



Conwy Tunnel (Supplementary Powers) Act 1983

CHAPTER 7

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Conwy Tunnel (Supplementary Powers) Act 1983

1983 CHAPTER 7

An Act to authorise the Secretary of State to acquire certain land and construct and carry out certain works, and to confer on him certain other powers, for or in connection with the construction, maintenance and improvement of a tunnel which he is authorised under the Highways Act 1980 to construct across the Conwy Estuary as part of a special road; and for connected purposes. [28th March 1983]

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:—

Preliminary

1.—(1) The powers conferred on the Secretary of State by Purpose of this Act are by way of supplement to those already available Act. to the Secretary of State under the Highways Act 1980 (referred 1980 c. 66. to below in this Act as the 1980 Act) for or in connection with the construction, maintenance and improvement of the tunnel which he is authorised to construct across the Conwy Estuary by the Glan Conwy to Conwy Morfa Special Road and Con-necting Roads Scheme 1982.

S.I. 1982
No. 553.

(2) In this Act—

“ the Estuary ” means the Conwy Estuary ;

“ the principal construction works ” means—

(a) the construction of the tunnel (including works for constructing the tunnel units under section 4

of this Act and works for providing access to the tunnel on either side of the Estuary);

(b) the construction of fabrication facilities for constructing those units under that section;

(c) the diversion of the waters of the Estuary from any land in accordance with the Scheme; and

(d) the construction of the jetty mentioned in section 5 of this Act;

“the Scheme” means the Scheme mentioned in subsection (1) above; and

“the tunnel” means the tunnel that the Secretary of State is authorised by the Scheme to construct (which is a tunnel of the immersed tube type).

(3) References in this Act to the principal works are references to the principal construction works or any of them and any works for the maintenance, improvement or repair of, or other dealing with, the tunnel that are or may be authorised under the 1980 Act (whether by virtue of any provision of Part IV or V of that Act or by virtue of any order made under section 18(1)(f) of that Act).

(4) Nothing in this Act shall be read as prejudicing the powers of the Secretary of State under the 1980 Act to acquire land or construct or carry out works for or in connection with the construction, maintenance or improvement of the tunnel.

Land and works

Power to acquire specified land compulsorily.

2.—(1) The Secretary of State is authorised by this section to acquire compulsorily so much of the land shown on the deposited plan within the limits of land to be acquired as may be required for or in connection with the principal works.

1965 c. 56.

(2) Part I of the Compulsory Purchase Act 1965 (except sections 4 and 27 and paragraph 3(3) of Schedule 3) shall apply to the acquisition of land under this section as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land Act 1981 applies.

1981 c. 67.

(3) A notice to treat under that Part for the purpose of acquiring any land under this section shall not be served after 31st December 1986 or such later date as may for the time being be authorised by an order made by the Secretary of State; and an order under this subsection shall be subject to special parliamentary procedure.

1845 c. 18.

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

(5) Schedule 1 to this Act (which contains supplementary provisions relating to the acquisition of land for or in connection with the principal works) shall have effect.

3.—(1) The Secretary of State may acquire compulsorily land required for or in connection with the principal works, not being land which may be acquired under section 2 of this Act. Further power to acquire land.

(2) A compulsory purchase order made in pursuance of this section may provide for the acquisition of rights over land by creating them as well as for the acquisition of rights already in existence.

(3) References in this section and Schedule 1 to this Act to rights over land include references to the right to do, or to place and maintain, anything in, on or under land or in the airspace above its surface.

(4) For the purpose of the acquisition by the Secretary of State of land required for or in connection with the principal works by agreement, Part I of the Compulsory Purchase Act 1965 c. 56. 1965 (so far as applicable and excluding sections 4 to 8, 10, 27 and 31) shall apply; and in that Part, as so applied, "land" has the same meaning as in this Act.

(5) The Acquisition of Land Act 1981 shall apply to the compulsory acquisition of land under this section, and Schedule 3 to that Act shall apply to the compulsory acquisition of a right by virtue of subsection (2) above. 1981 c. 67.

4.—(1) The Secretary of State may construct the tunnel units on land acquired under section 2 of this Act or other land shown on the deposited plan within the limits of land to be acquired. Construction of tunnel units.

(2) This section is not to be taken as prejudicing the Secretary of State's power to use, in constructing the tunnel, tunnel units constructed by himself or another on land other than land mentioned in subsection (1) above.

5.—(1) The Secretary of State may construct a jetty in the situation and in accordance with the levels shown on the deposited plan and the deposited section. Construction of jetty.

(2) In constructing the jetty, the Secretary of State may deviate laterally from the situation shown on the deposited plan to the extent of the limits of deviation so shown, and may deviate vertically from the levels shown on the deposited section to the extent of two metres upwards and to any extent downwards.

Subsidiary works and supplementary powers.

6.—(1) Schedule 2 to this Act has effect for authorising certain works to be constructed or carried out in connection with the principal works, and for conferring on the Secretary of State certain other supplementary powers for or in connection with the construction, maintenance or improvement of the tunnel.

