

ELIZABETH II



1988 CHAPTER xxvi

An Act to authorise the Council of the County of South Glamorgan to construct a highway on a viaduct across the river Taff in the city of Cardiff, highways and other works, and to acquire lands; to confer further powers on the Council; and for other purposes. [29th July 1988]

WHEREAS—

(1) The county of South Glamorgan (hereinafter referred to as the “the county”) is under the management and local government of the Council of that county (hereinafter referred to as “the Council”):

(2) The Council are the highway authority for all highways in the county for which the Secretary of State is not the highway authority:

(3) The Council are constructing around the city of Cardiff (hereinafter referred to as “the city”) a peripheral distributor road, substantial lengths of which have been completed and a further section of which is under construction, and provision is made for the continuation of this road on the south side of the city in the statutory development plan:

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(4) It is expedient that the Council should be empowered to construct in and about the tidal section of the river Taff in the city the river viaduct and other works authorised by this Act, and to acquire lands therefor, so as to permit the construction of the road:

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

(6) The purposes of this Act cannot be effected without the authority of Parliament:

(7) Plans and sections showing the lines or situations and levels of the works by this Act authorised (except the substituted plans and sections hereinafter referred to), such plans showing also the land which the Council may acquire or use under the powers of this Act, and a book of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees and of the occupiers of all such lands and describing the same have been deposited in the office of the Clerk of the Parliaments, House of Lords, in the Private Bill Office of the House of Commons and with the Chief Executive of the Council which plans, sections and book of reference are in this Act referred to respectively as the deposited plans, the deposited sections and the deposited book of reference:

(8) Substituted plans and sections showing the lines or situations, limits of deviation and levels of Works Nos. 2 and 4 were deposited in the month of June 1987 in the office of the Clerk of the Parliaments, House of Lords, in the Private Bill Office of the House of Commons and with the Chief Executive of the Council which plans and sections are in this Act referred to as the substituted plans and sections:

1972 c. 70. (9) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 have been observed:

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 County of South Glamorgan (Taff Crossing) Act 1988.

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

PART I

—cont.

Interpretation.

“A.B. Ports” means Associated British Ports;

“the Act of 1965” means the Compulsory Purchase Act 1965;

1965 c. 56.

“the city” means the city of Cardiff;

“the Council” means the Council of the county;

“the county” means the county of South Glamorgan;

“the limits of deviation” means the limits of deviation shown on the deposited plans and the substituted plans;

“new rights” means easements or other rights to be created in favour of the Council, including rights restricting the use of land; and the expression “new right” shall be construed accordingly;

“the river” means the river Taff;

“tidal works” means so much of the works as is on, under or over tidal waters or tidal lands below the level of mean high-water springs;

“the tribunal” means the Lands Tribunal;

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

“the water authority” means the Welsh Water Authority;

“the works” means the works authorised by subsection (1) of section 12 (Power to execute works) of this Act and any works constructed in connection with or for the purposes of those works.

(2) References in this Act to grid references refer to the map co-ordinates on the National Grid used by the Ordnance Survey and shall be construed as if the words “or thereabouts” were inserted after each grid reference.

(3) Unless the context otherwise requires, any reference to a work identified by a number of such work shall be construed as a reference to the work of that number authorised by this Act.

(4) If there shall be any inconsistency between a requirement of A.B. Ports and a requirement of the Secretary of State or of Trinity House (as the case may be), the requirement of the latter shall prevail.

3.—(1) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof are hereby incorporated with this Act and, as so incorporated, shall have effect as if—

Application of enactments.

1845 c. 20.

(a) for the words “the period by the special Act limited for the completion of the railway” there were substituted

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PART I
—cont.

the words “the period of five years from the commencement of the construction of the works authorised by the special Act”;

(b) the expression “the company” meant the Council; and

(c) the expression “the railway” meant the works authorised by this Act and “the centre of the railway” meant the centre line of the works respectively.

1981 c. 67. (2) (a) Part I of the Act of 1965 (except section 4, section 27, 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 Part II of the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

(b) In section 11 (1) of the Act of 1965, as so applied, for the words “fourteen days” there shall be substituted the words “three months”.

1845 c. 18. (c) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.

PART II

LANDS

Power to
acquire lands.

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

(a) the works or obtaining access thereto;

(b) obtaining materials for the construction of the works, or depositing spoil or other material excavated during the construction thereof;

or otherwise for the purposes of this Act or other purposes connected therewith:

Provided that no spoil or other material shall by virtue of the powers of this section be deposited below the level of mean high-water springs.

(2) (a) The powers of the Council for the compulsory acquisition of lands under this section shall not be exercised after 31st December 1990.

(b) The power to acquire compulsorily any land shall for the purposes of this subsection be deemed to have been exercised if before 31st December 1990 notice to treat has been served in respect of that land.

5.—(1) Subject to the provisions of section 34 (For protection of A.B. Ports) of this Act, the Council may, instead of acquiring any land under section 4 (Power to acquire lands) of this Act, acquire compulsorily such new rights as they require in, over or under the land.

