 18 (Powers as to moorings, etc.) of this Act;
- (d) section 69 shall be read and have effect as if the words "shall forfeit" to the end of the section were deleted and there were substituted therefor the words "shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale";
- (e) section 75 shall be read and have effect as if for the words "fifty pounds" there were substituted the words "five hundred pounds".

PART I
—cont.
1964 c. 40.

PART II

WORKS AND PROVISION OF FACILITIES

4.—(1) Subject to the provisions of this Act, the Council may make and maintain in the lines and situations and upon the lands delineated on the deposited plan and according to the levels shown on the deposited sections the following works in the harbour that is to say:—

Power to construct works.

Work No. 1—An embankment or wall commencing by a junction with the existing embankment or wall on the north-eastern side of the inner harbour extending from the said existing embankment or wall in a southerly direction and terminating by a junction with an existing embankment or wall on the south-western side of the Glandon peninsula;

Work No. 2—An embankment or wall commencing by a junction with the existing embankment or wall on the north-eastern side of the island in the inner harbour extending from the said existing embankment or wall in a south-south-westerly direction for a distance of 150 metres or thereabouts thence curving in a westerly direction for a distance of 120 metres or thereabouts and there terminating by a junction with the said existing embankment or wall on its south-eastern side.

PART II
—cont.

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

(3) The Council may by means of the works fill in and reclaim from the foreshore and bed of the sea and may hold and use as part of the harbour undertaking so much of the foreshore and bed of the sea as is situated within the limits of deviation.

Power to
dredge.

5. Subject to the provisions of section 38 (Crown rights) of this Act, the Council may, for the purposes of constructing and maintaining the works or otherwise for the purposes of the harbour undertaking from time to time deepen, dredge, scour, cleanse, alter and improve the foreshore and bed of the sea and blast any rock within the harbour or any part or parts thereof, and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) from time to time dredged by them:

1894 c. 60.

Provided that no materials so dredged, other than those dredged for the purpose of constructing the works or filling in and reclaiming from the foreshore and bed of the sea so much of the foreshore and bed of the sea as is situated within the limits of deviation, shall be deposited below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Subsidiary
works.

6. Subject to the provisions of this Act, the Council may from time to time within the limits of deviation erect, construct and maintain whether temporarily or permanently all such works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance or use of the works authorised by this Act.

Power to
deviate.

7. In the construction of the works authorised by section 4 (Power to construct works) of this Act the Council may deviate laterally from the lines or situations thereof shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and may deviate vertically from the levels of those works shown on the deposited sections to any extent upwards or downwards.

General
powers of
Council in
respect of
harbour.

8.—(1) The Council may, subject to the provisions of this Act, take such steps from time to time as they may consider necessary for the development, improvement, regulation, maintenance, management, marking or lighting of the harbour and the facilities afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of the foregoing, the Council may—

- (a) construct, demolish, reconstruct, maintain, alter, improve, enlarge, extend, replace or relay, bunds, embankments, walls, footways, approaches, steps, landing places, piers, quays, jetties, slips, wharves, groynes, sea defences, berthing heads, mooring posts, mooring buoys, moorings, bollards, mooring rings, walkways, buoys, navigation marks, cranes, lights, beacons, sewers, drains, watercourses, gas and water pipes, apparatus for electric light and power and for telephone communication, warehouses, offices, sheds and other works and facilities which may be found necessary to secure the purposes of this Act including the accommodation or convenience of vessels or vehicles or for the protection of the harbour;
- (b) deposit within the harbour materials dredged by them under the powers of section 5 (Power to dredge) of this Act and subject to the provisions of that section;
- (c) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour.

PART II
—cont.

9. Without prejudice to the provisions of section 8 (General powers of Council in respect of harbour) of this Act the Council may construct, demolish, reconstruct, maintain, alter, improve, enlarge, extend, replace, relay, mark, light and operate in the harbour such works for the provision of boating or marina facilities and such works for the shipping or unshipping of goods and for the embarking or disembarking of passengers as they may consider requisite.

Power to provide boating and other facilities.

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

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

(2) If a tidal work is constructed, extended, enlarged, altered, replaced or relaid 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 Council 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 30 days from the date when the notice is served upon the Council 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

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—cont.

necessary so to do, he may 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 Council.

