

ELIZABETH II



1987 CHAPTER v

An Act to establish Port of Fosdyke Limited as a harbour authority and to confer upon that company certain powers to enable it to operate the port of Fosdyke as a public harbour undertaking; to make other provision for the regulation of the port; and for other or connected purposes.

[2nd March 1987]

WHEREAS—

(1) Port of Fosdyke Limited (“the Company”) operates the port facilities at Fosdyke Bridge in Lincolnshire:

(2) Commercial operations at the port had declined in the years before 1979, and by that year no such operations were being carried out:

(3) Since 1979 a considerable amount of commercial traffic has begun to use the port and that traffic continues to increase:

(4) Neither the Company nor any other body is able satisfactorily to regulate traffic using the port:

(5) As a result of the growth of commercial traffic it is expedient that the Company should be given adequate powers to regulate such traffic:

(6) It is expedient that the Company should be given certain other powers in order to ensure that the port is efficiently managed and to secure its commercial future:

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

(8) 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 Port of Fosdyke Act 1987.
- Interpretation. 2. In this Act, unless the context otherwise requires—
- “the Company” means Port of Fosdyke Limited;
 - “Fosdyke Bridge” means the bridge existing at the passing of this Act, including the protective fenders of the bridge and other structures incidental to it;
 - “the harbour” means the area the limits whereof are set out in section 4 of this Act;
 - “the harbour premises”, except in section 33, means the docks, landing places and all other works, lands and buildings for the time being owned or occupied by the Company for the purposes of or otherwise in connection with the undertaking;
 - “land” includes land covered by water and any interest in, or rights over, land;
 - “level of high water” means the level of mean high-water springs;
 - “subsidiary” has the meaning given by section 736 of the Companies Act 1985;
 - “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 high water;
 - “Trinity House” means the Corporation of Trinity House of Deptford Strond;
 - “the undertaking” means the undertaking of the Company at the harbour as authorised by this Act;
- 1985 c. 6.

“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. 1968 c. 59.

PART I
—cont.

3. The Harbours, Docks, and Piers Clauses Act 1847 (except sections 6 to 19, 24, 25, 31, the proviso to section 32, sections 42, 48 to 50 and 83 to 90), so far as applicable to the purposes of and not inconsistent with the provisions of this Act, is hereby incorporated with this Act subject to the following modifications, that is to say:—

Incorporation
of Harbours,
Docks, and
Piers Clauses
Act 1847.
1847 c. 27.

- (a) 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;
- (b) section 63 shall be read and have effect as if for the words from “liable to” to the end of the section there were substituted the words “be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale”; and
- (c) section 69 shall be read and have effect as if for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

PART II LIMITS OF JURISDICTION

4.—(1) The limits within which the Company shall exercise jurisdiction as a harbour authority and within which the powers of the harbour master shall be exercised shall be—

Limits of
jurisdiction.

- (a) the harbour premises; and
- (b) the navigational channel of the River Welland and of the Welland Outfall or Cut (but excluding any training walls for the time being owned or maintained by any other person), from three metres downstream of the eastern extremity of Fosdyke Bridge to an imaginary straight line drawn at the junction of the Welland Outfall and the River Witham New Cut between a point at latitude 52°55.99'N, longitude 0°05.02'E and a point at latitude 52°56.07'N, longitude 0°05.39'E.

(2) Nothing in this Act shall authorise the Company or any other person to exercise any jurisdiction or other powers over any land in which South Lincolnshire Nature Reserves Limited for the time being holds any interest.

PART III

POWERS AND DUTIES OF COMPANY

General powers in respect of harbour.

5.—(1) Subject to the provisions of this Act, the Company may take such steps as it considers necessary for the improvement, maintenance and management of the harbour and the facilities afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of subsection (1) above, the Company may—

- (a) improve, maintain, regulate, manage, mark and light the harbour and provide port facilities therein;
- (b) construct, alter, demolish and reconstruct structures and works in the harbour; and
- (c) do all other things which it considers necessary or expedient to facilitate the proper carrying on or development of the undertaking.

Byelaws as to harbour.

