

ELIZABETH II



1987 CHAPTER xxvii

An Act to empower Associated British Ports to construct works and to acquire lands; to confer further powers on A.B. Ports; and for other purposes.

[10th December 1987]

WHEREAS—

(1) By the Transport Act 1981 and the Associated British Ports (Appointed Day and Designation of Holding Company) Order 1982 the British Transport Docks Board which were established by the Transport Act 1962 were reconstituted on 31st December 1982 under the name of Associated British Ports (in this Act referred to as "A.B. Ports") and powers in relation to A.B. Ports were conferred on Associated British Ports Holdings Limited corresponding to the powers of a holding company over a wholly-owned subsidiary: 1981 c. 56. 1962 c. 46.

(2) It is the duty of A.B. Ports under the said Act of 1981 (inter alia) to provide, to such extent as it may think expedient, port facilities at its harbours and to have due regard to efficiency, economy and safety of operation as respects the services and facilities provided by it and its subsidiaries and A.B. Ports is empowered to operate its harbours:

(3) It is expedient that A.B. Ports should be empowered to construct the works authorised by this Act and to acquire the lands referred to in this Act:

(4) It is expedient that the other powers in this Act contained should be conferred upon A.B. Ports and that the other provisions in this Act contained should be enacted:

(5) A plan and sections showing the lines or situations and levels of the works to be constructed under the powers of this Act, and a plan of the lands authorised to be acquired or used by this Act, and a book of reference to such plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the proper officer of the Devon County Council, which plan, sections and book of reference are respectively referred to in this Act as the deposited plan, the deposited sections and the deposited book of reference:

(6) The purposes of this Act cannot be effected 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:—

PART I

PRELIMINARY

- Short title. 1. This Act may be cited as the Associated British Ports Act 1987.
- Interpretation. 2.—(1) In this Act, unless there be something in the subject or context repugnant to such construction, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the related subject-matter the same respective meanings and—
- 1847 c. 27. “A.B. Ports” means Associated British Ports;
 “the Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847;
- 1964 c. xxxviii. “the Act of 1964” means the British Transport Docks Act 1964;
- 1966 c. xxxi. “the Act of 1966” means the British Transport Docks Act 1966;
- 1969 c. xxiii. “the Act of 1969” means the British Transport Docks Act 1969;
- 1971 c. lix. “the Act of 1971” means the British Transport Docks Act 1971;
- 1978 c. xiv. “the Act of 1978” means the British Transport Docks Act 1978;
- “enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;
- “the limits of deviation” means the limits of deviation shown on the deposited plan;
- “tidal work” means so much of any work authorised by this Act as is on, under or over tidal waters or tidal lands below the level of mean high-water springs;
- “the undertaking” means the undertaking of A.B. Ports as authorised from time to time;
- “vessel” has the meaning assigned to it in section 3 (Interpretation) of the Act of 1966;
- “the works” means the works authorised by Part III (Works, etc.) of this Act.

(2) Unless the context otherwise requires, any reference in this Act to Work No. 1 shall be construed as a reference to the works.

3.—(1) The following enactments, so far as the same are applicable to the purposes and are not inconsistent with the provisions of this Act, are hereby incorporated with this Act:—

- (a) the provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to mines lying under or near the railway:

Provided that—

(i) for the purposes of the said incorporated provisions with respect to the temporary occupation of lands near the railway during the construction thereof, the works shall be deemed to be the railway and for the words “the period by the special Act limited for the completion of the railway” there shall be substituted the words “the period of five years from the commencement of the construction of any of the works authorised by the special Act”;

(ii) for the purposes of the said incorporated provisions with respect to mines lying under or near the railway, the works shall be deemed to be the railway and, for the purposes of section 78 of the said Act of 1845 (as amended by the Mines (Working Facilities and Support) Act 1923) in so far as it relates to the works, the area of protection shall, as regards mines and minerals lying within 172.21 metres of the surface of the ground, be 121.92 metres and, as regards mines and minerals lying at a greater depth than 172.21 metres below the said surface, the area of protection shall be increased by 18.3 metres for every 30.48 metres or part thereof by which the mines and minerals lie deeper below the said surface than 172.21 metres;

- (b) the provisions of the Act of 1847 (except sections 6 to 9, 11 to 13, 16 to 23, 25, 26, 33, 48, 49, 50, 79, 80, 84 to 90, 94, 95, 97 and 98):

Provided that—

(i) the expression “the harbour, dock, or pier” where used in the said incorporated provisions means the works;

(ii) the expression “the harbour master” where used in the said incorporated provisions means, in relation to Work No. 1, A.B. Ports’ Docks and Marine Superintendent at Plymouth;

(iii) the meaning of the word “vessel” as defined in this Act shall be substituted for the meaning assigned to it by section 3 of the Act of 1847;

(iv) for the purpose of section 53 of the Act of 1847 notice of the harbour master’s directions may be given to the master of a vessel orally, or otherwise communicated to him in unwritten form, in any case where it is not reasonably practicable to serve on him a notice in writing.