Lights on
tidal works
during
construction.

11.—(1) The Council shall at or near a tidal work during the whole time of the construction, extension, enlargement, alteration, replacement or relaying 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 Council fail to comply with any requirement of a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Provision
against danger
to navigation.

12.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Council 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.

(2) If the Council fail to notify Trinity House as required by this section or to comply with any requirement of a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement
of works
abandoned or
decayed.

13.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Council 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.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such a 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 30 days from the date when a notice under this section is served upon the Council, 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 Council.

PART II
—cont.

14. 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 Council.

Survey of tidal works.

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

Permanent lights on tidal works.

(2) If the Council fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

PART III

HARBOUR MANAGEMENT

16.—(1) The area within which the Council shall exercise the functions conferred on them by virtue of this Act and within which they shall have and may exercise the powers of a harbour authority and within which the powers of the harbour master may be exercised shall comprise the area bounded—

Area of harbour.

- (a) on the west by an imaginary straight line commencing at reference point SH235040/333375, being the point where the western boundary of the area of Pwllheli Community crosses the level of high water and drawn in a south-south-easterly direction to reference point SH235825/331725;
- (b) on the south by an imaginary straight line commencing at the said reference point SH235825/331725 and drawn in a north-easterly direction to reference point SH240265/333840;
- (c) on the east by an imaginary straight line commencing at the said reference point SH240265/333840 and drawn in a north-westerly direction to reference point SH238855/335555, being the point where the eastern boundary of the area of Pwllheli Community crosses the level of high water;
- (d) on the north by the level of high water:

PART III
—cont.

Provided that the Council shall not demand, take or recover charges (other than the licence fee permitted by subsection (6) of section 18 (Powers as to moorings, etc.) of this Act) in respect of vessels not passing to the west of a straight line drawn from the easternmost point of the peninsula extending east from Carreg yr Imbyll to the point where the eastern boundary of the area of Pwllheli Community crosses the level of high water which line is shown by a broken black line upon the harbour map unless—

- (i) the same are wholly or partly loaded or unloaded by means of lighters passing west of such line; or
- (ii) the Council have by the erection of a breakwater or otherwise provided shelter for vessels anchored to the east of such line.

(2) (a) The area described in subsection (1) above is shown in red colour on the harbour map.

(b) If there be any discrepancy between the harbour map and the description of the area in subsection (1) above that description shall prevail.

(3) Copies of the harbour map certified by the clerk and chief executive officer of the Council to be true shall be receivable in all civil or criminal proceedings and elsewhere as evidence of the contents of the harbour map.

As to use of
harbour.

17. The Council may appropriate and set apart any part of the harbour for the exclusive use of any particular class of vessel.

Powers as to
moorings, etc.

18.—(1) The Council may place, lay down, maintain and use moorings in the harbour.

(2) The Council may demand, take and recover in respect of any vessel using any of the moorings provided by the Council under this section such reasonable charges as may from time to time be prescribed by the Council.

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

(4) The Council may from time to time grant licences to any person to place, lay down, maintain and use existing and future moorings in the harbour:

Provided that—

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

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

PART III
—cont.

- (b) the Council shall not refuse to grant a licence to an owner or lessee of any land not leased by the Council to place, lay down, maintain and use existing moorings on that land unless they are satisfied that the placing, laying down, maintenance or use of the moorings to which the application relates would constitute a danger to or interfere with the navigation of vessels in the harbour.

(5) Any licence granted under subsection (4) above shall be valid only for such period not exceeding three years commencing with its date as may be specified in the licence.

(6) The Council may charge a reasonable fee for granting a licence under subsection (4) above.

19.—(1) Any person who—

Obstruction of
moorings, etc.