6.—(1) Subject to the provisions of this Act, the Company may make byelaws for the good rule and government of the harbour and, without prejudice to the generality of the foregoing, the Company may make byelaws applicable within all or any part of the harbour for all or any of the following purposes:—

1847 c. 27.

- (a) for the purposes specified in section 83 of the Harbours, Docks, and Piers Clauses Act 1847;
- (b) for regulating the use of any works and facilities provided by the Company;
- (c) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour;
- (d) for regulating the conduct of all persons in the harbour, not being—

1947 c. 41.

- (i) members of a police force;
 - (ii) officers or servants of the Crown; or
 - (iii) members of a fire brigade acting in pursuance of the Fire Services Act 1947;
- whilst in the exercise of their duties as such;
- (e) for regulating the placing, maintenance and use of moorings;
 - (f) for preventing and removing obstructions or impediments within the harbour;
 - (g) for regulating the launching of vessels within the harbour;
 - (h) for regulating or prohibiting the use in the harbour or on board any vessel therein of fires, lights or any other

equipment, tools or appliances which the Company considers involves a risk of fire;

PART III
—cont.

- (i) for prohibiting persons from smoking in the harbour;
- (j) for prohibiting the use of or regulating the movement, speed and parking of, vehicles within the harbour;
- (k) for requiring the use of effectual silencers on vessels in the harbour;
- (l) for regulating vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality of the foregoing, for prescribing rules for regulating the speed and manner of navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating or mooring within the harbour;
- (m) for regulating the embarkation of persons into, or their disembarkation from, vessels within the harbour;
- (n) for prescribing the lights and signals to be exhibited or made—
 - (i) by vessels aground within the harbour;
 - (ii) by vessels used for marking obstructions within the harbour; and
 - (iii) at the entrance to any dock or at any wharf, pier or other work for assisting the navigation of vessels within the harbour;
- (o) for prohibiting or regulating the discharge into the harbour of any material or substance;
- (p) for regulating fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf or other installation or structure of any kind within the harbour;
- (q) for regulating or prohibiting bathing, and for securing the protection of bathers, within the harbour;
- (r) for regulating or prohibiting the use by vehicles of the foreshore within the harbour; and
- (s) for imposing upon any person contravening or failing to comply with any byelaw under this section a fine not exceeding level 3 on the standard scale, recoverable on summary conviction, and, in the case of a continuing offence, a daily fine so recoverable not exceeding £40.

(2) In this section "signals" includes sound signals.

(3) The Company shall consult with the Boston borough council before it makes any byelaw under this section.

PART III
—cont.

(4) Byelaws under this section—

- (a) may make different provision in relation to different classes of vessels; and
- (b) may otherwise make different provision for different circumstances.

1972 c. 70.

(5) Subsections (3) to (8) and (11) of section 236 and section 238 of the Local Government Act 1972 (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made by the Company under this section as if the Company were a local authority and the secretary of the Company were a proper officer of a local authority; but, subject to subsection (6) below, the Secretary of State may confirm the byelaws with such modifications as he thinks fit.

(6) Where the Secretary of State proposes to make a modification which appears to him to be substantial, he shall inform the Company and require it to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Company and by other persons who have been informed of it.

Special duties
to other users.

7.—(1) In the exercise of the powers of this Act, any Act incorporated with it and any byelaws which may be made under it, the Company shall have regard to the needs of those vessels under 20 metres in length which are not coming to, using or departing from the harbour premises but which nevertheless are or may be navigated in or through the harbour and to the desirability, so far as consistent with the interests of navigation and the safety of persons using the harbour, of avoiding interference with such other users.

(2) Without prejudice to the generality of subsection (1) above the Company shall not—

- (a) give (except in an emergency) directions to any such vessel as is referred to in subsection (1) above for regulating the time at which or the manner in which it may enter into, pass through or go out of the harbour;
- (b) otherwise regulate the navigation of any such vessel as is referred to in subsection (1) above so as to preclude it within the space of one tide from being able to be navigated through the harbour to the sea or from the sea to its usual mooring (if that mooring is situated in the River Welland or adjoining waters downstream of Spalding); and
- (c) remove, alter or otherwise interfere with or impair the use of any mooring in the harbour existing at the

passing of this Act or being a replacement for such a mooring without the consent of the owner of the mooring, which consent shall not be unreasonably refused provided that requirements of reinstatement and reasonable compensation shall not be unreasonable conditions of consent.