(2) References below in this Act to the tunnel works are references to the principal construction works and any works or other action authorised by Schedule 2 to this Act which is undertaken for or in connection with the principal construction works.

(3) References below in this Act to tunnel maintenance works are references to any such works for the maintenance, improvement or repair of, or other dealing with, the tunnel as are mentioned in section 1(3) of this Act and any works or other action authorised by Schedule 2 to this Act which is undertaken for or in connection with any such works.

(4) Without prejudice to the application apart from this subsection of section 6 of the 1980 Act (delegation, etc., of functions with respect to maintenance, etc., of trunk roads) to the powers of the Secretary of State under this Act, that section shall apply to any power under Schedule 2 to this Act exercisable for the purpose of any tunnel maintenance works.

Control of navigation, etc.

Special control during and after the construction period.

7.—(1) If at any time during the construction period it appears to the Secretary of State to be necessary or convenient for the purpose of any of the tunnel works he may give a direction under this section in respect of the harbour area or any part of it.

(2) A direction under this section must specify the area to which it relates.

(3) Without prejudice to the giving of a further direction under this section, any such direction—

(a) shall have effect for a limited period only, which must be specified in the direction ; and

(b) may be varied or revoked before the end of that period by a further direction under this section.

(4) A direction under this section may apply to the area specified in the direction such of—

(a) the powers conferred on the Secretary of State by Part I of Schedule 3 to this Act ; and

(b) the prohibitions and restrictions imposed by Part II of that Schedule ;

as may be so specified, whether generally or for such purposes or subject to such exceptions as may be so specified.

(5) A direction under this section may provide—

- (a) that any powers of the harbour authority or the harbour master under any harbour order shall cease to be exercisable in the area specified in the direction either altogether or to any extent specified in the direction or (as the case may be) shall be so exercisable subject to any restrictions so specified ;
- (b) that anything authorised or required by any such order or by any byelaws made or directions given under any such order to be done by or to the harbour authority or the harbour master may or shall be done instead in that area by or to the Secretary of State or any person acting on his behalf ; and
- (c) that any such order, byelaws or directions shall apply within that area subject to any modifications specified in the direction.

(6) A direction under this section may provide that any powers of the harbour authority to levy ship, passenger and goods dues (within the meaning of the Harbours Act 1964) shall cease to be exercisable in the area specified in the direction to any extent so specified. 1964 c. 40.

(7) After the end of the construction period all the powers conferred on the Secretary of State by Part I of Schedule 3 to this Act and the prohibitions and restrictions imposed by Part II of that Schedule shall apply within the tunnel maintenance area.

(8) In this Act—

“ the harbour area ” means the area comprising—

- (a) Conwy harbour ; and
- (b) any land from which the waters of the Estuary have been diverted in accordance with the Scheme ; and

“ the tunnel maintenance area ” means the area marked by cross-hatching (or by both cross-hatching and dots) on the plan included in Schedule 3 to the Scheme (limit of tunnel backfill).

8.—(1) Part III of Schedule 3 to this Act has effect for the purpose of supplementing the provisions of Parts I and II of that Schedule. Provisions supplementary to section 7.

(2) References in any provision of that Schedule to the works and to the area affected by the works shall be read as referring respectively—

- (a) in a case where that provision applies by virtue of a direction given under section 7 of this Act, to the tunnel works and to the area specified in the direction in accordance with subsection (2) of that section ; and
- (b) in a case where that provision applies by virtue of subsection (7) of that section, to any tunnel maintenance works and to the tunnel maintenance area.

(3) Without prejudice to any provision made by a direction under that section, where under or by virtue of that section any prohibition or restriction under Part II of that Schedule applies in any area—

- (a) any power, right or duty (whether of the harbour authority or any other person) applicable under or by virtue of any other enactment or by virtue of any rule of law shall be subject to that prohibition or restriction ; and
- (b) that prohibition or restriction is additional to any prohibition or restriction under any other enactment.

(4) The Secretary of State shall—

- (a) publish notice of any direction under section 7 of this Act in a local newspaper circulating in the Conwy area ; and
- (b) give notice of any such direction to the Aberconwy Borough Council and to the Corporation of Trinity House of Deptford Strond ;

describing the area to which the direction relates and giving such indication of the effect of the direction as appears to him to be appropriate.

(5) The notice required by subsection (4) above in the case of any direction shall be published or given at least seven days before the direction is given, unless the Secretary of State considers it necessary by reason of any emergency to give the direction without complying with the preceding requirement ; and in any such case—

- (a) the notice required by that subsection shall be published or given as soon as possible after the time by which in accordance with the preceding requirement it should have been published or given ; and
- (b) where it is not possible to publish or give that notice before the direction is given the Secretary of State shall publish or give such advance notice (if any) of the direction as may be possible in the circumstances.

(6) In relation to any advance notice of a direction under section 7 of this Act required by subsection (5) above, references in subsections (4) and (5) above to any such direction shall be read as references to a proposed direction.

(7) In this Act “the construction period” means the period beginning with the date on which the tunnel works are begun and ending with the date on which the tunnel is first open to public traffic.

