



# Cardiff Bay Barrage Act 1993

## 1993 CHAPTER 42

An Act to provide for the construction by the Cardiff Bay Development Corporation of a barrage across the mouth of Cardiff Bay with an outer harbour and for related works; to make provision for the acquisition and use of land for the works; to make provision about the operation and management of the barrage, the outer harbour and the water impounded by the barrage; to make provision for dealing with property damage resulting from any alteration of groundwater levels which may occur in consequence of the construction of the barrage; to enable other protective provisions to be made; and for connected purposes. [5th November 1993]

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:—

### **Modifications etc. (not altering text)**

- C1** Act applied (1.4.1996) by [S.I. 1996/593, reg. 2, Sch. 1](#)  
Act (except Sch. 2 paras. 2(2), 7, 8(1), 9, and Sch. 6 paras. 2, 3, 7): transfer of functions (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

### **Commencement Information**

- II** Act wholly in force at Royal Assent.

## **PART I**

### **WORKS**

#### **1 Construction of barrage etc. and other works.**

- (1) The Cardiff Bay Development Corporation (referred to in this Act as “the Development Corporation”) may in the City of Cardiff and the Borough of the Vale

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of Glamorgan, in the County of South Glamorgan, execute the works specified in Schedule 1 to this Act, being the construction of—

- (a) a barrage across the mouth of Cardiff Bay, with an outer harbour, and
- (b) certain associated structures.

(2) The Development Corporation may also—

- (a) maintain, and
- (b) (where appropriate) alter, replace or re-lay, anything constructed under subsection (1) above.

(3) Subject to subsection (4) below, works authorised by subsection (1) or (2) above shall be executed in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections.

(4) The Development Corporation may—

- (a) deviate laterally from the lines or situations shown on the deposited plans to any extent within the limits of deviation, and
- (b) deviate vertically from the levels shown on the deposited sections to any extent not exceeding three metres upwards and to any extent downwards.

(5) The Development Corporation may, within the limits of deviation or elsewhere within the inland bay, execute any building or other construction works (including installing any apparatus and providing, or securing the provision of, any services) which may be necessary or expedient for the purposes of, in connection with or in consequence of the works authorised by subsections (1) and (2) above.

(6) In this Act “the inland bay” means the area bounded—

- (a) by the seaward face of the barrage or, before the barrage is completed, by the line of construction of the seaward face of the barrage as planned at the commencement of its construction, and
- (b) otherwise by the inner edge of the line shown coloured pink on the inland bay map;

and in this subsection “the inland bay map” means the map marked “Inland Bay Map” which was deposited in November 1991 in connection with the Cardiff Bay Barrage Bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons.

## 2 Works: supplementary.

(1) The Development Corporation shall ensure that a lock is available for use and that sluices are operational before navigation of the rivers Taff and Ely is totally obstructed by the construction of the barrage.

(2) Unless the National Rivers Authority otherwise agree, the barrage shall be so constructed that it is practicable between one high tide and the next to reduce the level of water immediately behind it to a level of one and a quarter metres below ordnance datum (Newlyn).

(3) The Development Corporation shall construct any bridge forming part of the barrage so that it has on each side of it a fence which is adequate for securing the safety of any pedestrians or other traffic using the bridge.

(4) The power conferred by section 1(5) above may in particular be exercised so as—

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- (a) to facilitate use of the inland bay and the outer harbour by pleasure craft or other vessels or for water sports or other open-air recreational activities, or
  - (b) to develop or conserve flora or fauna.
- (5) In executing any of the works authorised by section 1 above the Development Corporation shall have regard to the desirability of developing and conserving flora and fauna.
- (6) The Development Corporation shall consult the Countryside Council for Wales and the Royal Society for the Protection of Birds to seek their views as to—
- (a) whether any works which the Development Corporation propose to execute so as to develop or conserve flora or fauna are appropriate for that purpose, and
  - (b) the measures which may be taken so as to develop and conserve flora and fauna in executing any of the other works authorised by section 1 above.
- (7) Schedule 2 to this Act, which contains supplementary provisions about the works authorised by section 1 above, shall have effect; and subsections (1), (2) and (5) of that section shall have effect subject to the provisions of this section and that Schedule.