PART III
—cont.

(3) In this section references to the Company include references to any harbour master appointed by it.

8. The Company shall not have power to levy charges of any of the kinds mentioned in paragraphs (a), (b) and (c) of the definition of "ship, passenger and goods dues" in section 57 of the Harbours Act 1964 where the vessel in question is of less than 50 gross registered tonnes, except to the extent that use is made of the harbour premises in respect of the vessel, its passengers or cargo.

Restriction on levying ship, passenger and goods dues. 1964 c. 40.

9.—(1) Subject to section 27 of this Act, the Company may for the purposes of the undertaking from time to time deepen, widen, dredge, scour and improve the harbour or any part of it.

Power to dredge.

(2) Subject to subsection (3) below, and section 27 of this Act any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) taken up or collected in the course of any such operation shall be the property of the Company and may be used, sold, removed, deposited or otherwise disposed of as the Company may think fit.

1894 c. 60.

(3) The Company shall not lay down or deposit any materials in a place below the level of high water except in such a position as the Secretary of State may approve and subject to such conditions and restrictions as he may impose.

(4) Except within half a mile of Fosdyke Bridge, the Company shall not exercise its powers under this section without the consent of the Boston port authority, such consent not to be unreasonably withheld.

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 it—

(a) the Secretary of State may by notice in writing require the Company at its own expense to remove the tidal work or any part thereof and restore the site to its former condition; and if, at the end of 30 days from

PART III
—cont.

the date when the notice is served upon the Company, it has failed to comply with the requirements of the notice, the Secretary of State may execute the work specified in the notice; or

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

and any expenditure so incurred by the Secretary of State shall be recoverable from the Company.

Lights on tidal works during construction.

11.—(1) The Company 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 Company fails to comply with any requirement of a direction given under this section it 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 the case of injury to or destruction or decay of a tidal work or any part thereof the Company 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 may from time to time direct.

(2) If the Company fails to notify Trinity House as required by this section or to comply with any requirement of a direction given under it the Company 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 Company at its 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 he thinks fit.

(2) Where—

- (a) a work consisting partly of a tidal work and partly of works on and over land above the level of high water is abandoned or suffered to fall into decay; and

- (b) 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;

PART III
—cont.

the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, at the end of 30 days from the date when a notice under this section is served upon the Company, it has failed to comply with the requirements of the notice, the Secretary of State may execute the work specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Company.

14. If he deems it expedient, the Secretary of State may at any time 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 him in any such survey and examination shall be recoverable from the Company.

Survey of tidal works.

15.—(1) After the completion of a tidal work the Company 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 Company fails to comply in any respect with a direction given under this section it 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.

16.—(1) The Company may at any time, with the consent in writing of the Secretary of State and upon such terms, conditions and restrictions as may be approved by him, sell or lease the undertaking; and the purchaser or lessee—

Power to sell or lease undertaking.

- (a) shall have and may exercise to the extent authorised by his conveyance or, as the case may be, lease all or any of the powers conferred upon the Company by this Act in relation to the undertaking;
- (b) shall be subject to all the restrictions, liabilities and obligations in respect of the undertaking to which the Company is subject; and
- (c) shall perform all the duties of the Company under this Act in respect of the undertaking.

(2) Subsection (1) above applies in relation to any part of the undertaking as it applies in relation to the whole undertaking.

PART III
—cont.
Power to
mortgage
undertaking.

17. The Company may mortgage, charge or otherwise encumber the undertaking or any part of it.

Subsidiaries.

18. The Company may enter into arrangements with any of its subsidiaries for the transfer to that subsidiary from the Company or any of its other subsidiaries in such manner and on such terms (including payments by any of the parties to the arrangements to any other of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of the Company or, as the case may be, that other subsidiary, relating to the undertaking.