Remedial action and compensation

9.—(1) This section applies where any land, or any interest in land, has been injuriously affected by the carrying out of any works or the taking of any other action authorised by Schedule 2 to this Act otherwise than on land acquired for or in connection with the principal works. Extended right to compensation for injurious affection.

(2) Compensation shall be payable in respect of the land or interest injuriously affected under section 10 of the Compulsory Purchase Act 1965, to be assessed in the same manner and subject to the same rules as in the case of other compensation under that section in respect of injurious affection where the injury arises from the execution of works on land acquired in accordance with that Act. 1965 c. 56.

(3) In section 10(1), as it applies for the purposes of this section, the reference to the acquiring authority shall be read as a reference to the Secretary of State.

10.—(1) The Secretary of State is authorised by this section to incur expenditure for or in connection with— Expenditure on remedial action.

- (a) the construction or execution of works for mitigating any adverse effects which the tunnel works have or might possibly have on fish or shellfish stocks in Conwy waters ;
- (b) the provision of moorings and other facilities for vessels to replace existing facilities in Conwy harbour which have been or will be removed for the purposes of the tunnel works or to mitigate any adverse effects the tunnel works have or might possibly have on the use of any such existing facilities ; and
- (c) the relocation and reinstatement of any such existing facilities which have been displaced for the purposes of the tunnel works.

In paragraph (a) above “Conwy waters” means Conwy harbour and the adjacent sea and the River Conwy and any of its tributaries.

(2) Without prejudice to the generality of subsection (1)(a) above, expenditure on any action taken for the purpose of restoring, replenishing or renewing—

(a) the mussel beds within the Conwy Mussel Fishery ; or

(b) stocks of salmon or migratory trout (within the meaning of the Salmon and Freshwater Fisheries Act 1975) ;

1975 c. 51.

is authorised by that paragraph.

(3) Expenditure by the Secretary of State on works or facilities within subsection (1) above is authorised—

(a) irrespective of whether the works or facilities are constructed, carried out or provided by the Secretary of State himself or by any other person ; and

(b) in the case of works of construction within paragraph (a) or any facilities within paragraph (b) of that subsection, irrespective of whether those works or facilities are permanent or temporary.

Compensation
for losses
arising from
the tunnel
works.

11.—(1) The Secretary of State may make payments in accordance with this section in respect of losses appearing to him to be losses arising from the tunnel works.

(2) A person is eligible to receive payments under this section in respect of any loss appearing to the Secretary of State to be a loss arising from those works if it appears to the Secretary of State—

(a) that he derives a significant part of his income from carrying on a business subject to special damage from works in the Estuary ;

(b) that that business had been carried on before the construction period (whether by him or by any other person) for a period of not less than three years extending up to the beginning of the construction period ;

(c) that the loss was incurred in respect of that business ; and

(d) that the loss was incurred before the end of the relevant period.

(3) For the purposes of this section a loss is a loss arising from the tunnel works if it is a financial loss directly attributable to—

(a) the tunnel works ; or

(b) the exercise by the Secretary of State for the purposes of those works of any power exercisable by him by virtue of a direction under section 7 of this Act ; or

(c) the effect of any prohibition or restriction under Part II of Schedule 3 to this Act which is applicable during the construction period by virtue of any such direction.

(4) For the purposes of this section a business is one subject to special damage from works in the Estuary if it involves or is dependent upon any one or more of the following—

(a) the taking of fish or shellfish or other operations or activities carried on in waters within Conwy harbour (whether by the person carrying on the business or by other persons);

(b) the use (by that person or by other persons) of facilities in Conwy harbour for the purpose of or in connection with carrying on any operations or activities mentioned in paragraph (a) above in waters beyond the limits of Conwy harbour; and

(c) the taking of mussels from the Conwy Mussel Fishery by persons licensed to do so under the Conwy Mussel Fishery (Amendment) Order 1948.

S.I. 1948
No. 1888.

(5) Any operations or activities shall be regarded for the purposes of subsection (4) above as carried on in waters of any description if carried on in, under or over waters of that description or the land beneath those waters.

(6) For the purposes of this section, the relevant period in relation to any loss—

(a) in the case of a loss incurred in respect of a business within subsection (4)(c) above, is the period beginning with the date on which the construction period begins and ending five years after the end of the construction period or after the completion of any action taken or financed by the Secretary of State under section 10 of this Act for the purpose of restoring, replenishing or renewing the mussel beds within the Conwy Mussel Fishery (whichever last occurs); and

(b) in any other case, is the period beginning with the date on which the construction period begins and ending five years after the end of the construction period.

(7) Subject to subsection (2)(a) to (c) above, the Secretary of State may make payments under this section in respect of a loss incurred not more than four years after the end of the relevant period if it appears to him that the person who incurred the loss will suffer hardship if no payment is made under this section in respect of it.

(8) Without prejudice to the power of the Secretary of State, in determining whether to make any payment under this section in respect of any loss and the amount of any such payment, to take into account any considerations appearing to him to be relevant, he may in particular have regard to any compensation or financial assistance that in his view is or may be available to the person who suffered the loss under any other enactment.

