



# Associated British Ports (Hull) Act 1989

## CHAPTER x

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ELIZABETH II



1989 CHAPTER x

An Act to empower Associated British Ports to construct works and to acquire lands at Hull; to confer further powers on Associated British Ports in connection with those works and in connection with their undertaking at Hull; and for other purposes.

[27th July 1989]

**W**HEREAS—

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

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

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

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

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

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

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

### PRELIMINARY

- Short title.** 1. This Act may be cited as the Associated British Ports (Hull) Act 1989.
- Interpretation.** 2.—(1) In this Act, unless there be something in the subject or context repugnant to such construction, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the related subject-matter the same respective meanings and—
- “A.B. Ports” means Associated British Ports;
  - “the Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847;
  - “the Act of 1964” means the British Transport Docks Act 1964;
  - “the Act of 1966” means the British Transport Docks Act 1966;
  - “the Act of 1969” means the British Transport Docks Act 1969;
  - “the Act of 1971” means the British Transport Docks Act 1971;
  - “the Act of 1978” means the British Transport Docks Act 1978;
  - “the Act of 1988” means the Associated British Ports (Barrow) Act 1988;
  - “the Dock Master” means the Dock Master of A.B. Ports at Hull Docks;
  - “enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;
  - “the limits of deviation” means the limits of deviation shown on the deposited plans;
  - “the undertaking” means the undertaking of A.B. Ports as authorised from time to time;
  - “vessel” means every description of vessel, however propelled or moved, including a hovercraft (within the meaning of the Hovercraft Act 1968), a hydrofoil vessel and anything constructed or used to carry persons or goods by water;
  - “the works” means the works authorised by Part III (Works, etc.) of this Act.

1847 c. 27.  
1964 c. xxxviii.  
1966 c. xxxi.  
1969 c. xxiii.  
1971 c. lix.  
1978 c. xiv.  
1988 c. xviii.

1968 c. 59.

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

(3) All directions, distances and dimensions stated in any description of works, powers or lands shall be construed as if the words "or thereabouts" were inserted after each such direction, distance or dimension.

PART I  
—cont.

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

Incorporation  
of general  
enactments.

- (a) sections 30 to 44 of the Railways Clauses Consolidation Act 1845 (temporary occupation of lands near the railway during the construction thereof);
- (b) sections 77 to 85E of that Act (mines lying under or near the railway); and
- (c) the Act of 1847, except sections 6 to 9, 11 to 26, 31, the proviso to section 32 and sections 33, 48, 49, 50, 79, 80, 84 to 90, 94, 95, 97 and 98.

1845 c. 20.

(2) (a) For the purposes of sections 30 to 44 of the said Act of 1845, as so incorporated, the works shall be deemed to be the railway and for the words "the period by the special Act limited for the completion of the railway" there shall be substituted "the period of five years from the commencement of the construction of any of the works authorised by the special Act".

(b) For the purposes of sections 77 to 85E of the said Act of 1845, as so incorporated, the works shall be deemed to be the railway and, for the purpose of section 78 of the said Act of 1845 in so far as it relates to the works, the area of protection shall, as regards mines and minerals lying within 172 metres of the surface of the ground, be 121 metres and, as regards mines and minerals lying at a greater depth than 172 metres below the said surface, the area of protection shall be increased by 18 metres for every 30 metres or part thereof by which the mines and minerals lie deeper below the said surface than 172 metres.

(c) For the purposes of the Act of 1847, as so incorporated—

- (i) the expression "the harbour, dock, or pier" means the works;
- (ii) the expression "the harbour master" means, in relation to the works, the Dock Master;
- (iii) the meaning of the word "vessel" as defined in this Act shall be substituted for the meaning assigned to it by section 3 of the Act of 1847; and
- (iv) for the purpose of section 53 of the Act of 1847 notice of the harbour master's directions may be given to the master of a vessel orally, or otherwise communicated to him in unwritten form, in any case where it is not reasonably practicable to serve on him a notice in writing.

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

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

Application  
of Part I of  
Compulsory  
Purchase Act  
1965.  
1965 c. 56.  
1981 c. 67.

PART I  
—cont.  
1965 c. 56.

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

1845 c. 18.

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

## PART II

### LANDS

Power to acquire  
lands.

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

(2) (a) The powers of A.B. Ports for the compulsory acquisition of land under this section shall cease on 31st December 1994.

(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 1994, notice to treat has been served in respect of that land.

Purchase of  
rights over  
land.