PART II
—cont.
Power to
acquire new
rights only.

(2) In respect of any new right so acquired other than an easement, the burden thereof shall run with the land in, over or under which it is acquired and be enforceable by the Council against the estate and interest of every person to or for whom compensation or (where the new right is acquired by agreement) the agreed purchase price is paid and all persons deriving title by, through or under such a person without any limit of time and notwithstanding that the Council are not in possession of or interested in any land for the benefit of which the acquired right was granted, in like manner and to the like extent as if they had been possessed of or interested in such benefited land.

(3) Any new right acquired under this section, whether compulsorily or by agreement, shall be a local land charge.

(4) (a) The Council may give notice to treat in respect of any new right, describing the nature thereof; and the Act of 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory acquisition of new rights under subsection (1) above as it applies to the compulsory acquisition of land so that, in appropriate contexts, references in that Act to land are read as referring, or as including references, to the new rights or to land in, over or under which the new rights are or are to be exercisable, according to the requirements of the particular context.

(b) Without prejudice to the generality of paragraph (a) above, in relation to the purchase of new rights in pursuance of subsection (1) above—

- (i) Part I of the Act of 1965 shall have effect with the modifications specified in the Schedule to this Act;
- (ii) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

(5) The Council may, with or without consideration, release either wholly or partly any new right acquired under this section.

(6) Where the Council have acquired only a new right over or in any land under this section they shall not be required or, except by agreement or during the execution of the works, entitled to fence off or sever that land from the adjoining land.

PART II
—cont.
Correction of
errors in
deposited
plans and
book of
reference.

6.—(1) If the deposited plans, substituted plans or deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Council after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.

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

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the Chief Executive of the Council, and thereupon the deposited plans, substituted plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Council to take the land or an easement therein (as the case may be) and execute the works in accordance with the certificate.

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

Disregard of
recent
improvements
and interests.

7. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land or new rights under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, works executed, or improvement or alteration made, whether in the land acquired or on any other land with which the claimant is, or was at the time of the carrying out of the building, works, improvement or alteration, directly or indirectly concerned if the tribunal are satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration (as the case may be) was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Extinction of
rights affecting
land.

8.—(1) All rights over or in any land which may be acquired or appropriated by the Council for the purposes of this Act shall, as from the acquisition or appropriation of the land, be extinguished:

Provided that nothing in this subsection shall affect any right vested in, or any main, pipe, wire, drain, sewer or other works and apparatus belonging to A.B. Ports or any undertaking for

the supply of water, gas or electricity, for sewerage or sewage disposal or for land drainage for the purposes of the carrying on of the undertaking or any right conferred by or in accordance with the telecommunications code (as contained in Schedule 2 to the Telecommunications Act 1984) on the operator of a telecommunications code system (as defined in paragraph 1 of Schedule 4 to that Act) from having access to any telecommunication apparatus (as defined in paragraph 1 of Schedule 2 to that Act) kept installed for the purposes of that system.

PART II
—cont.

1984 c. 12.

(2) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to compensation paid by the Council in an amount which is to be determined in case of dispute by the tribunal in accordance with the enactments relating to compensation for the compulsory purchase of land.

9.—(1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, subject to the provisions of the Act of 1965, grant to the Council any new right in, over or under the lands required for the purposes of this Act which he is able and willing to grant.

Grant of new rights by persons under disability.

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

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

Agreements with adjoining owners.

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

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

Power to reinstate owners or occupiers of property.

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

PART III

WORKS

Power to
execute works.

12.—(1) (a) Subject to the provisions of this Act the Council may within the city construct or execute the whole or part of all or any of the works hereinafter referred to in this subsection—

- (i) as regards Work No. 2 according to the lines or situations and within the limits of deviation and according to the levels shown on the substituted plans and sections; and
- (ii) as regards Work No. 4 according to the lines or situations and within the limits of deviation shown on the substituted plans and sections; and
- (iii) as regards the remainder of the works hereinafter described according to the lines or situations and within the limits of deviation and according to the levels shown on the deposited plans and sections;

together with all necessary and proper works and conveniences connected therewith or incidental thereto.

(b) The works referred to in this subsection are as follows:—

Work No. 1 A highway commencing at grid reference ST 17621 73408 and crossing Ferry Road constructed partly on embankment and partly on bridges with two slip roads and an associated retaining wall with in part a footway and cycle track the work to include the demolition of disused jetties and slipways and terminating in tidal waters at grid reference ST 18178 73630;

Work No. 2 A highway on a viaduct across the river Taff incorporating a footway and cycle track commencing at the termination of Work No. 1 and terminating at grid reference ST 18531 74145 with a headway of not less than 2.8 metres above the level of mean high-water springs and a minimum clear distance of 40 metres between each of the piers of the viaduct;

Work No. 3 A highway commencing at the termination of Work No. 2 in tidal waters constructed partly on embankment and partly on bridges and viaduct with two slip roads and associated retaining walls with in parts a footway and cycle track the work to include the diversion, improvement and regrading of Dudley Street, Stuart Street, Adelaide Street, Bute Street, Bute Crescent, Bute Place, Collingdon Road and Maritime Road and terminating at grid reference ST 19462 74848;

Work No. 4 A river bank protection and associated reclamation works commencing at grid reference ST 18162 73722 and terminating at grid reference ST 18128 74140; PART III
—cont.