### **3 Deemed impoundment licence.**

- (1) A licence under Chapter II of Part II of the <sup>M1</sup>Water Resources Act 1991 shall be treated as having been granted by the National Rivers Authority to authorise the obstruction of the flow of water by the construction, and any alteration or replacement, of the barrage.
- (2) Schedule 3 to this Act, which specifies requirements deemed to be imposed by the provisions of the licence, shall have effect.

#### **Marginal Citations**

**M1** 1991 c. 57.

## **PART II**

### **LAND**

#### **4 Compulsory acquisition of land.**

- (1) The Development Corporation are authorised by this section to acquire compulsorily so much of the land shown on the deposited plans and described in the book of reference as they may require for the purposes of, or in connection with, the works authorised by Part I of this Act.
- (2) Part I of the <sup>M2</sup>Compulsory Purchase Act 1965 (except section 4 and paragraph 3(3) of Schedule 3), in so far as it is not inconsistent with the provisions of this Act, shall apply to the acquisition of land under this section—
- (a) as it applies to a compulsory purchase to which Part II of the <sup>M3</sup>Acquisition of Land Act 1981 applies, and
  - (b) as if this Act were a compulsory purchase order under that Act.
- (3) In its application by virtue of subsection (2) above section 11(1) of the Compulsory Purchase Act 1965 (power to enter and take possession of land subject to a notice to

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treat after giving not less than fourteen days' notice) shall have effect as if for the words "fourteen days" there were substituted the words "three months".

- (4) A notice to treat under Part I of that Act for the purpose of acquiring land under this section shall not be served after the end of the period of five years beginning with the day on which this Act is passed.
- (5) The <sup>M4</sup>Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this section.

#### Marginal Citations

- M2** 1965 c. 56.  
**M3** 1981 c. 67.  
**M4** 1845 c. 18.

#### 5 Compulsory acquisition: supplementary.

Schedule 4 to this Act, which contains supplementary provisions about the compulsory acquisition of land under section 4 above, shall have effect.

#### 6 Temporary occupation and use of land.

Schedule 5 to this Act, which contains provisions about the temporary occupation and use of land for the purposes of this Act, shall have effect.

### PART III

#### OPERATION AND MANAGEMENT

##### *Operation of barrage*

#### 7 Power to operate barrage.

- (1) The Development Corporation shall have power to operate the barrage; and in this Act references to operating the barrage are references to—
- (a) opening or closing any lock gates, sluices or gates in the barrage,
  - (b) controlling the flow of water in the fish passes in the barrage, or
  - (c) managing any roadway, bridge or other structure or equipment forming part of the barrage.
- (2) The power conferred by subsection (1) above shall be exercised so as to safeguard and improve the environment and amenities of the inland bay.
- (3) Subsection (2) above shall not prevent the exercise of the power conferred by subsection (1) above in order—
- (a) to prevent or alleviate flooding or to meet any other emergency,
  - (b) to ascertain the safest and most effective ways of using the barrage, to test its working or to train staff in its operation, or

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- (c) to facilitate the construction, maintenance, alteration, replacement or re-laying of any works in or beside the inland bay.