(9) Payments under this section shall be subject to the consent of the Treasury.

Compensation for losses arising from tunnel maintenance works.

12.—(1) The Secretary of State may make payments in accordance with this section in respect of losses appearing to him to be losses arising from tunnel maintenance works.

(2) A person is eligible to receive payments under this section in respect of any loss appearing to the Secretary of State to be a loss arising from tunnel maintenance works if it appears to the Secretary of State—

- (a) that he derives a significant part of his income from carrying on a business subject to special damage from works in the Estuary ; and
- (b) that the loss was incurred in respect of that business.

(3) For the purposes of this section a loss is a loss arising from tunnel maintenance works if it is a financial loss directly attributable to the effect of any prohibition or restriction under Part II of Schedule 3 to this Act as it applies after the end of the construction period by virtue of section 7(7) of this Act.

(4) Subsections (4), (5), (8) and (9) of section 11 of this Act apply for the purposes of this section as they apply for the purposes of that section.

Compensation of harbour authority.

13. The Secretary of State may with the consent of the Treasury make payments to the harbour authority in respect of losses appearing to him to be losses attributable to the tunnel works or tunnel maintenance works.

Compensation for disturbance to apparatus and moorings.

14.—(1) Where—

- (a) the Secretary of State takes any action in relation to any apparatus under paragraph 1(1)(a) or (b) of Schedule 3 to this Act ; and
- (b) any remedial measures rendered reasonably necessary in view of his proposal to take that action are not taken by the Secretary of State before he takes that action ;

the person to whom the apparatus belongs shall be entitled to recover from the Secretary of State any reasonable expenses incurred by that person in, or in connection with, taking those remedial measures.

(2) In subsection (1) above “ remedial measures ” means—

- (a) the removal and relaying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus ;
- (b) the cutting off of any apparatus from any other apparatus ; and

- (c) the carrying out of any other work or the doing of any other thing reasonably required for the purposes of or in connection with the operation of any apparatus.

(3) Where the Secretary of State removes any mooring in exercise of his power under paragraph 1(1)(c) of Schedule 3 to this Act, the person to whom the mooring belongs shall be entitled to recover from the Secretary of State any reasonable relocation costs incurred by that person in consequence of the removal of the mooring.

(4) In subsection (3) above “relocation costs” means, in relation to any mooring removed by the Secretary of State in exercise of the power mentioned in that subsection—

- (a) any expenses incurred in relocating the mooring in a new situation or in removing it from the new situation and reinstating it in its original situation ; and
- (b) any expenses incurred in moving any vessel for which the mooring was used before it was so removed from the original situation of the mooring to a new situation and back again on reinstatement of the mooring in its original situation ;

or, in any case where any such vessel is to be kept on dry land during the period when the site from which the mooring is removed is not available for use in consequence of the carrying out of any works or other action which was the occasion for the removal of the mooring, any expenses incurred for the purpose of lifting the vessel from the water on the removal of the mooring or returning it to the water on reinstatement of the mooring in its original situation.

(5) References in subsection (4) above, in relation to any mooring removed by the Secretary of State as there mentioned, to the mooring include references to any new mooring provided in place of that mooring (whether by the Secretary of State in exercise of his powers under this Act or by the owner of the mooring).

(6) Where the owner of any mooring that the Secretary of State proposes to remove in exercise of his power under paragraph 1(1)(c) of Schedule 3 to this Act himself removes it or procures its removal, this section shall apply as if the mooring had been removed by the Secretary of State in exercise of that power.

(7) This section shall be regarded for the purposes of section 37(5) of the Land Compensation Act 1973 (discretionary compensation for disturbance in absence of entitlement to a disturbance payment or to compensation for disturbance under any other enactment) as providing compensation for disturbance for the owners of moorings removed by the Secretary of State in exercise of his power under paragraph 1(1)(c) of Schedule 3 to this Act.

Miscellaneous and supplemental

Protection of
the tunnel,
etc.

15.—(1) A person may not without the consent in writing of the Secretary of State (which may be given subject to conditions)—

- (a) use, for the purpose of landing or embarking persons or landing or loading goods from or into any vessel, the tunnel, any of the tunnel units, any tunnel approach works or any work constructed in pursuance of Schedule 2 to this Act ;
- (b) interfere with the tunnel, any of the tunnel units or any tunnel approach works ; or
- (c) remove, move or otherwise interfere with any such work or any machinery, apparatus, tools or other things in use or intended for use in constructing or carrying out the tunnel works or any tunnel maintenance works.

(2) A person who without reasonable excuse contravenes subsection (1) above or fails to comply with any condition attached to a consent given by the Secretary of State under that subsection shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (within the meaning of section 75 of the Criminal Justice Act 1982).

1982 c. 48.

(3) In this section “ tunnel approach works ” means works for providing access to the tunnel on either side of the Estuary.

Delegation of
certain
decisions
affecting
works.