Work No. 6 A diversion of an existing storm-water sewer commencing at grid reference ST 18774 74405 and terminating with a new outfall at grid reference ST 18615 73848.

(2) In the construction of the bridges and viaducts forming part of Work No. 1, Work No. 2 and Work No. 3 the Council shall erect a good and sufficient fence on each side of the bridges and viaducts.

(3) Section 29 of the Land Drainage Act 1976 shall not apply to the construction of the works or to the maintenance, repair and alteration thereof. 1976 c. 70.

13. In the execution of Works Nos. 1 to 6, or any part thereof, the Council may deviate from the lines or situations thereof shown on the deposited plans and substituted plans to any extent within the limits of deviation and may deviate vertically from the levels shown on the deposited sections and substituted sections to any extent not exceeding 3 metres upwards or to any extent downwards: Power to deviate.

Provided that in the exercise of the powers of this section the Council shall not reduce either the headway of Work No. 2 above mean high-water springs or the minimum clear distance between any of the piers forming part of Work No. 2.

14.—(1) Subject to the provisions of this Act, the Council may, within the limits of deviation, execute or do anything which is calculated to facilitate, or is conducive or incidental to, the purposes of this Act including without prejudice to the generality of the foregoing— Subsidiary works.

- (a) the construction and placing of cuts, channels, fences, sewers, drains, landing places, cofferdams, subways, roundabouts, carriageways, footways, cycle tracks and parking places for vehicles;
- (b) the making of temporary junctions and communications (for use by pedestrians or vehicles) between the works and any existing streets (whether or not they are dedicated to the public use or maintainable at public expense), and the diversion, widening or alteration of the line or level of any such existing street for or in connection with the purposes of this Act;
- (c) such demolition, dismantling or removal of things owned by the Council as may be necessary or convenient;

PART III
—cont.

- (d) the execution of any works for the protection or improvement of any adjoining land or buildings;
- (e) the execution of any works and the doing of any things necessary for the strengthening and supporting of any walls of adjoining buildings;

the Council providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any watercourse.

(2) For the purposes of or in connection with Works Nos. 1 and 3, the Council may, with the agreement of the owner and occupier of any land abutting on lands within the limits of deviation, exercise the powers of paragraphs (d) and (e) of the foregoing subsection on such abutting lands and may accordingly carry out any works necessary or convenient for the purpose of providing or facilitating access to or from such lands or for preserving the amenities thereof.

(3) In the exercise of the powers conferred by this section, the Council shall cause as little detriment and inconvenience to any person as circumstances admit and, subject to section 17 (Temporary closing of river in connection with works) of this Act, shall pay compensation to all persons for any damage sustained by them by reason of the exercise by the Council of such powers. Any question as to the amount of the compensation to be so paid shall be determined by the tribunal.

(4) For any of the purposes referred to in section 26 (Power to dredge) of this Act, the Council may moor or anchor vessels, or cause vessels to be moored or anchored, in the river.

(5) The powers conferred on the Council by this section are subject to the provisions of section 34 (For protection of A.B. Ports) of this Act.

Power to stop
up streets
temporarily.

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

(2) The Council shall provide reasonable access for all persons genuinely requiring to go to and from any premises in any street in which the carriageway or footway is stopped up, opened, broken up, altered or diverted under the powers of this section.

(3) The exercise by the Council of the powers of this section shall not prevent the South Wales Electricity Board from obtaining access to any apparatus nor prejudice or affect the right of the said Board—

- (i) to lay, erect, maintain, inspect, repair, renew or remove any apparatus in, under, over or along any street, or part thereof; or
- (ii) for the purpose of such laying, erection, maintenance, inspection, repair, renewal or removal to enter upon or break open that street or part thereof.

PART III
—cont.

16.—(1) As soon as an alternative route has been provided, the Council may stop up so much of the existing highways in the city known as—

- (a) Dudley Street between the lines A-A and B-B;
- (b) Stuart Street between the lines B-C and D-D, and between the lines E-E and F-F;
- (c) Bute Crescent between the lines G-G and H-H;

marked on the deposited plans.

(2) As soon as a suitable turning area has been provided, the Council may stop up so much of the existing highway in the city known as Collingdon Road between the lines J-J and K-K, marked on the deposited plans.

(3) As from the date of each such stopping up, all rights of way over or along the parts of the highways so stopped up shall be extinguished and the Council may appropriate and use the site and soil of the parts of the highways so stopped up, so far as they are the owners of the same.