Power to
make charges.

19.—(1) Subject to subsection (2) below, the Company may make such reasonable charges as it thinks fit for services and facilities provided by it or its subsidiaries in connection with the undertaking.

1964 c. 40.

(2) Subsection (1) above does not authorise the levying of ship, passenger or goods dues within the meaning of the Harbours Act 1964.

(3) Nothing in this section shall affect any power to demand, take or recover charges which the Company has under or by virtue of any enactment or rule of law.

Use of
harbour.

20. The Company may appropriate and set apart any part of the harbour premises for the exclusive use of any particular vessel or class of vessel.

Power to
remove goods.

21.—(1) If any goods are left on or in any part of the undertaking the Company may require the owner to remove them and if the goods are not so removed within six hours after the requirement has been made the Company may cause the goods to be removed to its own or any other public warehouse or store.

(2) Any such removal shall be carried out at the expense and risk of the owner of the goods.

(3) Notwithstanding any such removal on behalf of the Company, the goods shall be liable to a general lien for the cost of removal, and for any charges payable to the Company by the owner.

(4) The power of the Company to prevent 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 this section.

22.—(1) There shall be established in accordance with the provisions of this section an Advisory Committee consisting of a chairman appointed in accordance with subsection (2) below and of representatives appointed by the following bodies:—

PART III
—cont.
Advisory
Committee.

River Welland Boat Users Association—
two representatives;

Fosdyke parish council—
two representatives;

Boston borough council—
three representatives;

South Holland district council—
one representative, being a councillor representing the ward which is situated nearest to the parish of Fosdyke;

South Lincolnshire Nature Reserves Limited—
one representative;

Boston and Spalding Pilotage Authority—
one representative;

Any additional body or bodies, not exceeding two in number, which may be nominated by the Company with the agreement of the Advisory Committee—

for each such additional body—
one representative.

(2) The Company and Boston borough council shall jointly appoint as chairman of the Advisory Committee a person who in their opinion is independent of the Company, the council and the other bodies referred to in subsection (1) above.

(3) If it appears to the Company in the case of any of the appointments referred to in subsection (1) above that the body by whom the appointment is to be made has refused or failed to appoint a member after being requested by the Company to do so, or that the body by whom any of the said appointments is to be made has ceased to have an identifiable existence, the appointment in question—

(a) shall be made by the Company, after consultation with the Advisory Committee; and

(b) shall be representative of the interests appearing to the Company to be represented or, as the case may be, to have been represented by the appointing body in question.

(4) Subject to subsection (6) below, the chairman of the Advisory Committee shall hold office for a period of three years beginning with the date of his appointment, or for such other period as may be fixed by the Company and Boston borough council prior to his appointment; and at the end of his term of office he shall be eligible for re-appointment.

PART III
—cont.

(5) Subject to subsection (6) below, any other member of the Advisory Committee shall remain a member of the Committee for so long as the appointing body concerned shall think fit.

(6) Any member of the Advisory Committee may resign his office at any time on giving notice in writing to the appointing body concerned or, in the case of the chairman, to the Company and Boston borough council.

(7) The Company shall, except in a case of special urgency or where it would be seriously detrimental to the commercial interests of the Company to do so, consult the Advisory Committee on all matters substantially affecting the preservation, protection, regulation, management, maintenance and improvement of the harbour and its navigation, and particularly, but without prejudice to the generality of the foregoing, on every proposal—

- (a) to construct any works in the harbour; or
- (b) to dredge, lay down, alter or interfere with moorings in, or change any navigational mark, light or channel of, the harbour; or
- (c) to make byelaws.

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

(9) The Company shall defray such reasonable expenses as may be incurred by the Advisory Committee in connection with the provisions of secretarial services for the Advisory Committee.

PART IV

MISCELLANEOUS AND GENERAL

Obstruction of
officers.