- (a) intentionally obstructs any person acting under the authority of the Council in placing, laying down, maintaining or using moorings; or
- (b) intentionally pulls up or removes any moorings or any poles or stakes driven into the ground for the purpose of such moorings; or
- (c) places, lays down, maintains or uses any mooring not provided or licensed by the Council under section 18 (Powers as to moorings, etc.) of this Act; or
- (d) without reasonable excuse causes a vessel to be moored except at a mooring provided or licensed by the Council under the said section 18 of this Act or at a quay, jetty, slipway or other work;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If—

- (a) any person contravenes paragraph (c) of subsection (1) above the Council may remove the mooring in question and recover from that person the expenses incurred in so doing;
- (b) any vessel is moored at a mooring in contravention of paragraph (d) of subsection (1) above the Council may remove that vessel to another mooring and such removal shall be carried out at the expense and risk of the owner of the vessel.

PART III
—cont.Power to
remove goods.

20. If any goods are left in any part of the harbour the Council may require the owner of the goods to remove them, and if the goods are not so removed within six hours after such requirement the Council may cause them to be removed to their own or any other public warehouse or store and such removal shall be carried out at the expense and risk of the owner:

Provided that—

- (a) notwithstanding such removal on behalf of the Council, the goods shall be liable to a general lien for the cost of removal, and for any charges payable to the Council by the owner; and
- (b) the power of the Council for preventing the recovery of the goods until the cost of removal and the charges have been paid shall extend and apply to any goods removed or placed in store under powers of this section.

Parking places.

21. The Council may provide facilities (including shelters) within or in the vicinity of the harbour for the parking of vehicles and vessels and for that purpose may erect barricades or fencing with related offices, waiting rooms and other facilities and may make reasonable charges for the use of such facilities.

Power to
make byelaws.

22.—(1) In addition to the byelaws which may be made by the Council under section 83 of the Act of 1847, the Council may make such byelaws as they think fit for all or any of the following purposes, that is to say:—

- (a) for regulating the navigation of vessels within the harbour, including regulation of the speed and manner of navigation of vessels within the harbour and for preventing obstruction to vessels using the harbour;
- (b) for regulating or prohibiting the mooring, careening or beaching and keeping of vessels in the harbour;
- (c) for regulating the launching of vessels within the harbour and the use of slipways and landing places;
- (d) for securing the good and orderly conduct of persons in vessels or otherwise in the harbour;
- (e) for regulating or preventing the use of firearms in the harbour;
- (f) for the prevention of nuisances in the harbour;
- (g) for securing the safety of vessels and persons using, and of property within, the harbour;

- (h) for regulating the removal or disposal of rubbish (including ballast, earth, clay or other refuse) and sewage from vessels in the harbour;
- (i) for the prevention of the disposal of such rubbish and sewage as aforesaid in the harbour.

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—cont.

(2) No byelaw made under this section shall apply to any lifeboat or the crew thereof while engaged on a life-saving mission or any form of practice or training exercise or to any vessel belonging to Trinity House or to any officer of Trinity House while engaged in carrying out his duties as such an officer.

(3) In its application to byelaws relating to the harbour made by the Council under any enactment section 236 of the Local Government Act 1972 shall have effect as if in subsection (7) after the word “confirm” where it firstly occurs the words “with or without modification” were inserted. 1972 c. 70.

(4) Byelaws made by the Council to which subsection (3) above applies may contain provisions imposing upon a person offending against a byelaw a fine not exceeding level 2 on the standard scale.

(5) Subsection (1) of section 80 of the Health and Safety at Work etc. Act 1974 (repeal or modification of certain provisions by regulations) shall apply to this section and to section 83 of the Act of 1847 as incorporated with this Act and to any byelaw made thereunder as that subsection applies to any provision mentioned in subsection (2) of the said section 80 and nothing in this section or the said section 83 shall prejudice or affect the operation of any of the relevant statutory provisions as defined in section 53 of the said Act of 1974. 1974 c. 37.

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

Extension of powers of harbour master to give directions.

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

PART III
—cont.

Directions of
harbour master
need
not be in
writing.

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

PART IV

FINANCIAL AND MISCELLANEOUS

Charges for
services or
facilities.

25. The Council may demand, take and recover such reasonable charges for services and facilities provided by them in, or in connection with, the harbour as they may from time to time determine.

Payment of
charges.

26.—(1) The several charges which the Council are for the time being authorised to demand, take and recover under this Act or any other enactment may be demanded, taken and recovered by such persons, at such places, at such times and under such conditions as the Council may from time to time specify in their published list of charges and, in the case of charges payable in respect of any vessel, shall be payable before its removal from the harbour.