(4) Where, in consequence of this section, any part of any existing highway in which any apparatus of the South Wales Electricity Board is situate ceases to be part of the highway, the said Board may exercise the same rights in respect of such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect the power of the Council to execute works in accordance with this Act.

17.—(1) Notwithstanding anything in any other enactment or in any rule of law, and notwithstanding the permanent closure of any part or parts of the river to navigation by the construction of the works, the Council may temporarily close the river or any part thereof to navigation in the course of executing any works or doing any things authorised by or under the foregoing provisions of this Act:

Provided that the Council shall so execute or do such works or things as to ensure that at any time no more of the river is so closed than is reasonably necessary in all the circumstances.

Temporary
closing of river
in connection
with works.

PART III
—cont.

(2) Without prejudice to the provisions of section 3 (Application of enactments) of this Act, the Council shall not be liable for any costs, damages or expenses howsoever incurred by any person as a result, directly or indirectly, of any closure of the river to navigation under the foregoing subsection.

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

18.—(1) A tidal work shall not be constructed, altered, demolished, replaced or re-laid 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.

(2) If a tidal work is constructed, altered, demolished, replaced or re-laid 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 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.

Provision against danger to navigation.

19.—(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 A.B. Ports and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House or A.B. Ports shall from time to time direct.

(2) If the Council fail to notify Trinity House or A.B. Ports as required by this section or to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed.

20.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State or A.B. Ports 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 or A.B. Ports thinks proper.

(2) Where a work authorised by this Act and consisting partly of a tidal work and partly of works on or over land above the level of mean high-water springs, is abandoned or suffered to fall into decay and that part of the work on or over land above the level of mean high-water springs is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State or A.B. Ports 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 or A.B. Ports may execute the works specified in the notice, and any expenditure incurred by him or by it in so doing shall be recoverable from the Council.

21. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work constructed or executed by the Council, or of the site upon which it is proposed to construct or execute 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.

22.—(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 for the prevention of danger to navigation as Trinity House or A.B. Ports shall 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 liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

23.—(1) The Council shall at or near a tidal work during the whole time of the construction, alteration, demolition, replacement or re-laying 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 or A.B. Ports shall from time to time direct.

Lights on tidal works during construction.

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

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

Saving for Trinity House.

PART III
—cont.
For protection
of birds.

25. Before commencing the construction of Work No. 2 or any part of Work No. 1 or Work No. 3 which is within an area of special scientific interest or before exercising any powers under section 26 (Power to dredge) of this Act the Council shall consult the Nature Conservancy Council as to measures which shall be taken by the Council at their expense to diminish any detriment to bird life which may result from the construction of any of those works or subsidiary works or the exercise of its powers under that section.

Power to
dredge.

26. Subject to the provisions of this Act and within the limits of deviation the Council may from time to time dredge or deepen or deposit material in the bed of the river for the purposes of or in connection with the construction, maintenance, alteration, replacement, repair or re-laying of any of the works and may for such purposes alter or interfere with the bed, banks, soil or foreshore of the river and may use, appropriate or dispose of any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) dredged by them:

1894 c. 60.

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

Removal of
moorings.

27.—(1) Subject to the provisions of section 34 (For protection of A.B. Ports) of this Act, the Council may, for the purposes of or in connection with the exercise of their functions under this Act, remove or secure the removal of any mooring chain or other mooring situated in the river within the limits of deviation and within 50 metres thereof.

(2) Before exercising their powers under this section, the Council shall give not less than 28 days' notice of their intention so to do, to the owner of the mooring chain or other mooring in question unless his identity or address cannot after reasonable enquiry be ascertained.

Sewers to be
removed or
filled up.

28. Subject to the provisions of this Act, the Council shall remove or infill all sewers, drains or watercourses or parts thereof situated within the limits of deviation the use of which becomes unnecessary by reason of the exercise by the Council of any of their functions under this Part of this Act.

Application of
Public Utilities
Street Works
Act 1950.
1950 c. 39.

29. Subject to the provisions of this Act, the provisions of Part II of, and Schedule 4 to, the Public Utilities Street Works Act 1950 shall apply in relation to any works executed or things done within the limits of deviation under section 12 (Power to execute works), section 14 (Subsidiary works) or section 15

(Power to stop up streets temporarily) of this Act (hereinafter in this section referred to as "the works") as if the works were executed for road purposes within the meaning of paragraph (a) of subsection (1) of section 21 of the said Act of 1950 and were of the kind referred to in that section as if the Council were a promoting authority for the purposes of the operation of the said provisions, and as if any undertakers' apparatus affected thereby were in a street:

PART III
—cont.

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

- (a) so as to impose on the Council an obligation before commencing any of the works to give notice to the undertakers concerned under paragraph 2 of Schedule 4 to the said Act of 1950 together with plans, sections and particulars of any of the works to be commenced; and
- (b) as if the words in parenthesis in paragraph 3 of the said Schedule relating to a road alteration were omitted from that paragraph.