23. Any person who—

- (a) intentionally obstructs an officer of the Company acting in pursuance of this Act; or
- (b) without reasonable excuse fails to comply with a requirement properly made by such an officer; or
- (c) without reasonable excuse fails to give such an officer any information which he may reasonably require for the purpose of the performance of his functions; or
- (d) in giving such information makes a statement which he knows to be false;

shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

24. For the protection of the Anglian Water Authority (in this section referred to as "the Authority") the following provisions shall, unless otherwise agreed in writing between the Company and the Authority, apply and have effect:—

PART IV
—cont.
For protection
of Anglian
Water
Authority.

(1) In this section—

"banks", "drainage" and "watercourse" have the meanings given in section 116 of the Land Drainage Act 1976;

1976 c. 70.

"the engineer" means an engineer appointed by the Authority;

"plans" includes sections, drawings and specifications and programmes and methods of working;

"specified work or operation" means any work, structure, improvement, port facility or operation constructed or carried out, altered or demolished, within the harbour and any operations, including operations under section 9 of this Act, carried out under this Act which will or may affect any banks or the efficiency of drainage for which the Authority are responsible:

(2) Not less than 28 days before commencing any specified work or operation the Company shall submit plans thereof to the Authority for their reasonable approval and shall not commence the specified work or operation until the plans have been approved by the Authority and any alterations or measures required under paragraph (3) below have been agreed or, in the case of difference, until they have been settled by arbitration:

Provided that, if the Authority do not within 28 days after the submission of any such plans signify to the Company their disapproval and the specific grounds for their disapproval, they shall be deemed to have approved them:

(3) Upon signifying their approval or disapproval of the plans the Authority may specify any alterations to the specified work or operation or measures to be taken in its carrying out which are reasonably necessary to safeguard any banks or the drainage of any watercourse and the Company shall make such alterations or, as the case may be, take those measures:

(4) The Company shall give to the engineer not less than 28 days' notice of its intention to commence the specified work or operation and also (except in emergency, when it shall give such notice as may be reasonably practicable) of its intention to carry out any works for the repair or maintenance of any such work:

PART IV
—cont.

- (5) The specified work or operation shall, when commenced, be carried out with all reasonable dispatch in accordance with the plans approved or deemed to be approved or settled as aforesaid and under the supervision (if given), and to the reasonable satisfaction, of the engineer, and in such manner as to cause as little damage as may be to drainage works of the Authority and as little interruption to the flow of any watercourse as may be and, if as a result of the carrying out of the specified work or operation any damage to any such drainage works or any such interruption of flow shall be caused, the Company shall, notwithstanding any such approval as aforesaid, make good such damage and pay to the Authority all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage or interruption:

Provided that nothing in this paragraph shall impose any liability on the Company with respect to any damage, cost, expense or loss which is attributable to the act, neglect or default of the Authority or their servants or agents:

- (6) The Company shall at all times afford reasonable facilities to the engineer for access to the specified work or operation during its carrying out and shall supply him with all such information as he may reasonably require with regard to the specified work or operation or the method of its carrying out thereof:
- (7) The Company shall be responsible for, and make good to the Authority, all costs, charges, damages and expenses (including a proper proportion of the overhead charges of the Authority) not otherwise provided for in this section which may be occasioned to the Authority—
- (a) by reason of the carrying out of any specified work or operation or the failure of any such work; or
- (b) by reason of any act or omission of the Company, or of any person in its employ, or of its contractors or others whilst engaged upon the construction of the specified work;

and the Company shall indemnify the Authority from and against all claims and demands arising out of, or in connection with, the carrying out of any specified work or operation or any such failure, act or omission as aforesaid, and the fact that any act or thing may have been done in accordance with plans, alterations to works or with measures approved by the engineer, or in accordance with any requirement of the engineer or

under his supervision, shall not (if it was not attributable to the act, neglect or default of the Authority, or of any person in their employ, or of their contractors or agents) excuse the Company from any liability under the provisions of this section:

PART IV
—cont.