1979 c. 2.

(2) An officer, as defined in the Customs and Excise Management Act 1979, may refuse clearance of any vessel if he is satisfied that any charges payable to the Council in respect of that vessel or any goods therein have not been paid.

(3) Charges payable to the Council shall be payable by the owner or other person for the time being having charge of any vessel in relation to which the charges are payable.

(4) Where charges payable to the Council may be recovered by them from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

Power to
lease harbour.

27.—(1) The Council may from time to time lease the harbour or any part thereof (hereinafter in this section referred to as “the transferred harbour”) for a term not exceeding 99 years.

(2) Without prejudice to subsection (1) above any lease executed under this section may specifically provide that, in respect of the transferred harbour and during the currency of such lease, the lessee, to the extent and upon the terms specified in such lease—

- (a) shall have and may exercise in relation to the transferred harbour all or any of the powers conferred upon the Council by this Act;
- (b) shall be subject to all the restrictions, liabilities and obligations in respect thereof to which the Council are subject and shall be under a duty to perform (or pay to the Council the cost of performing) all of the duties of the Council in respect thereof.

(3) The Council shall within one month after the date of any lease made under this section deposit a certified copy thereof in the office of the Secretary of State for Wales.

28. Any contract entered into for the purpose of constructing the works authorised by this Act shall include such provisions as the Council consider appropriate for securing so far as practicable the maximum employment in constructing those works of persons normally resident in the district of Dwyfor. Employment
of local
labour.

29.—(1) The land comprising so much of the Glandon Peninsula as is vested in the Council at the date of the passing of this Act shall not be used otherwise than for the purposes of the sections of this Act mentioned in subsection (2) below: As to
Glandon
Peninsula.

Provided that nothing in this section shall prevent—

- (a) the continuance of any user of Glandon Peninsula existing at the passing of this Act;
- (b) the use for industrial purposes of so much of Glandon Peninsula as is shown coloured green on the signed map;
- (c) the carrying out by statutory undertakers of any development permitted under Class X and Class XVIII in Schedule 1 to the Town and Country Planning General Development Order 1977 or such diversions of apparatus as may be agreed to from time to time between the Council and any statutory undertakers. S.I. 1977/289.
- (2) The sections of this Act hereinbefore referred to are—
- (a) section 4 (Power to construct works);
- (b) section 5 (Power to dredge);
- (c) section 8 (General powers of Council in respect of harbour);
- (d) section 9 (Power to provide boating and other facilities); and
- (e) section 21 (Parking places).

PART IV

—cont.

As to disposal of reclaimed land.

1972 c. 70.

Exemption of Department of Transport from dues.

Exemption of lifeboat crew from dues.

For protection of water authority.

30. The Council shall not by way of sale dispose of any land reclaimed under the powers of this Act or of an accretion from the sea of any part of the harbour and appropriated by the Council under section 122 of the Local Government Act 1972.

31. Officers of the Department of Transport in the execution of their duty shall have at all times free ingress, passage and egress on, into, from, over, along, through and out of the harbour by land and with their vessels and otherwise without payment.

32. All persons going to or returning from any lifeboat or using any apparatus for saving life being either persons belonging to the crew of the lifeboat or to the coastguard or persons for the time being actually employed in saving life or in using the lifeboat or the apparatus for saving life and all persons brought ashore from any vessel in distress shall have at all times free ingress, passage and egress, on, into, from, over, along, through and out of the harbour without payment.

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

(1) In this section—

“the protected fisheries” means the Afon Rhyd-hir and the Afon Erch and fish in, or migratory fish proceeding to or from, those rivers or either of them and the spawning grounds, spawn or food of fish in those rivers;

“protected work” means any work, building, structure, plant, appliance, main, pipe, sewer outfall or other apparatus owned or maintained by, or under the control of, the water authority for the purpose of any of their statutory functions:

- (2) The powers conferred on the Council by section 8 (General powers of Council in respect of harbour) of this Act shall not without the consent of the water authority (which consent shall not be unreasonably withheld) apply to a protected work:
- (3) In exercising the powers of section 8 (General powers of Council in respect of harbour), section 9 (Power to provide boating and other facilities) and section 21 (Parking places) of this Act, the Council or any person acting by arrangement with the Council, shall not without the consent of the water authority (which consent shall not be unreasonably withheld) damage, injuriously affect or interfere with the protected fisheries or a protected work and the said powers shall

be so exercised as not to render unreasonably inconvenient the access to a protected work:

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—cont.