30.—(1) Except as provided in subsections (2) and (3) below and notwithstanding anything contained in any other enactment, the Council may, for the purposes of or in connection with the exercise of their functions under this Part of this Act, and subject to the provisions of section 34 (For protection of A.B. Ports) of this Act pump any water found by them into the river or into any sewer or drain, and for any of those purposes may, within the limits of deviation, lay down, take up and alter conduits, pipes and other works and conveniences and make any convenient connections with the river or (as the case may be) with the sewer or drain.

Power to pump and discharge water.

(2) The Council shall not, under the powers of this section—

- (a) discharge any water into any sewer or drain except with the consent of the water authority or (in the case of a private sewer or drain) the owner and subject to such terms and conditions as the water authority or the owner, as the case may be, may reasonably impose; and
- (b) the Council shall not make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of the water authority or the owner, as the case may be, such approval not to be unreasonably withheld.

(3) (a) Section 31 of the Control of Pollution Act 1974 shall apply to, or to the consequence of, a discharge under the powers of this section into any relevant waters for the purposes of the

1974 c. 40.

PART III
—cont.

said section 31 as if this section were excluded from the reference to any provision of a local Act mentioned in subsection (2) (b) (ii) of the said section 31 and as if no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2) (e) of the said section 31.

1976 c. 70.

(b) In the exercise of their powers under this section the Council shall not damage or interfere with the bed of any watercourse forming part of the main river of a water authority or the banks thereof within the meaning of section 116 of the Land Drainage Act 1976.

(4) Any difference arising between the Council and the water authority or, as the case may be, the owner of a sewer or drain under this section shall be referred to and settled by arbitration in the same manner as, or (as the case may be) as if it were, a difference arising between the Council and the water authority under section 35 (For protection of water authority) of this Act other than paragraph (2) (b).

PART IV

GENERAL

Obstructing
execution of
Act.

31. A person who without reasonable excuse interferes with equipment or materials used in the construction of the works, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Modification
of Town and
Country
Planning Act
1971.

S.I. 1977/289.

32. In their application to development authorised by this Act, 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) shall have effect as if the authority to develop given by this Act were limited to such development begun within 10 years after the passing of this Act.

Crown rights.

33.—(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 enter upon, or in any manner interfere with any land or hereditaments (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) or to designate, or to make orders in relation to any such land—

(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 government department.

PART IV
—cont.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as may be specified in the consent.

34. For the protection of A.B. Ports the following provisions shall, unless otherwise agreed in writing between the Council and A.B. Ports, apply and have effect:—

For protection
of A.B. Ports.

(1) In this section—

(a) references to the construction of any work on, over or under any land owned by A.B. Ports or to the construction of a tidal work shall include the execution, placing, alteration and removal of any such work and “constructed” shall be construed accordingly and references to plans shall include sections and particulars;

(b) “specified operation” means any operation carried out under section 26 (Power to dredge) of this Act;

(c) “the culvert” means the culvert existing at the commencement of this Act, through which water, supplied from the river to the docks at Cardiff owned and operated by A.B. Ports, may be diverted away from Bute East Dock, and which lies to the west and south of the said Bute East Dock and joins the said docks at Roath Basin:

(2) (a) Before commencing the construction of any work on, over or under any land owned by A.B. Ports, or acquired from A.B. Ports under section 4 (Power to acquire lands) of this Act, or of a tidal work under section 12 (Power to execute works) or section 14 (Subsidiary works) of this Act the Council shall furnish to A.B. Ports for its approval, which it shall not unreasonably withhold, plans of the work showing the general mode of construction and such work shall not be constructed otherwise than in accordance with such plans as may be approved by A.B. Ports or as may be determined by the Secretary of State as hereinafter provided and all such work shall be executed to the reasonable satisfaction of A.B. Ports;

(b) Without prejudice to the generality of the right of A.B. Ports to withhold its approval of plans submitted under paragraph (a) above, the withholding of approval of plans by A.B. Ports on the grounds that

PART IV
—cont.

the construction of the work in accordance with such plans would render it not reasonably practicable to gain access to the culvert for the purpose of maintenance, repair or reconstruction, shall be deemed not to be unreasonable;