(2) In the construction of the enactments so incorporated with this Act, the expression “special Act” shall be read as a reference to this Act and the expression “company” shall mean A.B. Ports.

4.—(1) Part I of the Compulsory Purchase Act 1965 (except sections 4 and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

PART I
—cont.
Incorporation of
general Acts.
1845 c. 20.

1923 c. 20.

Application of
Part I of
Compulsory
Purchase Act
1965.
1965 c. 56.

1981 c. 67.

PART I
—cont.
1965 c. 56.

(2) In section 11 (1) of the Compulsory Purchase Act 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice), as so applied, for the words "fourteen days" there shall be substituted the words "three months".

1845 c. 18.

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

PART II

LANDS

Power to
acquire lands.

5.—(1) Subject to the provisions of this Act, A.B. Ports may enter upon, take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as it may require for the purposes of the works or for any purpose connected with or ancillary to the undertaking.

(2) The powers of A.B. Ports for the compulsory acquisition of land under this section shall cease on 31st December 1992.

Purchase of
rights over
land.

6.—(1) In this section references to the purchase by A.B. Ports of new rights are references to the purchase of rights to be created in favour of A.B. Ports.

(2) A.B. Ports may for the purposes of constructing, using, maintaining, renewing or removing the works, or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, purchase compulsorily such new rights as it may require over any of the lands which may be acquired under section 5 (Power to acquire lands) of this Act instead of acquiring those lands under that section.

(3) The Compulsory Purchase Act 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory purchase of rights under subsection (2) of this section as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the said Act of 1965 to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.

(4) Without prejudice to the generality of subsection (3) of this section, in relation to the purchase of rights in pursuance of subsection (2) of this section—

(a) Part I of the Compulsory Purchase Act 1965 shall have effect with the modifications specified in the Schedule to the Act of 1978 and as if for the references in that schedule to the Act of 1978 there were substituted references to this Act;

(b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

Incorporation
of provisions
relating to
lands.

7. The following provisions of the undermentioned Acts are incorporated with, and form part of this Part of, this Act:—

The Act of 1964—

Section 6 (Correction of errors in deposited plans and book of reference):

The Act of 1969—

- Section 8 (Disregard of recent improvements and interests); and
Section 9 (Extinction of private rights of way).

PART II
—cont.

PART III

WORKS, ETC.

8.—(1) Subject to the provisions of this Act, A.B. Ports may, in the lines and situations shown on the deposited plan and within the limits of deviation and according to the levels shown on the deposited sections, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith—

Power to
make works.

In the county of Devon—

In the city of Plymouth—

Work No. 1. A reclamation of the bed and filling in of the Inner Basin at Plymouth (Millbay) Docks, comprising an area of 3.41 hectares.

(Reclamation
at Plymouth
(Millbay)
Docks)

(2) Subject to the provisions of this Act, A.B. Ports may within the limits of deviation from time to time renew, alter, replace or relay temporarily or permanently the works.

9. The works shall for all purposes form part of the undertaking.

Works to form
part of
undertaking.
Incorporation
of provisions
relating to
works.

10.—(1) The following provisions of the undermentioned Acts are incorporated with, and form part of this Part of, this Act:—

The Act of 1964—

Section 30 (Fine for obstructing works):

The Act of 1966—

Section 9 (Subsidiary works);

Section 10 (Power to deviate);

Section 21 (Tidal works not to be executed without approval of Board of Trade);

Section 23 (Abatement of works abandoned or decayed);

Section 24 (Survey of tidal works); and

Section 26 (Lights on tidal works during construction):

The Act of 1969—

Section 17 (Provision against danger to navigation):

The Act of 1971—

Section 16 (Permanent lights on works):

Provided that—

- (a) the provisions of the said section 9, as so incorporated, shall have effect as if in the proviso to subsection (1) the words after “those works” were omitted; and
- (b) the provisions of the said sections 26, 17 and 16, as so incorporated, shall have effect as if in subsection (2) of each of those sections for the words “one hundred pounds” there were substituted “the statutory maximum”.

(2) Any reference in the said incorporated provisions to “the works” or to a “tidal work” shall be construed as a reference to “the works” or to a “tidal work” as defined in section 2 (Interpretation) of this Act.

PART III
—cont.

(3) Notwithstanding anything in section 9 (Subsidiary works) of the Act of 1966, as so incorporated, A.B. Ports shall not in the exercise of the powers conferred by that section—

- (a) use any telecommunication apparatus kept installed for the purposes of a telecommunications code system; or
- (b) alter any such apparatus except in accordance with and subject to the provisions of paragraph 23 of the telecommunications code.

