



# London Docklands Development Corporation Act 1994

## 1994 CHAPTER xiii

### PART II

#### MANAGEMENT AND REGULATION OF CERTAIN LANDS AND WATERS

#### **4 General powers as to designated areas**

- (1) Subject to the provisions of this Act, the Corporation may preserve, maintain, regulate, manage and improve the designated areas and provide services, and facilities afforded therein, or in connection therewith, as it considers necessary or desirable and take such action as it considers incidental to the preservation, maintenance, regulation, management and improvement of the designated areas and the provision of such services and facilities.
- (2) Without prejudice to the generality of the foregoing, the Corporation shall have power to do all such things as in its opinion are necessary or desirable for the proper discharge of the functions conferred or imposed on it by or under this Act and in particular to carry out dredging within so much of the designated areas as is covered by water.
- (3) Nothing in this section shall authorise the Corporation to do anything on any land without the agreement of the occupier of the land.

#### **5 General duty as to designated areas**

- (1) It shall be the duty of the Corporation, in formulating or considering any proposals relating to its functions under this Act, to have regard to the desirability of securing the use of the designated areas for a diversity of purposes which may include sporting, recreational, cultural, commercial, energy-related and navigational purposes.
- (2) Subject to the need to ensure the proper management of the designated areas, the Corporation shall not unreasonably promote the use of the designated areas for any of

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the purposes mentioned in subsection (1) above to the serious disadvantage of the use thereof for any of the other purposes so mentioned.

- (3) Subject to the need to ensure the proper management of the designated areas, the Secretary of State shall have regard to the duty of the Corporation set out in subsection (1) above before confirming any byelaw submitted to him in accordance with section 10 (Byelaws: procedural provisions) of this Act.
- (4) No legal proceedings shall be brought, with regard to any byelaw made under this Act, in respect of any failure or alleged failure by the Corporation or the Secretary of State to comply with the duty imposed by subsection (2) or, as the case may be, subsection (3) above after the expiration of a period of 72 days beginning with the date upon which the byelaw is confirmed.

## **6 Duty to regulate and manage**

It shall be the duty of the Corporation, so far as is reasonably practicable, to regulate and manage the designated areas in accordance with the provisions of this Act and any byelaw made under section 9 (Byelaws) of this Act.

## **7 Duty as to waterside**

Subject to the provisions of this Act, it shall be the duty of the Corporation, in formulating or considering any proposals relating to its functions under this Act, to have regard to the desirability of securing and maintaining public access to the waterside.

## **8 Charges**

- (1) The Corporation may make, demand and recover such reasonable charges for services and facilities provided by it at the designated areas as it may from time to time determine.
- (2) The services and facilities referred to in subsection (1) above shall include the use by any vessel of any waters comprised in the designated areas.
- (3) Nothing in subsection (1) above shall authorise the Corporation—
  - (a) to make any charge for the use of moorings situated within any part of the designated areas which is owned by or leased to any person other than the Corporation; or
  - (b) to make any charge for the use in any manner of any part of the waterside by any person by whom that part is owned or leased, other than a reasonable charge in respect of any consent to such use required by this Act or byelaws made under this Act; or
  - (c) to make any charge for the use of the waters comprised in the designated areas by any vessel used by members of a police force or officers of the fire authority whilst in the exercise of their duties as such.

## **9 Byelaws**

- (1) The Corporation may make byelaws for the good rule and government of the designated areas and, without prejudice to the generality of the foregoing, for all or any of the purposes set out in Schedule 3 to this Act.

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- (2) Byelaws made under this section may be expressed to be applicable within all or any part of the designated areas.
- (3) Before making byelaws under this section in respect of any part of the designated areas the Corporation shall consult—
  - (a) the London borough council for that part;
  - (b) the port authority;
  - (c) the city corporation as port health authority and as a market authority for Billingsgate Market; and
  - (d) the London Fire and Civil Defence Authority.
- (4) Byelaws shall not be made under this section which relate to—
  - (a) land forming part of a highway maintainable at the public expense, without the consent of the highway authority; or
  - (b) land which is a walkway within the meaning of Part III of the Greater London Council (General Powers) Act 1969, without the consent of the borough council in whose area the walkway is situated.

## **10 Byelaws: procedural provisions**

- (1) The provisions of sections 236 (3) to (8) and (11) and 238 of the Local Government Act 1972 shall apply to any byelaw made by the Corporation under this Act and the said section 238 shall have effect as if the expression “proper officer” referred to the chief executive of the Corporation.
- (2) In its application to this section, subsection (7) of section 236 of the said Act of 1972 shall have effect as if, after the words “the confirming authority may confirm”, there were inserted the words “with or without modifications” and as if, at the end of that subsection, there were added the following proviso:—

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

## **11 Penalties for offences under byelaws**

Byelaws made under section 9 (Byelaws) of this Act may provide that a person contravening any such byelaw shall be liable on summary conviction to such fine as may be specified as respects that byelaw, being a fine not exceeding—

- (a) level 3 on the standard scale in the case of an offence against a byelaw which is stated in the byelaws to be a byelaw to protect the safety of members of the public; and
- (b) level 2 on the standard scale in the case of any offence against any other byelaw;

and in addition, in the case of a continuing offence, a daily fine not exceeding—

- (i) in the case of byelaws such as are referred to in paragraph (a) above, one-tenth of level 3; or

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- (ii) in the case of byelaws such as are referred to in paragraph (b) above, one-tenth of level 2.

**12 Control of craft in designated areas, etc**

The provisions of Schedule 4 to this Act for the control of craft in the designated areas, and related matters, shall have effect.

**13 Regulation of placing things on waterside**

- (1) Any person who, without lawful authority, places any structure or object so as to obstruct the free passage over any part of the waterside to which the public have access shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and in addition, in the case of a continuing offence, a daily fine not exceeding one-tenth of that level.
- (2) Nothing in subsection (1) above shall apply to anything done on any land by or with the consent of the occupier of the land.

**14 As to section 161 of Water Resources Act 1991**

Section 161 of the Water Resources Act 1991 (anti-pollution works and operations) shall have effect in relation to the designated areas as though references to the Authority included references to the Corporation.

**15 Obstruction of officers**

Any person who—

- (a) intentionally obstructs the manager or any other officer of the Corporation acting in pursuance of this Act, or of any byelaw made under or by virtue of this Act; or
- (b) without reasonable excuse fails to comply with a requirement properly made by any such person so acting; or
- (c) without reasonable cause fails to give to any such person so acting any information which he may reasonably require for the purpose of the performance of his functions; or
- (d) in giving such information as aforesaid makes a statement which he knows to be false;

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

**16 Defence of due diligence**

- (1) In any proceedings for an offence under this Act or any byelaw made under this Act it shall be a defence for the person charged to prove—
  - (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence; or
  - (b) that he had a reasonable excuse for his act or failure to act.
- (2) If, in any case, the defence provided by subsection (1) (a) above involves the allegation that the commission of the offence was due to the act or default of another person, the

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person charged shall not, without leave of the Court, be entitled to rely on that defence unless, not less than 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that person as was then in his possession.

## **17 Removal of offenders**

If any person wilfully continues to breach any provision of this Act or of any byelaw made under this Act after being requested to desist from so doing by a police officer or by the manager or any other person authorised by the Corporation to enforce those provisions, it shall be lawful for the manager or any police officer to remove such person, together with any vehicle or vessel under his control, from the designated areas.