- (c) When submitting any plans to the Secretary of State under section 18 (Tidal works not to be executed without approval of Secretary of State) of this Act, the Council shall send a copy thereof to A.B. Ports;
 - (d) If there shall be any inconsistency between any plans approved by A.B. Ports under this paragraph and those approved by the Secretary of State under the said section 18 or any conditions or restrictions imposed by him under that section, the work shall be executed in accordance with the plans approved by the Secretary of State and subject to the conditions or restrictions imposed by him;
 - (e) In the event of A.B. Ports failing to express its disapproval of any plans within 35 days after they shall have been delivered to A.B. Ports under this paragraph, A.B. Ports shall be deemed to have approved them;
 - (f) If it appears to the Council that A.B. Ports has unreasonably withheld its approval to any plans under this paragraph, they may appeal to the Secretary of State whose decision shall be final:
- (3) The Council shall at all reasonable times afford to the duly authorised representative of A.B. Ports all reasonable facilities for inspecting the works in the course of construction:
 - (4) After the purpose of any temporary structure has been accomplished the Council shall with all reasonable dispatch, or after a reasonable period of notice in writing from A.B. Ports requiring them so to do, remove any such temporary structure or any materials relating thereto which may have been placed in, over or under any land owned by A.B. Ports or below the level of high water by or on behalf of the Council and, on their failing so to do within a reasonable period after receiving such notice, A.B. Ports may remove the same and charge the Council with the reasonable expense of so doing, which expense the Council shall repay to A.B. Ports:
 - (5) (a) If, during the construction of a tidal work or within 10 years after the completion of such work and in consequence of its construction, or, if in consequence of the carrying out of a specified operation within 10 years after the completion of such work, there is

caused or created any accumulation of silt or other material which shall constitute an impediment to navigation, the Council, if so requested by A.B. Ports within the period of 10 years after such completion, shall remove such accumulation of silt or other material and, if they refuse or fail so to do, A.B. Ports may itself cause the work to be done and may recover the reasonable cost thereof from the Council;

- (b) Should any accumulation in consequence of such construction or carrying out arise within the said period of 10 years and be removed in accordance with sub-paragraph (a) above, any recurrence of such accumulation shall from time to time be so removed during a period of 20 years after the date of the completion of the work;
- (c) For the purposes of sub-paragraphs (a) and (b) above the date of completion of a work shall be the date on which it is brought into use;
- (6) (a) If at any time, access to the culvert for the purpose of maintenance, repair or reconstruction is impaired by reason of the construction or existence of the works, the Council shall indemnify A.B. Ports in respect of all additional expense incurred by A.B. Ports in obtaining access to the culvert for any of the purposes aforesaid, by reason of the construction or existence of the works;
- (b) If at any time, damage is caused to the culvert by reason of the construction, existence or use of the works, the Council shall as soon as possible after being requested in writing by A.B. Ports so to do, carry out such works of repair or reconstruction as may be necessary to reinstate the culvert to its condition before the damage was caused and, if they refuse or fail so to do, A.B. Ports may itself cause the work to be done and may recover the reasonable cost thereof from the Council;
- (7) (a) If the Council, for the purpose of executing any of the works, require the removal of any part of the culvert, they shall at their own expense provide a substituted culvert (in this paragraph referred to as "the substituted culvert") in accordance with the requirements contained in sub-paragraph (b) of this paragraph;
- (b) The requirements referred to in sub-paragraph (a) of this paragraph are as follows:—
 - (i) the Council shall furnish to A.B. Ports for its approval plans of the substituted culvert showing the route and the general mode of construction

PART IV
—cont.

thereof, provided that in any event the substituted culvert shall be designed so that the overall water carrying capacity of the part or parts of the culvert which is or are to remain and the substituted culvert to be connected thereto shall not be less than 70 million gallons per day;

(ii) the Council shall obtain all the necessary facilities, rights and consents for the construction of the substituted culvert and shall construct and thereafter maintain the substituted culvert in accordance with the plans approved by A.B. Ports and all work in connection with the construction and maintenance of the substituted culvert shall be executed to the reasonable satisfaction of A.B. Ports;

(iii) the Council shall afford to the duly authorised representative of A.B. Ports all reasonable facilities for inspecting the substituted culvert at all reasonable times in the course of construction and maintenance and shall pay to A.B. Ports the costs, charges and expenses reasonably incurred by A.B. Ports in or in connection with such inspection;

(iv) the Council shall not remove or interfere with any part of the culvert or take any action which will or may have the effect of reducing its water carrying capacity until construction of the substituted culvert is completed and the Council have established to the reasonable satisfaction of A.B. Ports that the substituted culvert and the remaining part or parts of the culvert have an overall water carrying capacity of not less than 70 million gallons per day:

- (8) The provisions of paragraphs (6) and (7) above shall apply and have effect whether or not ownership of the culvert is vested in A.B. Ports:
- (9) In the exercise of the powers conferred on them by section 5 (Power to acquire new rights only) of this Act, the Council shall not acquire any right in, over or under any land owned by A.B. Ports or any right enjoyed by A.B. Ports in, over or under any land except with the written consent of A.B. Ports (which it shall not unreasonably withhold) and in accordance with such conditions and restrictions as may be reasonably prescribed by A.B. Ports:
- (10) The Council shall not exercise any of the powers conferred on them by section 14 (Subsidiary works), section 15 (Power to stop up streets temporarily),

section 26 (Power to dredge), section 27 (Removal of moorings) or section 30 (Power to pump and discharge water) of this Act except with the written consent of A.B. Ports (which it shall not unreasonably withhold) and in accordance with such conditions and restrictions as may be reasonably prescribed by A.B. Ports:

PART IV
—cont.