1984 c. 12.

(4) In this section “alter” and “telecommunication apparatus” have the same meanings as in paragraph 1 of Schedule 2 to the Telecommunications Act 1984, “the telecommunications code” means the code contained in the said Schedule 2, and “telecommunications code system” has the same meaning as in Schedule 4 to the said Act of 1984.

PART IV

PROTECTIVE PROVISION

Crown rights.

11.—(1) 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 A.B. Ports to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

- (a) 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; or
- (b) belonging to Her Majesty in right of Her Crown and under the management (pursuant to any statute or otherwise) of the Secretary of State without his consent in writing; or
- (c) 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.

(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.

PART V

HUMBER PROVISIONS

Humber byelaws.

12.—(1) In this section—

“the council” means the Kingston upon Hull City Council;

“the excluded works” means the works on the north bank of the Humber comprising Ferry Boat Dock, Horse Wash, so much of Island Wharf as belongs to the council, Island Wharf Bullnose (or Island Wharf Pier), Minerva Pier and Victoria Pier, all works and conveniences connected therewith and all sluices, sewage outfalls and other works belonging to or maintained by the council;

“the Humber” means—

1884 c. clxi.

(a) so much of the river Ouse as is within the limits of improvement as defined by section 3 of the Ouse (Lower) Improvement Act 1884;

(b) the river Trent below the south side of the stone bridge at Gainsborough;

(c) the river Humber and the estuary thereof from the confluence of the rivers Ouse and Trent to the seaward limits described in the Schedule to this Act; and

(d) all navigable havens and creeks of the river Trent below the south side of the said stone bridge and of the river Humber or of the estuary thereof wherein the tide flows and reflows;

including, where the purposes for which byelaws may be made so require, any land adjoining the Humber but not including any part of the old harbour or haven at Hull (being so much of the river Hull as is within the jurisdiction of the council as navigation authority), the marina as defined in section 4 (Interpretation of Part II) of the Kingston upon Hull Act 1984 or any enclosed dock;

“signals” includes sound signals.

PART V
—cont.

1984 c. xxvi.

(2) A.B. Ports may make byelaws in relation to all or any part of the Humber in respect of any matter relating to the conservancy, protection, regulation, maintenance and improvement of the Humber and the prevention of collisions therein and, in particular, but without prejudice to the generality of the foregoing, for all or any of the following purposes:—

- (a) for regulating the management, improvement, use and superintendence of the Humber and the berths, wharves, quays, piers, jetties, staithes, landing places, slipways, grids, locks, sluices, equipment, works and conveniences (including moorings) in the Humber with the exception of the excluded works;
- (b) for regulating the admission to, and movement, berthing and mooring within, and the departure of vessels from, the Humber, or the removal of vessels, and for the good order and government of vessels whilst within the Humber;
- (c) for regulating the shipping and unshipping, landing, stowing, depositing and removing of goods within the Humber and the embarkation, disembarkation or landing of passengers;
- (d) for regulating the navigation of vessels within the Humber and their speed;
- (e) for regulating or requiring the use of tugs and for regulating the towing of vessels in the Humber, including the regulation of the size, number and positioning of vessels towed;
- (f) for preventing damage or injury to or interference with any vessel, goods, vehicle, plant, machinery, property or persons within the Humber;
- (g) for preventing the removal of or interference with any navigational aid or appliance or any other thing provided by A.B. Ports in pursuance of any of its functions;
- (h) for regulating the conduct of all persons in the Humber, not being members of a police force or officers or servants of the Crown or the Hull and Goole Port Health Authority whilst in the exercise of their duties, and the safety precautions to be observed by persons on vessels;
- (i) for regulating the placing and maintenance of moorings;
- (j) for preventing and removing obstructions or impediments within the Humber;
- (k) for regulating the supply of ballast to vessels and for prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) into the Humber;
- (l) for regulating the use of yachts, sailing boats, rowing boats, pleasure craft and other small craft and the holding of regattas and other public events within the Humber;
- (m) for regulating the launching of vessels within the Humber;

PART V
—cont.