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

(2) A.B. Ports may, for any of the purposes mentioned in subsection (1) of section 5 (Power to acquire lands) of this Act, purchase compulsorily such new rights as it may require over any of the lands which may be acquired under that section instead of acquiring those lands under that section.

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

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

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

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

Incorporation  
of lands  
provisions.

7. The following provisions of the undermentioned Acts are, with necessary modifications, incorporated with this Act:—

The Act of 1964—

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

The Act of 1969—

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

## PART III

## WORKS, ETC.

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

Power to make works.

Partly in the city of Kingston upon Hull and partly on the bed and foreshore of the river Humber—

Work No. 1 A terminal of open construction, comprising a curved shore ramp commencing by a junction with Eastern Access Road on the Port of Hull Estate at the corner of that road situate south of the east wall of Queen Elizabeth Dock, thence leading into the river Humber first south and then west through a bridge ramp and portal 75 metres in length, and there terminating.

Work No. 2 A terminal of open construction, comprising a curved shore ramp commencing at the river wall at a point 415 metres east of the south-west corner of the pumping station (situate east of the riverward end of the entrance lock to King George Dock and Queen Elizabeth Dock), thence leading first south and then west through a bridge ramp and portal 75 metres in length, and there terminating.

Work No. 3 A terminal of open construction, comprising a curved shore ramp commencing at the river wall at a point 358 metres west of the western extremity of the Dock Master's Office (situate west of the riverward end of the said entrance lock), thence leading first south and then west through a bridge ramp and portal 75 metres in length, and there terminating.

In the city of Kingston upon Hull—

Work No. 4 A single carriageway road with car park at its riverward end, commencing at the roundabout (situate 212 metres south-east of the point where Hedon Road is crossed by the Holderness Drain), thence extending first south for a distance of 461 metres and incorporating an access eastward to the Dock Estate, thence turning west and terminating at a point 18 metres north of the junction of the north wall of the river Humber with the easterly wall at the mouth of the Holderness Drain.

(2) Notwithstanding anything to the contrary in this Act or shown on the deposited plans or the deposited sections, A.B. Ports may, subject to the approval of the Secretary of State, construct the whole or any part of Works Nos. 1, 2 or 3 within their respective limits of deviation in situations and at levels and in accordance with dimensions and descriptions other than the situations, levels, dimensions and descriptions shown on the deposited plans and the deposited sections or set out in subsection (1) above.

(3) Subject to the provisions of this Act, A. B. Ports may within the limits of deviation for Works Nos. 1, 2 and 3 make and maintain such berthing and mooring dolphins as are required and for each of Works Nos. 2 and 3 a footbridge between the river wall and the portal of the work; and may, within the limits of deviation for any of the works, from time to time renew, alter, replace or relay them temporarily or permanently.

(4) The works shall for all purposes form part of the undertaking.

PART III  
*cont.*  
 Diversion  
 of riverside  
 footpath.

9.—(1) A.B. Ports may stop up and discontinue so much of the riverside footpath as—

- (a) in the case of Work No. 1, lies between the points marked “R” and “S” on the deposited plans;
- (b) in the case of Work No. 2, lies between the points marked “T” and “U” on those plans; and
- (c) in the case of Work No. 3, lies between the points marked “V” and “W” on those plans;

and may substitute therefor between the said points respectively a new footpath to be carried by a footbridge in the position shown on the deposited plans.

(2) Notwithstanding anything to the contrary in this Act or shown on the deposited plans or the deposited sections, A.B. Ports may, subject to the approval of the Secretary of State, in connection with any approval by him under subsection (2) of section 8 (Power to make works) of this Act, stop up and discontinue parts of the riverside footpath between different points from those described in subsection (1) above and may substitute therefor between such different points respectively a new footpath to be carried by a footbridge in a position so approved and along or near to the riverside footpath but other than in the position shown on the deposited plans.

(3) The stopping up of any of the parts of the riverside footpath authorised by subsection (1) or (2) above shall not take place until the new footpath and footbridge appropriate to the case and authorised by that subsection is provided by A.B. Ports and open for public use.

(4) Upon any such stopping up all rights of way over or along that part of the riverside footpath stopped up shall be extinguished and A.B. Ports may appropriate and use the site and soil thereof so far as it is the owner of the same; and the new footpath and footbridge substituted therefor shall become a public footpath.

(5) In this section “the riverside footpath” means the public footpath along the river wall on the north bank of the river Humber in the city of Kingston upon Hull.