16.—(1) Without prejudice to the power of the Secretary of State to enter into such contracts as he thinks fit with any persons for the purpose of carrying out any works or taking any other action he is authorised by this Act to carry out or take, any contract entered into by the Secretary of State for that purpose may provide for any relevant decision which is reserved by this Act to the Secretary of State to be made instead on his behalf by any person or in any manner specified in or determined in accordance with the contract.

(2) For the purposes of subsection (1) above as it applies to any contract, a decision is a relevant decision reserved by this Act to the Secretary of State if it is a decision with respect to any works or action to which the contract relates that falls to be made by the Secretary of State by virtue of any provision of Schedule 2 or Part I of Schedule 3 to this Act referring (in whatever terms) to the opinion or judgment of the Secretary of State with respect to any matter.

(3) This section shall not be read as prejudicing the power of the Secretary of State to authorise the taking, by any of his officers or servants or in any other manner permitted by law, of any decision or other action that falls to be taken by him for the purposes of this Act.

17. Any contract entered into by the Secretary of State for Employment of the purpose of carrying out the tunnel works shall include such local labour. provisions as the Secretary of State considers appropriate for securing so far as practicable the maximum employment in carrying out those works of persons normally resident in the area formed by the counties of Gwynedd and Clwyd.

18.—(1) A certificate by the Secretary of State stating the date on which the tunnel works were begun and either—
(a) the date on which the tunnel was first open to public traffic ; or
(b) that the tunnel had not been open to public traffic on any occasion before a date specified in the certificate ; shall be conclusive evidence of the facts stated.

Proof of certain facts by certificate of Secretary of State.

(2) A certificate by the Secretary of State stating the date of completion of any action taken or financed by the Secretary of State under section 10 of this Act for the purpose of restoring, replenishing or renewing the mussel beds within the Conwy Mussel Fishery shall be conclusive evidence that that action was completed on the date stated.

19.—(1) If the deposited plan or a book of reference to the plan is inaccurate in its description of any land, or in its state-ment or description of the ownership or occupation of any land, the Secretary of State, after giving not less than ten days notice to the owner, lessee or occupier of the land in question, may apply to two justices having jurisdiction in the place where the land is situated for the correction of the plan or (as the case may be) the book of reference.

Correction of deposited plan.

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

(3) The certificate shall be deposited with the Chief Executive of the Gwynedd County Council and in the Office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons, and thereupon the deposited plan or the book of reference (as the case may be) shall be deemed to be corrected according to the certificate, and the Secretary of State may proceed under this Act as if the deposited plan or the book of reference had always been in the corrected form.

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

(5) In this section, “book of reference” means a book deposited in connection with the Bill for this Act with the Chief Executive of the Gwynedd County Council and in the Office of the Clerk of the Parliaments and the Private Bill Office of the

House of Commons containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of land which may be acquired under section 2 of this Act.

Provision for expenditure by Secretary of State. **20.** Any expenditure incurred by the Secretary of State under this Act shall be defrayed out of money provided by Parliament.

Removal of certain statutory controls.

21.—(1) Where any operation is authorised to be carried out by any provision of this Act, that provision shall not be regarded as limited—

- (a) by any prohibition on the carrying out of operations of that description or any prohibition on carrying them out without the consent of any person ; or
- (b) by any restriction on the level of noise which may be emitted in the course of carrying out operations of that description ; or
- (c) by any prohibition or restriction on the times when or the periods of time for which operations of that description may be carried out.

(2) The powers conferred by paragraph 4 of Schedule 2 to this Act to deal with materials (including liquid) excavated, dredged or pumped in pursuance of that paragraph shall not be regarded as limited by any prohibition or restriction on depositing in or discharging into any waters materials of that description so far as, in the course or in consequence of so dealing with those materials, they are deposited in or discharged into waters within the limits for the exercise of those powers set by paragraph 7 of that Schedule.

(3) This section is not to be taken as prejudicing the generality of any of the powers conferred by this Act.

(4) In this section “ operation ” means any works or action ; and references to a prohibition or a restriction are references to a prohibition or, as the case may be, a restriction imposed by or under any enactment other than this Act.

Interpretation.

22.—(1) In this Act—

“ apparatus ” includes any device, structure or work ;

“ Conwy harbour ” means such part of the Estuary and any land adjacent to it as is for the time being within the limits of the jurisdiction of the harbour authority under any harbour order ;

“ Conwy Mussel Fishery ” means the fishery comprised in the Conwy Mussel Fishery (Amendment) Order 1948 ;

“ Crown land ” has the same meaning as in Part XIV of the Town and Country Planning Act 1971 ;

- “deposited plan” and “deposited section” mean respectively the plan and the section deposited in connection with the Bill for this Act with the Chief Executive of the Gwynedd County Council and in the Office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons ;
- “harbour” and “harbour authority” have the same meanings as in the Harbours Act 1964, and “harbour order” means a harbour revision order made under section 14 of that Act ; 1964 c. 40.
- “land” includes land covered with water, any interest in land and any easement or other right in, to or over land ;
- “mooring” means any buoy, pile, post, chain, pillar or other apparatus used for the mooring of vessels ;
- “the harbour authority” means the harbour authority for the harbour formed by the Estuary ;
- “the harbour master” means the person appointed by the harbour authority as harbour master for Conwy harbour and includes his authorised deputies and assistants and any person authorised by the harbour authority to act as harbour master ;
- “tunnel units” means sections of concrete, steel or other material (or combination of materials) designed to be attached together so as to constitute the framework of the tunnel ;
- “vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968. 1968 c. 59.