- (4) Nothing in section 8 (General powers of Council in respect of harbour) of this Act shall relieve the Council from liability for damage caused by them to the protected fisheries or a protected work:
- (5) If the water authority have reasonable grounds for believing that the protected fisheries or a protected work are likely to be interfered with or damaged by reason of the construction of any work authorised by or under this Act or by the carrying out of any dredging operation under this Act they may carry out such protective works as may be agreed between the Council and the water authority or, in default of agreement, as may be settled by arbitration and recover the reasonable cost thereof from the Council:
- (6) Subject to the provisions of this section, nothing in this Act shall affect prejudicially any statutory or other rights, powers or privileges vested in, or enjoyed by, the water authority at the date of the passing of this Act and the water authority shall continue to hold, exercise and enjoy those rights, powers and privileges as if this Act had not been passed.

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

For further protection of water authority.

(1) In this section—

“authorised work” means all or any of the following:—

- (a) Works Nos. 1 and 2 or either of them;
- (b) any subsidiary work (including temporary works) carried out under section 6 (Subsidiary works) of this Act which is on or in or will or may affect the bed or banks of the river or any sea defence work;
- (c) any works carried out within the river under the provisions of section 5 (Power to dredge) of this Act;
- (d) any such work as aforesaid as is or is proposed to be extended, enlarged, altered, replaced or relaid under subsection (2) of section 4 (Power to construct works) of this Act (whether permanently or temporarily); and

PART IV
—cont.

(e) any filling in of or reclamation from the foreshore or bed of the river under subsection (3) of the said section 4;

“construct” includes execute, place, alter, replace, enlarge and relay and “constructed” and “construction” have corresponding meanings;

“plans” includes sections and specifications;

“protective works” means any temporary or permanent works or measures necessary, because of the construction of an authorised work, to ensure the stability of a sea defence work or to protect it from injury;

“the river” means the Afon Rhyd-hir or the Afon Erch, as the case may be;

“sea defence works” means any works for the purpose of defence against sea water or tidal water under the control of the water authority for the purposes of the Water Resources Act 1963 and the Land Drainage Act 1976 and includes any outfalls comprised in those works:

1963 c. 38.
1976 c. 70.

- (2) (a) Before commencing to construct an authorised work the Council shall submit plans thereof to the water authority for their reasonable approval;
- (b) If within 28 days after the submission to them of such plans the water authority do not signify in writing their disapproval thereof and the grounds of their disapproval they shall be deemed to have approved thereof;
- (3) Upon signifying their approval of the said plans the water authority may specify any protective works which in their opinion should be carried out or undertaken by the Council during the construction of any of the authorised works and, where necessary for tidal, weather or other reasons, a period within which or time at which such protective works shall be carried out or undertaken; and such of the works so specified as may be reasonably necessary shall be constructed by the Council within the period or at the time (if any) reasonably specified at their own expense and under the supervision (if given) and to the reasonable satisfaction of the water authority;
- (4)(a) Subject to the provisions of this section an authorised work shall not be constructed otherwise than in accordance with such plans as may be approved or deemed to be approved by the water authority as aforesaid or settled by arbitration;