Provided that the Authority shall give to the Company reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Company:

- (8) The Company shall maintain and as necessary renew to the reasonable satisfaction of and in consultation with the Authority reasonably sufficient lights and other apparatus to protect against damage by shipping the training walls in and about so much of the River Welland and the Welland Outfall or Cut as lies within the harbour:
- (9) Any difference arising between the Company and the Authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

25.—(1) Section 24 of this Act shall apply in relation to each of the internal drainage boards mentioned in subsection (2) below as it applies in relation to the Anglian Water Authority; and, accordingly, in that section as so applied—

For protection of certain internal drainage boards.

- (a) references to banks or drainage shall be construed as references to any banks owned or maintained by the internal drainage board in question or any drainage for which it is responsible; and
- (b) paragraph (8) shall be omitted.
- (2) The boards referred to in subsection (1) above are—
 - (a) the Black Sluice Internal Drainage Board;
 - (b) the South Holland Internal Drainage Board; and
 - (c) the Welland and Deepings Internal Drainage Board.

26. For the protection of the Boston and Spalding Pilotage Authority (hereinafter referred to as the “pilotage authority”) the following provisions shall except as may be otherwise agreed in writing between the pilotage authority and the Company apply and have effect:—

For protection of Boston and Spalding Pilotage Authority.

- (1) In the exercise of the powers conferred by this Act the Company shall so far as is reasonably practicable avoid any interruption or obstruction of any landing or embarkation of pilots at the harbour premises:

PART IV
—cont.

- (2) The powers conferred on the Company and on the harbour master by this Act or by any byelaws made under or by virtue of this Act shall, subject to the harbour master's obligation to ensure the safety of shipping and the operation of the harbour within the limits within which the Company may exercise jurisdiction as a harbour authority, be so exercised as not prejudicially to affect or derogate from the proper discharge of the statutory functions of the pilotage authority:
- (3) Any difference arising between the pilotage authority and the Company under this section (other than a difference as to the meaning thereof) shall be referred to and determined by an arbitrator to be appointed by agreement between the parties, or, in default of agreement, to be appointed on the application of either party after giving notice in writing to the other, by the Secretary of the London Maritime Arbitrators Association.

Crown rights.

27.—(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 shall authorise any person 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)—

- (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 a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that department.

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

Saving for
Health and
Safety at
Work etc. Act
1974.
1974 c. 37.

28. 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 any provision of this Act and to any byelaw made under it as that subsection applies to any provision mentioned in subsection (2) of that section; and nothing in this Act shall prejudice or affect the operation of any of the relevant statutory provisions as defined in subsection (1) of section 53 of that Act.

29. None of the provisions of this Act shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.
30. Nothing in this Act shall affect the operation of sections 18 and 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Minister or the Secretary of State, as the case may be, to certain operations and contain other provisions for the safety of navigation).
31. Nothing in this Act shall prejudice or affect the powers, rights, jurisdictions and obligations conferred, arising or imposed under the Land Drainage Act 1976 or any byelaw or regulation thereunder.
32. Nothing in this Act shall affect the operation of the Wildlife and Countryside Act 1981 as for the time being in force.
- 33.—(1) Except in the case of the harbour premises, any development authorised by this Act shall not be deemed for the purposes of the Town and Country Planning General Development Order 1977 (or any general order superseding that order made under section 24 of the Town and Country Planning Act 1971, or any corresponding provision of an Act repealing that section), to be—
- (a) development authorised by an Act which designates specifically both the nature of the development and the land upon which it may be carried out; or
 - (b) development by dock, pier or harbour undertakers or their lessees of operational land of the undertaking, being development which is required for the purpose of shipping or in connection with the embarking, disembarking, loading, discharging or transport of passengers or goods at a dock, pier or harbour.
- (2) In this section “the harbour premises” means the docks, landing places and all other works, lands and buildings owned or occupied by the Company for the purposes of or otherwise in connection with the undertaking at the passing of this Act and shown edged in red on the signed plan.
- (3) In subsection (2) above “the signed plan” means the plan of which four copies have been signed by the Lord Alport, the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred, and deposited respectively at the office of the Clerk of the Parliaments, House of Lords, the Private Bill Office of the House of Commons, the registered office of the Company and the office of the Chief Executive and Solicitor of Boston borough council.

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1949 c. 74.

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S.I. 1977/289.
1971 c. 78.

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