(2) In this Act, the expressions listed in column 1 below have the meaning given by, or are to be construed in accordance with, the provisions of this Act listed against them in column 2 below.

<i>Expression</i>	<i>Relevant provision</i>
construction period	section 8(7)
Estuary	section 1(2)
harbour area	section 7(8)
principal construction works	section 1(2)
principal works	section 1(3)
Scheme	section 1(2)
the 1980 Act	section 1(1)
tunnel	section 1(2)
tunnel maintenance area	section 7(8)
tunnel maintenance works	section 6(3)
tunnel works	section 6(2)

23. This Act may be cited as the Conwy Tunnel (Supplementary Powers) Act 1983. (Supple- Short title.)

SCHEDULES

Section 2(5).

SCHEDULE 1

ACQUISITION OF LAND

PART I

SECTION 2 LAND

Modification of Compulsory Purchase Act 1965

1965 c. 56.

1. Part I of the Compulsory Purchase Act 1965 shall have effect, in its application by virtue of section 2(2) of this Act to the acquisition of land under that section, as if—

1981 c. 67.

- (a) references to an order under section 2(1) of the Acquisition of Land Act 1981 were references to section 2 of this Act ; and
- (b) in section 11(1) (power of acquiring authority having served notice to treat to enter on land after giving fourteen days notice) for the words “fourteen days” there were substituted the words “three months”.

Private rights of way

2.—(1) All private rights of way over any land which may be acquired compulsorily under section 2 of this Act shall be extinguished on the acquisition of the land, whether compulsorily or by agreement, or on entry on the land in pursuance of section 11(1) of the Compulsory Purchase Act 1965, whichever is the sooner.

1961 c. 33.

(2) A person who suffers loss by the extinction of any private right under sub-paragraph (1) above shall be entitled to compensation to be determined, in case of dispute, under and in accordance with Part I of the Land Compensation Act 1961.

PART II

LAND OTHER THAN SECTION 2 LAND

Objections to compulsory purchase order

3. Where proceedings required by Schedule 1 to the Acquisition of Land Act 1981 to be taken in respect of a compulsory purchase order proposed to be made in pursuance of section 3 of this Act are so taken, the Secretary of State may disregard for the purposes of that Schedule any objection to the draft compulsory purchase order which in his opinion amounts in substance to an objection to the Scheme.

Compulsory acquisition of rights

4.—(1) In relation to the compulsory acquisition of a right by virtue of section 3(2) of this Act, the following provisions of the 1980 Act shall apply—

- (a) as if references to such a compulsory acquisition were included in references to the compulsory acquisition of a right by virtue of section 250 of that Act ; and

(b) as if a compulsory purchase order providing for such a compulsory acquisition were made in the exercise of highway land acquisition powers. SCH. 1

(2) The provisions mentioned above are—

(a) section 250(4) and (5) and Part II of Schedule 19 (adaptations of Compulsory Purchase Act 1965 and the enactments relating to compensation for compulsory purchase);

(b) section 251 (rights acquired to be binding on successive owners of the land); and

(c) sections 252 and 261(2) (power of landowners affected by rights acquisition to compel acquisition of whole interest).

Commons etc.

5. Where the Secretary of State is authorised under section 3 of this Act to acquire compulsorily land forming part of a common, open space or fuel or field garden allotment (within the meanings of paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981), or rights over such land, he may be authorised under section 3 of this Act to acquire compulsorily land for giving in exchange for the land or rights acquired. 1981 c. 67.

PART III

GENERAL

Compensation

6.—(1) In assessing the compensation payable in respect of the compulsory acquisition of land under section 2 or 3 of this Act, the Lands Tribunal—

(a) shall have regard to the extent to which the remaining contiguous lands belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired; and

(b) shall take into account, and embody in its award, any undertaking given by the Secretary of State as to the use to which the land, or any part of it, will be put.

(2) In assessing the compensation payable in respect of the compulsory acquisition of rights by virtue of section 3(2) of this Act, the Lands Tribunal—

(a) shall have regard to the extent to which the land over which the right in question is, or is to be acquired, or any contiguous land belonging to the same person, may be benefited by the purpose for which the right may be authorised to be acquired; and

(b) shall take into account, and embody in its award, any undertaking given by the Secretary of State as to the manner in which the right will be exercised.

(3) Where by a compulsory purchase order made in pursuance of section 3 of this Act the Secretary of State acquires two or more rights over land belonging to the same person, or acquires not only one or more rights but also adjoining or adjacent land so belonging

SCH. 1 then, in applying sub-paragraph (1) or (2) above, the Lands Tribunal shall consider together the compensation payable in respect of both or all of the rights or, as the case may be, in respect of the right or rights and also the adjoining or adjacent land.