Stopping up of  
 Corporation  
 Road, etc.

10.—(1) (a) A.B. Ports may in connection with the construction of the works stop up and discontinue so much of Corporation Road as lies within the limits of land to be acquired delineated on the deposited plans; and thereupon all rights of way over or along that part of Corporation Road shall be extinguished.

(b) Without prejudice to section 9 (Diversion of riverside footpath) of this Act, A.B. Ports may also stop up so much of any other roads, footpaths, or bridleways within the limits of land to be acquired as may be situate on any lands acquired under the powers of section 5 (Power to acquire lands) of this Act, which are required for any of the purposes mentioned in subsection (1) of that section; and thereupon all rights of way over or along such road, footpath or bridleway shall be extinguished.

(c) A.B. Ports may appropriate and use the site of any road, bridleway or footpath so far as stopped up under paragraph (a) or (b) above.

(2) The stopping up of Corporation Road authorised by subsection (1) (a) above shall not take place until the road and car park comprised in Work No. 4 have been completed in accordance with the reasonable requirements of the highway authority and are open for public use.



(3) The road forming part of Work No. 4 shall, when so completed and opened, be maintained and repaired by and at the expense of A.B. Ports for a period of one year thereafter and, at the expiration of that period, the surface of that road shall vest in and be maintainable at the public expense by the highway authority, who for that purpose shall have all such rights in the subsoil and undersurface of the road as may be necessary.

11.—(1) For the purposes of affording uninterrupted means of access to Works Nos. 1, 2 or 3 and of enabling their use at all states of the tide, A.B. Ports may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river Humber adjoining or in the approaches to any of those works and may (subject to subsection (2) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it in the course of any such operations.

Power to dredge  
in Humber.

(2) (a) No materials referred to in this section shall be deposited below the level of mean high-water springs except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(b) The power to use, appropriate or dispose of materials referred to in this section shall not extend to wreck (within the meaning of Part IX of the Merchant Shipping Act 1894) found by A.B. Ports.

1894 c. 60.

12.—(1) In this section—

“area of special scientific interest” means an area of land notified by the Nature Conservancy Council under section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981 or the subject of an order under section 29 (special protection for certain areas of special scientific interest) of that Act;

For protection  
of birds.

“the Council” means the Nature Conservancy Council.

1981 c. 69.

(2) Before carrying out within 500 metres of any area of special scientific interest an operation in exercise of the powers of section 11 (Power to dredge in Humber) of this Act to construct or alter dredged berths adjoining, or the approach channel to, Works Nos. 1, 2 or 3, A.B. Ports shall—

- (a) give to the Council written notice of its intention and such details of the operation proposed as the Council may reasonably require; and
- (b) consult the Council as to measures which shall be taken by A.B. Ports at its expense to diminish any detriment to bird life which may result from the operation;

and that operation shall be carried out only with the consent of the Council (which consent shall not be unreasonably withheld) and subject to such reasonable conditions for the protection of birds as the Council may impose; and A.B. Ports shall not commence to carry out that operation until such consent has been given by the Council:

Provided that if the Council do not within three months following the giving of the notice signify to A.B. Ports in writing their refusal of consent to the operation or their giving of such consent subject to specified conditions, and the grounds for such refusal or conditions, they shall be deemed to have given their unconditional consent.

(3) Any difference arising between the Council and A.B. Ports under this section (other than a difference as to the construction of this section) shall be referred to and settled by an independent arbitrator appointed by agreement between the parties or, in default of agreement, by an arbitrator appointed on