- (11) No spoil or other material shall in the exercise of the powers of this Act be deposited on any land owned by A.B. Ports or, unless otherwise approved or prescribed by the Secretary of State, anywhere for the time being within the jurisdiction of A.B. Ports, except with the written consent of A.B. Ports:
- (12) The Council shall forthwith notify A.B. Ports of any directions given to the Council by Trinity House or, as the case may be, the Secretary of State under section 19 (Provision against danger to navigation), section 20 (Abatement of works abandoned or decayed), section 22 (Permanent lights on tidal works) or section 23 (Lights on tidal works during construction) of this Act:
- (13) Subject to the provisions of section 4 (Power to acquire lands) of this Act, nothing in this Act shall affect prejudicially any statutory or other rights, powers or privileges vested in, or enjoyed by, A.B. Ports at the commencement of this Act or any title of A.B. Ports in, to or over any lands or foreshore held or acquired by it.

35. 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:—

For protection
of water
authority.

(1) In this section—

“construction” includes execution and placing, extension, enlargement, alteration, replacement or re-laying, and “construct” and “constructed” have corresponding meanings;

“plans” includes descriptions, drawings and specifications;

“protected fishery” means the river and fish in, or migratory fish proceeding to or from, the river upstream of Work No. 2 and the spawn or food of fish in the river;

“specified work or operation” means Works Nos. 1, 2, 3 and 4 and any works constructed in connection with or for the purposes of any of those works and any operations carried out under section

PART IV
—cont.

4 (Power to acquire lands), section 14 (Subsidiary works) or section 26 (Power to dredge) of this Act, being operations which may affect the bed of the river or the flow or quality of water therein or cause obstruction to the free passage of fish therein; and “specified work” and “specified operation” shall be construed accordingly:

- (2) (a) Before commencing any specified work or operation the Council shall submit plans thereof to the water authority for their reasonable approval and shall not commence the same until such plans have been approved by the water authority:

Provided that if the water authority do not within 56 days after the receipt of any such plans (or such shorter period as may be agreed by the water authority having regard to prior consultation on the plans), signify to the Council their disapproval thereof and the grounds for their disapproval they shall be deemed to have approved thereof;

- (b) Any difference arising between the Council and the water authority under sub-paragraph (a) above shall be settled by the Secretary of State on a reference to him by the Council or the water authority after notice to the other of them;
- (c) In the case of any specified work or operation carried out in an emergency the Council shall not be required to submit plans thereof before commencing the same but they shall give to the water authority such notice and such particulars thereof as may be practicable in the circumstances before the work or operation is commenced, with further particulars and plans as soon as reasonably practicable thereafter:
- (3) Upon signifying their approval of the plans or any specified work or operation, or considering notice of any specified work or operation carried out in an emergency, the water authority may specify any steps which shall be taken by the Council on the carrying out of the work or operation, being—
- (a) steps reasonably required for the protection of the protected fishery, including any requirement as to the time at which any such work or operation is carried out; and
- (b) any other steps reasonably required to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest:

- (4) (a) Subject to the provisions of this section, a specified work shall not be constructed and a specified operation shall not be carried out except in accordance with such plans as may be approved or deemed to be approved by the water authority as aforesaid or settled by arbitration and in accordance with any requirement made by the water authority under paragraph (3) above or settled by arbitration, and they shall be constructed or carried out in accordance with those plans and any such requirements to the reasonable satisfaction of the engineer of the water authority who shall be given reasonable notice of the date and time on and at which the work or operation is to be commenced;
- (b) The Council shall at all reasonable times afford to the engineer of the water authority and his duly authorised representatives access to such specified work or operation (other than any dredging operation) for the purpose of inspection:
- (5) (a) Plans of any specified work shall not be submitted by the Council to the Secretary of State for his approval under section 18 (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 the Secretary of State under paragraph (2) (b) above, with or without requirements under paragraph (3) above, and if, on the submission of plans to the Secretary of State, he requires any alteration to the plans so approved or settled under this section, or of any such requirement 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) above, 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 such requirement relating thereto, and the plans approved by the Secretary of State under the said section 18, or any conditions or restrictions imposed by him under that section, the specified 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) The Council shall not remove or infill any sewer, drain or watercourse, or any part thereof, under section 28 (Sewers to be removed or filled up) of this Act until the water authority agree that its use has become unnecessary as mentioned in that section:

PART IV
—cont.

(7) If by reason of the carrying out by the Council of works or operations authorised by section 28 (Sewers to be removed or filled up) of this Act, a sewer or watercourse or any of the banks of a watercourse is damaged or the efficiency of a sewer or watercourse for sewerage or (as the case may be) land drainage purposes is impaired, and the water authority take such steps as are reasonable—

(a) to make good the sewer or watercourse to restore it to its former standard of efficiency; or

(b) where necessary, to construct some other work in substitution therefor;

they may recover from the Council the reasonable cost of so doing (including a proper proportion of the overhead charges of the water authority) and any such cost of executing works needed for remedying any subsidence of the substituted work during such reasonable period as may be agreed between the Council and the water authority, or failing agreement, settled by arbitration:

Provided that nothing in this paragraph shall apply to the erection of any structure or the carrying out of any work of alteration or repair of a structure in accordance with a consent of the water authority given under section 29 of the Land Drainage Act 1976:

1976 c. 70.