1961 c. 33. (4) In its application in respect of a compulsory acquisition under section 2 or 3 of this Act, section 5 of the Land Compensation Act 1961 shall have effect subject to sub-paragraphs (1) and (2) above.

1965 c. 56. 7. Part I of the Compulsory Purchase Act 1965, in its application to a compulsory acquisition under section 2 or 3 of this Act, shall have effect as if the works authorised to be executed by this Act included the principal construction works (so far as not so authorised).

Statutory undertakers

1971 c. 78. 8.—(1) Sections 230 to 232 of the Town and Country Planning Act 1971 (power to extinguish rights of statutory undertakers and power of statutory undertakers to remove or re-site apparatus) shall apply in relation to land acquired (whether compulsorily or by agreement) for or in connection with the principal works as they apply to land acquired as mentioned in section 230(1) of that Act, but as if—

(a) the references in sections 230(1) and 232(1) to the development with a view to which the land was acquired or appropriated or the development to be carried out on the land were references to any of the principal works to be carried out on the land ; and

(b) the references in section 232(2) to beginning to carry out the development of the land were references to beginning to carry out any of the principal works on the land ;

and all such other provisions of that Act as apply for the purposes of sections 230 to 232 (including sections 237(2) and (3), 238 and 240, which provide for the payment of compensation, and sections 233 to 236, which contain provisions consequential on the extinguishment of any rights under section 230) shall have effect accordingly.

(2) In the provisions of that Act, as they apply by virtue of sub-paragraph (1) above in relation to land acquired for or in connection with the principal works, references to the undertaking of statutory undertakers shall be read, in relation to the Welsh Water Authority, as including any activities undertaken by the Authority in exercise of any of the functions of the Authority under Part II of the Public Health Act 1936 or under sections 14 to 16 of the Water Act 1973 (sewerage functions).

1936 c. 49.

1973 c. 37.

Section 6(1).

SCHEDULE 2

SUBSIDIARY WORKS AND SUPPLEMENTARY POWERS

Subsidiary construction works, etc.

1. The Secretary of State may, for the purposes of or in connection with the principal works, construct, provide and maintain—

(a) all such roads, approaches, bridges, stairs, basins, slipways, ramps, passages, means of ingress or egress, shafts, stages, buildings, walls, fences, pumping works and temporary fabrication facilities ;

- (b) all such embankments, aprons, abutments, retaining walls, wing walls, drains and culverts ;
- (c) all such temporary piles, fenders, booms, moorings, dolphins, pontoons, caissons, cofferdams, piers and wharves ; and
- (d) all such other structures, plant and works ;

as appear to him to be necessary or convenient.

2. The Secretary of State may carry out any works and do any things necessary for the protection of any land adjoining land on which any of the principal works are carried out.

3. The works authorised by paragraphs 1 and 2 above include all necessary and convenient subsidiary and incidental works ; and references below in this Schedule to works so authorised include references to any other action so authorised.

Other subsidiary works and supplementary powers

4.—(1) The Secretary of State may carry out, in any manner and by any means appearing to him to be appropriate, such excavations, such dredging and dumping operations and such pumping operations as appear to him to be necessary or convenient for the purpose of—

- (a) the principal works ; or
- (b) any works authorised by paragraph 1 or 2 above.

(2) The Secretary of State may carry out, in any manner and by any means appearing to him to be appropriate, such operations for the purpose of maintaining any channel or trench excavated or dredged in pursuance of this paragraph as appear to him to be necessary or convenient for that purpose.

(3) The Secretary of State may use, appropriate, store, deposit or dispose of any materials (including liquid) excavated, dredged or pumped in pursuance of this paragraph in any manner or by any means appearing to him to be appropriate.

5. The Secretary of State may temporarily alter, interfere with, occupy or use the banks, bed and foreshores of the Estuary in any manner and to any extent appearing to him to be necessary or convenient for the purpose of—

- (a) the principal works ; or
- (b) any works authorised by paragraph 1 or 2 above.

6. The Secretary of State may obstruct navigation to any extent appearing to him to be necessary or convenient for the purpose of—

- (a) the principal works ; or
- (b) any works authorised by paragraph 1 or 2 above ; or
- (c) any other works or action authorised by any of the preceding provisions of this Schedule.

Limits for exercise of powers

7.—(1) The powers conferred by paragraphs 1 and 2 above are exercisable for the purposes of or in connection with the principal construction works or any of them anywhere within the limits of the

SCH. 2 land shown on the deposited plan as land the Secretary of State is authorised to acquire under section 2 of this Act.

(2) The powers conferred by paragraph 4 above are exercisable for the purposes of—

(a) the principal construction works or any of them ; or

(b) any works authorised by paragraph 1 or 2 above undertaken for or in connection with the principal construction works ;

anywhere within the harbour area ; and the power conferred by paragraph 4(1) above is also exercisable for those purposes on any land, or in pursuance of any right over land, acquired by the Secretary of State for or in connection with the principal works.