PART III —cont.	the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.
Limits of jurisdiction of Dock Master.	<b>13.</b> The limits within which the powers of the Dock Master in relation to Works Nos. 1, 2 and 3 may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Act, shall extend to a distance of 200 metres in every direction from those works.
Application of byelaws of A.B. Ports.	<b>14.</b> All byelaws, rules and regulations of A.B. Ports in force at Hull Docks immediately before the passing of this Act shall be deemed to apply to the works and may be enforced by A.B. Ports accordingly until such time as new byelaws, rules or regulations relating to the works or any of them shall be made by A.B. Ports and come into operation.
Works Nos. 1, 2 and 3 to be within county of Humberside, etc.	<b>15.</b> So much of Works Nos. 1, 2 and 3 as is beyond low water shall be deemed to be within— (a) the county of Humberside; (b) the city of Kingston upon Hull; and (c) the petty sessional division of Kingston upon Hull.
Incorporation of works provisions.	<b>16.—(1)</b> The following provisions of the undermentioned Acts are, with necessary modifications, incorporated with this Act:— The Act of 1964— Section 30 (Fine for obstructing works): The Act of 1966— Section 9 (Subsidiary works); Section 10 (Power to deviate); Section 21 (Tidal works not to be executed without approval of Board of Trade); Section 23 (Abatement of works abandoned or decayed); Section 24 (Survey of tidal works); and Section 26 (Lights on tidal works during construction): The Act of 1969— Section 17 (Provision against danger to navigation): The Act of 1971— Section 16 (Permanent lights on works): The Act of 1988— Section 11 (Crown rights).  (2) (a) For the purpose of the said section 30, as so incorporated, for the word “wilfully” there shall be substituted “intentionally” and for the word “damages” there shall be substituted “without reasonable excuse”. (b) For the purpose of the said section 9, as so incorporated, the words after “those works” in the proviso to subsection (1) thereof shall be omitted. (c) For the purposes of the said sections 26, 17 and 16, as so incorporated— (i) for the words “one hundred pounds” in subsection (2) of each of those sections there shall be substituted “level 4 on the standard scale”; (ii) in proceedings for an offence under any of those sections it shall be a defence for A.B. Ports to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; and

- (iii) if in any case that defence involves the allegation that the commission of the offence was due to the act or default of another person, A.B. Ports shall not, without leave of the court, be entitled to rely on that defence unless, not less than seven clear days before the hearing, it has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in its possession.

PART III  
—cont.

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

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

(b) In paragraph (a) above—

- “alter” and “telecommunication apparatus” have the same meanings as in paragraph 1 of Schedule 2 to the Telecommunications Act 1984;  
“the telecommunications code” means the code contained in the said Schedule 2; and  
“telecommunications code system” has the same meaning as in Schedule 4 to the said Act of 1984.

1984 c. 12.

#### PART IV

##### MISCELLANEOUS AND GENERAL

17.—(1) In this section “the 1909 agreement” means the agreement made 23rd December 1909 between the mayor, aldermen and citizens of the city and county of Kingston upon Hull and the Hull and Barnsley Railway Company.

Repeal, etc., of obligations as to land and landing place off Corporation Road.

(2) Notwithstanding anything in any enactment or rule of law or in the 1909 agreement, A.B. Ports shall cease to be under any obligation to provide or maintain the landing place, jetty or steps in, on or over the river Humber at the riverward end of Corporation Road in the city of Kingston upon Hull and any public rights over the landing place, jetty or steps shall be extinguished; and A.B. Ports may dismantle, remove, deal with and dispose of such landing place, jetty or steps accordingly.

(3) The enactments specified in the Schedule to this Act (which relate to that and other incidental obligations or are spent) are hereby repealed to the extent indicated in that Schedule.

18.—(1) In this section “Part 11 development” means development authorised by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).

Planning permission.  
S.I. 1988/1813.

(2) Subject to the provisions of subsection (3) below, in its application to development authorised by this Act the planning permission granted for Part 11 development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

PART IV  
—cont.

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

Costs of Act.

**19.** All costs, charges and expenses of, and incidental to, the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by A.B. Ports and may in whole or in part be defrayed out of revenue.

## SCHEDULE

Section 17.

## ENACTMENTS AS TO LANDING PLACE REPEALED

Chapter	Short title	Extent of repeal
45 & 46 Vict. c. ccxvi.	Hull Barnsley and West Riding Junction Railway and Dock (New Works) Act 1882.	Paragraphs (4) and (5) of section 6 (For protection of the Corporation of Hull) and so much of section 30 (Company to provide steps on embankment) as relates to the landing place specified in the said paragraphs (4) and (5).
50 & 51 Vict. c. lxxix.	Hull Barnsley and West Riding Junction Railway and Dock Act 1887.	Paragraph (2) (F) of section 21 (Provisions for protection of Hull Corporation).
62 & 63 Vict. c. ccxlii.	Hull Joint Dock Act 1899.	Subsection (2) of section 82 (Reservation of lands to Hull and Barnsley Company) other than the proviso.
2 Edw. 7 c. ccxvii.	Hull Barnsley and West Riding Junction Railway and Dock (South Yorkshire Extension Lines) Act 1902.	So much of section 57 (Declaring what shall be compliance with section 82 of Hull Joint Dock Act 1899 &c.) as relates to an open space or landing place.

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