- (n) for prohibiting persons on vessels from smoking therein in circumstances where danger may thereby be caused;
- (o) for regulating or preventing the use of fires and lights within the Humber and within any vessel within the Humber;
- (p) for regulating the exercise of the powers vested in the harbour master;
- (q) for prescribing the lights, signals and marks to be carried, exhibited or made by vessels while being used, navigated or moored within the Humber or while aground within the Humber;
- (r) for prescribing the lights, signals and marks to be exhibited or made by wreckmarking vessels or by other devices used for marking obstructions within the Humber;
- (s) for prescribing steering and sailing rules for the regulation of vessels used or navigated within or entering or leaving the Humber, including the steps to be taken for avoiding collisions;
- (t) for prescribing, for the purposes of assisting the navigation of vessels within the Humber, the lights, signals and marks to be exhibited or made at the entrance to any dock or at any wharf, pier or other work;
- (u) for making requirements as to the manner in which evidence of registration of vessels under any local enactment applying to the Humber and the names of vessels, and of the owners and managers thereof, are to be shown or displayed.

(3) Different byelaws may be made under this section in relation to different parts of the Humber and classes of vessel.

(4) In its application to byelaws made under this section, section 54 (General provisions as to byelaws) of the Act of 1964 shall have effect as if—

- (a) in subsection (2) thereof for “£20” (which was substituted by section 18 (Amendment of section 54 of Act of 1964) of the British Transport Docks Act 1981) there were substituted “one-tenth of level 3 on the standard scale”; and
- (b) at the end of subsection (7) thereof there were added the following proviso:—

“Provided that, where the Secretary of State proposes to make a modification to a byelaw which appears to him to be substantial, he shall inform A.B. Ports and require A.B. Ports to take any steps which he considers necessary for informing persons likely to be concerned with the modification; and he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for the consideration of, and comment upon, the proposed modification by A.B. Ports and by any other persons who have, or are likely to have, been informed of it.”.

(5) On the coming into operation of this Act—

- (a) the following provisions shall be repealed:—

Section 10 of the Humber Conservancy Act 1899; and
Section 99 of the Humber Conservancy Act 1907; and

- (b) Section 46 of the Ouse (Lower) Improvement Act 1884 shall cease to apply to the Humber.

(6) As from the coming into operation of this Act—

- (a) any rules then in force under section 421 of the Merchant Shipping Act 1894, so far as they relate to so much of the river Ouse as is within the Humber; and

1981 c. xxxi.

1899 c. cci.
1907 c. xcvi.
1884 c. clxi.

1894 c. 60.

(b) any byelaws made under any of the other Acts mentioned in subsection (5) above so far as they relate to the Humber or any part thereof;

PART V
—cont.

shall continue in force as though they were byelaws made under this section and may be revoked or amended by byelaws so made.

PART VI

MISCELLANEOUS AND GENERAL

13.—(1) Notwithstanding anything in any enactment applying in a harbour, dock or pier of A.B. Ports, duly authorised persons employed on behalf of A.B. Ports at its harbours, docks and piers shall be deemed for the purposes of byelaws to be duly authorised officers or servants of A.B. Ports or duly authorised deputies and assistants of the harbour, dock or pier master, as the case may be.

Operation
of byelaws.

(2) This section shall not extend to byelaws concerned with the navigation, mooring, unmooring, berthing, loading or unloading of any vessel.

14.—(1) In this section “Class XII development” means development authorised by Article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).

Planning
permission.
S.I. 1977/289.

(2) Subject to the provisions of subsection (3) of this section, in its application to development authorised by this Act the planning permission granted for Class XII development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

(3) Subsection (2) of this section shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of works or the substitution of new works therefor.

15. 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 A.B. Ports and may in whole or in part be defrayed out of revenue.

Costs of Act.

Section 12.

SCHEDULE**DESCRIPTION OF SEAWARD LIMITS OF RIVER HUMBER FOR THE PURPOSES OF
SECTION 12 (HUMBER BYELAWS) OF THIS ACT**

(a) a straight line drawn from Easington Church (latitude 53° 39.00' North, longitude 0° 07.00' East) in a direction 136° true until it intersects the line mentioned below;

(b) a straight line drawn from the site of the former Donna Nook Beacon (latitude 53° 28.38' North, longitude 0° 09.33' East) in a direction 029° true.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR J. A. DOLE
Controller and Chief Executive of Her Majesty's Stationery Office and
Queen's Printer of Acts of Parliament



Associated British Ports Act 1987

CHAPTER xxvii

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Incorporation of general Acts.
4. Application of Part I of Compulsory Purchase Act 1965.

PART II

LANDS

5. Power to acquire lands.
6. Purchase of rights over land.
7. Incorporation of provisions relating to lands.

PART III

WORKS, ETC.

8. Power to make works.
9. Works to form part of undertaking.
10. Incorporation of provisions relating to works.

PART IV

PROTECTIVE PROVISION

Section

- 11. Crown rights.

PART V

HUMBER PROVISIONS

- 12. Humber byelaws.

PART VI

MISCELLANEOUS AND GENERAL

- 13. Operation of byelaws.
- 14. Planning permission.
- 15. Costs of Act

SCHEDULE—Description of seaward limits of river Humber.