(3) The power conferred by paragraph 5 above is exercisable for the purposes mentioned in sub-paragraph (2) above anywhere within the harbour area.

(4) The power conferred by paragraph 6 above is exercisable, for the purposes of the principal construction works or any of them or any other works or action mentioned in that paragraph undertaken for or in connection with those works, anywhere within the harbour area.

(5) Without prejudice to sub-paragraphs (2) and (4) above, operations undertaken in pursuance of paragraph 4 above for the purpose of transporting any of the tunnel units constructed elsewhere than on land acquired under section 2 of this Act or other Crown land within the limits mentioned in sub-paragraph (1) above may be carried out on, in, under or over the bed of the sea beyond the harbour area, and the power under paragraph 6 above shall be exercisable beyond the harbour area for the purposes of any such operations.

(6) The powers conferred by any of the preceding provisions of this Schedule, so far as exercisable for the purposes of or in connection with any tunnel maintenance works, are exercisable anywhere within the tunnel maintenance area.

Sections 7 and 8.

SCHEDULE 3

SPECIAL CONTROL OF NAVIGATION, ETC.

PART I

POWERS

1.—(1) Subject to sub-paragraph (2) below, the Secretary of State may raise, lower, divert, alter, remove or otherwise interfere with any of the following, that is to say—

(a) any pipe, tube, cable, wire or other apparatus intended or used for carrying water, gas or electricity or for telegraphic, postal or other purposes ;

(b) any sewer or drain or other similar works ; and

(c) any mooring ;

in any case where it appears to him to be necessary or convenient to do so for the purposes of any of the works.

(2) The Secretary of State may not under sub-paragraph (1)(a) or (b) above remove from any land acquired for or in connection with

the principal works any apparatus of a description falling within section 230(1)(b) of the Town and Country Planning Act 1971 (apparatus vested in or belonging to statutory undertakers for the purpose of carrying on their undertaking) as that paragraph applies by virtue of paragraph 8 of Schedule 1 to this Act in relation to any such land. SCH. 3
1971 c. 78.

2. If it appears to the Secretary of State to be necessary or convenient for the purposes of any of the works, he may remove any vessel—

- (a) sunk, stranded or abandoned in the area affected by the works ; or
- (b) moored or left there (whether lawfully or not) ;

either to another place within that area or to a place outside that area.

PART II

PROHIBITIONS AND RESTRICTIONS

3.—(1) A person may not navigate within or carry out any other activities or operations on, in, under or over the bed, banks, foreshore or waters of the Estuary within the area affected by the works at any time when that area is closed to navigation in pursuance of this paragraph.

(2) At any time when it appears to the Secretary of State to be necessary or convenient for the purposes of any of the works, he may close the area affected by the works to navigation by a direction given under this paragraph specifying the period during which that area is to be closed.

(3) Subsections (4) to (6) of section 8 of this Act shall apply in relation to a direction under this paragraph as they apply in relation to a direction under section 7 of this Act.

(4) Without prejudice to paragraph 6 of Schedule 2 to this Act, the Secretary of State may take such measures as he thinks fit to prevent access to the area affected by the works at any time when that area is closed to navigation in pursuance of this paragraph.

4. A person may not—

- (a) cause or permit a vessel to be moored in the area affected by the works ; or
- (b) lay down or place in that area any apparatus of any description mentioned in paragraph 1 above ;

without the consent in writing of the Secretary of State.

5. A person may not without the consent in writing of the Secretary of State exercise or enjoy within the area affected by the works—

- (a) any public right of fishery, public right of way or other public or customary right (other than a right of navigation) ;
- (b) any other privilege, immunity or right conferred by licence or other authority granted or given under any enactment (whenever passed) ;

that would apart from this paragraph be exercisable or available in that area.

SCH. 3

6. A person may not without the consent in writing of the Secretary of State carry out within the area affected by the works—

- (a) any mining operations ;
- (b) any blasting or dredging operations ; or
- (c) any other operations of a similar description in, on, over or under the bed, banks, foreshores or waters of the Estuary.

7. A person may not without the consent in writing of the Secretary of State do anything within the area affected by the works which is capable of preventing or hindering the construction or carrying out of any of the works.

PART III

SUPPLEMENTARY PROVISIONS

8. The Secretary of State may delegate—

- (a) any of his powers under Part I of this Schedule ; and
- (b) the giving or withholding of any consent required or the taking of any other action he is authorised to take for the purposes of Part II of this Schedule ;

to the harbour master or to any other person appointed by him for the purpose.

9. Any consent given for the purposes of any provision of Part II of this Schedule by the Secretary of State or by any person exercising a power delegated to him by the Secretary of State in accordance with paragraph 8 above may be given subject to conditions.

10. A person who without reasonable excuse contravenes any provision of Part II of this Schedule or fails to comply with any condition attached to a consent given for the purposes of any such provision shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (within the meaning of section 75 of the Criminal Justice Act 1982).

1982 c. 48.

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