- (b) The Council shall at all reasonable times afford to the engineer to the water authority, or his duly authorised representative, access to an authorised work during the construction thereof for the purpose of inspection:
- (5)(a) Plans of any authorised work shall not be submitted by the Council to the Secretary of State for his approval under section 10 (Tidal works not to be executed without approval of Secretary of State) of this Act until plans of that work have been approved by the water authority or settled by arbitration under this section with or without conditions and if, on the submission of plans to the Secretary of State, the Secretary of State requires any alteration of the plans so approved or settled under this section or of any conditions relating thereto, the Council shall, not less than 28 days before commencing the work, inform the water authority of any such alteration;
- (b) Subject to compliance with sub-paragraph (a) of this paragraph, if there shall be any inconsistency between any plans approved or deemed to be approved by the water authority or settled by arbitration under this section or any conditions relating thereto and the plans approved by the Secretary of State under the said section 10 or any conditions or restrictions imposed by him under that section the authorised work shall be constructed in accordance with the plans approved by the Secretary of State and subject to the conditions or restrictions imposed by him:
- (6) Except in case of emergency, the Council shall give not less than 28 days' notice in writing to the water authority before commencing to construct an authorised work:
- (7) The authorised works, when constructed, shall be maintained by the Council to the reasonable satisfaction of the water authority:
- (8) Any additional expense which may be reasonably incurred by the water authority in maintaining any protective works which become part of the sea defence works shall be repaid to the water authority by the Council:
- (9) If, by reason or in consequence of the construction of the authorised works, the water authority incur any additional cost or expense in the improvement or maintenance of any sea defence work, the Council shall pay to the authority an amount equivalent to such additional cost or expense (including a proper proportion of the overhead expenses of the water authority) reasonably incurred:

PART IV
—cont.

- (10) If, by reason or in consequence of the construction of an authorised work or failure of such work, any sea defence work shall at any time be damaged, such damage shall be made good by the Council to the reasonable satisfaction of the water authority, and if within such reasonable time as may be required after receiving notice thereof, the Council fail to make good such damage, the water authority may make good the same and recover from the Council the costs and expenses reasonably incurred by them in so doing (including a proper proportion of the overhead expenses of the water authority):
- (11) The Council 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 may have to pay by reason or in consequence of any injury or damage to any sea defence work or by reason or in consequence of the impairment of the efficiency of the sea defence works which may be caused or result thereto by or in consequence of the construction or maintenance of an authorised work or of the failure or want of repair thereof or in consequence of any act or omission of the Council, their contractors, agents, workmen or servants whilst engaged upon an authorised work:
- Provided that—
- (a) nothing in this paragraph shall impose any liability on the Council with respect to any damage or injury which may be attributable to the act, neglect or default of the water authority, their contractors, agents, workmen or servants;
- (b) the water authority shall give to the Council reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior agreement of the Council:
- (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 Council from any liability under the provisions of this section:
- (13) Any difference arising between the Council and the water authority under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

35. Nothing in this Act shall exempt the Council from—

PART IV
—cont.

(a) any land drainage byelaws of the water authority; or

(b) any byelaws of the water authority relating to prevention of pollution;

Saving for
byelaws of
water
authority.

which may for the time being be in force.

36. Where under any provision of this Act any difference is to be referred to or settled by arbitration it shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.

Arbitration.

37. Nothing in this Act shall prejudice or derogate from the powers, rights and privileges of Trinity House.

Saving for
Trinity House.

38.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Council to take, use, enter upon or in any manner interfere with any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) 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.

Crown rights.

(2) A consent under subsection (1) above may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate.

39.—(1) The Acts specified in columns (1) and (2) of the Schedule to this Act are hereby repealed to the extent mentioned in column (3) of that Schedule.

Repeal.

(2) Notwithstanding the repeal effected by subsection (1) above all property vested in the Council immediately before the commencement of this Act by virtue of the Pwllheli Corporation Act 1897 shall continue vested in the Council.

1897 c. ccv.

(3) Nothing in this Act shall prejudice or affect the functions of the water authority under section 20 (Vesting embankment and lands in Corporation) of the said Act of 1897 as having effect in accordance with the Gwynedd River Authority Transfer Order 1968.

S.I. 1968/2074.

Section 39.

SCHEDULE
ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
60 & 61 Vict. c. ccv.	Pwllheli Corporation Act 1897.	The whole Act except— (1) so much as relates to markets and fairs; (2) section 1 (Short title), section 20 (Vesting embankment and lands in Corporation), section 37 (Power to make water- works) and section 39 (Power to take lands and waters); and (3) section 4 (Interpretation) so far as material for the purposes of paragraphs (1) and (2) above.
7 Edw. 7. c. cxviii.	Pier and Harbour Order Confirmation (No.1) Act 1907.	The whole Act.

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Pwllheli Harbour Act 1983

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SCHEDULE—Enactments repealed.