(8) If the water authority have reasonable ground for believing that a sewer or watercourse or any of the banks of a watercourse is likely to be damaged or the efficiency of a sewer or watercourse for sewerage or (as the case may be) land drainage purposes is likely to be impaired in any of the circumstances mentioned in the last foregoing paragraph, they may carry out such protective works as may be agreed between them and the Council or as, failing agreement, may be settled by arbitration, and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the water authority) from the Council:

(9) Before exercising their powers under section 17 (Temporary closing of river in connection with works) of this Act, the Council shall give not less than 28 days' notice to the water authority:

(10) The Council shall be responsible for and make good to the water authority all costs, charges, expenses and losses which may be occasioned to, suffered by, or reasonably incurred by the water authority in taking action—

(a) after notice in writing to the Council, to protect the protected fishery against anticipated damage; or

(b) to remedy any damage to that fishery; being damage anticipated or suffered by reason or in consequence of the execution of the works or operations authorised by this Act, or the failure or want of repair of the works, or in consequence of any act or omission of the Council, their contractors, agents, workmen or servants in connection with those works or operations:

PART IV
—cont.

- (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 damage to the river or the banks thereof so as to impair its efficiency as a drainage channel which may be caused by or result from the construction of any specified work or of the failure or want of repair thereof or any act or omission of the Council, their contractors, agents, workmen or servants whilst engaged upon the work:

Provided that 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 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 or in accordance with any plans approved by the Secretary of State and any conditions or restrictions imposed by him, shall not relieve the Council from any liability under the provisions of this section:
- (13) Except as provided in paragraph (2) (b) above, 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 by an arbitrator appointed by agreement between the parties or, in default of agreement, by an arbitrator appointed on the application of either party, after giving not less than one week's notice in writing, to the President of the Institution of Civil Engineers.

36. Unless otherwise agreed in writing between the Council and the council of the city of Cardiff, so long as arrangements are in force under section 15 of the Water Act 1973 for the discharge by the said city council, as respects their area, of the sewerage functions of the water authority the provisions of

For protection
of council of
city of Cardiff.
1973 c. 37.

PART IV
—cont.

paragraphs (6) to (8) and (11) to (13) of section 35 (For protection of water authority) of this Act shall extend for the protection of the said city council and, for that purpose, shall have effect as if for any reference therein to the water authority there were substituted reference to the said city council.

For protection
of British
Dredging
Aggregates
Limited.

37. For the protection of British Dredging Aggregates Limited (in this section referred to as "the company") the provisions of this section shall have effect unless otherwise agreed in writing between the Council and the company—

The provisions of the Act of 1965 with respect to compensation for lands injuriously affected shall in their application to the company extend so as to require the Council to make compensation to the company for injury to so much of their business as is occasioned by reason of the construction of the bridge or other works authorised by this Act notwithstanding that no part of the company's lands is taken by the Council:

Provided that—

- (a) the company shall take all reasonable steps to reduce any such injury; and
- (b) in the assessment of compensation regard shall be had to any facilities which are or may be reasonably available to the company for the reduction of any such injury.

SCHEDULE

Section 5.

ADAPTATION OF PART I OF THE ACT OF 1965 IN CONNECTION WITH
PURCHASE OF NEW RIGHTS

1. In the Act of 1965 (hereinafter in this Schedule referred to as "the Act") for section 7 (which relates to compensation) there shall be substituted the following:—

"7.—(1) In assessing the compensation to be paid by the Council under this Act regard shall be had not only to the extent, if any, to which the value of the land in, over or under which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words 'land is acquired or taken' there shall be substituted the words 'a right in, over or under land is purchased' and for the words 'acquired or taken from him' there shall be substituted the words 'in, over or under which the right is exercisable'." 1973 c. 26.

2. The following provisions of the Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—

section 9 (4) (failure of owners to convey);

paragraph 10 (3) of Schedule 1 (owners under incapacity);

paragraph 2 (3) of Schedule 2 (absent and untraced owners); and

paragraphs 2 (3) and 7 (2) of Schedule 4 (common land);

shall be so modified as to secure that as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the Council.

3. Section 11 (power of entry) of the Act shall be so modified as to secure that as from the date on which the Council have served notice to treat in respect of any right they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) of the Act shall be modified correspondingly.

4. Section 20 (compensation of short-term tenants) of the Act shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

c. xxvi *County of South Glamorgan (Taff Crossing)
Act 1988*

SCH.
—cont.

5. Section 22 (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) of the Act shall be so modified as to enable the Council, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

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