## **8 Directions as to operation of barrage.**

- (1) The Development Corporation shall operate the barrage in accordance with any reasonable direction given by the National Rivers Authority in order—
  - (a) to protect the quality of water in the inland bay by ensuring that it meets or continues to meet the relevant standard,
  - (b) to prevent or alleviate flooding, or
  - (c) to protect fish in the inland bay, allow the passage of migratory fish to or from the inland bay or enable trials to be carried out in the inland bay in connection with fishery management.
- (2) For the purposes of this section the quality of water meets the relevant standard—
  - (a) if it meets such standard, whether fixed by reference to dissolved oxygen content or any other determinant of water quality, as may reasonably be specified by the National Rivers Authority as the standard to be achieved in order to comply with the current water quality objectives for the water, or
  - (b) where no standard is specified under paragraph (a) above, if it contains not less than five milligrams dissolved oxygen per litre at all times.
- (3) For the purposes of subsection (2)(a) above the water quality objectives for any water are—
  - (a) if water quality objectives have been established for the water under section 83 of the <sup>M5</sup>Water Resources Act 1991, those objectives, and
  - (b) if they have not, such reasonable objectives as may be set by the National Rivers Authority for the water having regard to—
    - (i) the recreational or other purposes for which use of the water is permitted, or proposed to be permitted, by the Development Corporation, and
    - (ii) the needs of the fish in the water and of migratory fish passing to or from it.
- (4) Subject to subsection (5) below, notice of a direction under subsection (1) above—
  - (a) shall be given in writing by a duly authorised officer of the National Rivers Authority, and
  - (b) shall be given as long as possible, but in any case not less than twenty-four hours, before the direction is to be complied with.
- (5) In case of emergency notice of such a direction—
  - (a) may be given orally to be complied with as soon as it is practicable to do so, but
  - (b) shall be confirmed as soon as may be by notice given as required by subsection (4)(a) above.
- (6) Where there arises any dispute as to the reasonableness of—
  - (a) any direction given under subsection (1) above, or
  - (b) any standard specified under subsection (2)(a) above or objectives set under subsection (3)(b) above,the matter shall be referred to the Secretary of State for determination by him.

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#### Marginal Citations

M5 1991 c. 57.

### 9 Operation: supplementary.

- (1) Except where the barrage is being operated for any of the purposes mentioned in section 7(3) above and subject to any direction given under section 8 above, the Development Corporation shall operate the sluices and gates in the barrage so that the water immediately behind it is maintained at a level between four and four and a half metres (or thereabouts) above ordnance datum (Newlyn) unless a higher level is caused by high river flows or the tide-locking of the sluices or gates.
- (2) When operating the barrage (including when doing so to comply with a direction given under section 8 above) the Development Corporation shall have regard to—
  - (a) the safety of vessels in, or passing to or from, the inland bay or on the seaward side of the barrage,
  - (b) the requirements of vessels in, or passing to or from, the inland bay (including the need to have freedom of access to moorings and berths in the inland bay), and
  - (c) the desirability of developing and conserving flora and fauna in the inland bay.
- (3) The Development Corporation shall consult the Countryside Council for Wales to seek their view as to ways in which the barrage may be operated so as to develop and conserve flora and fauna in the inland bay.
- (4) Where any vessels seem likely to be affected by being endangered, or having their navigation interfered with, in consequence of any proposed operation of the barrage, the Development Corporation shall give notice of what is proposed to—
  - (a) the coastguard,
  - (b) any radio station operated in connection with the barrage, and
  - (c) sailing and motor boat clubs operating in the inland bay and outer harbour.
- (5) Except in case of emergency, not less than four hours' notice shall be given under subsection (4) above; and in case of emergency as much notice as is reasonably practicable shall be so given.
- (6) Where notice is given under subsection (4) above notice of what is proposed shall also be given to any vessels which subsequently leave the outer harbour or pass through any lock in the barrage and which seem likely to be affected as mentioned in that subsection.
- (7) No liability shall arise in respect of any costs, damages or expenses incurred by any person as a direct or indirect result of—
  - (a) any obstruction to, delay of or other interference with the passage of vessels, or
  - (b) any change in the level of water in the inland bay or the draining of, or of any part of, the inland bay,
 occasioned by the operation of the barrage, unless the costs, damages or expenses are incurred by reason of negligence in its operation.

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## **10 Interference with barrage.**

- (1) A person who, without lawful authority or reasonable excuse—
  - (a) operates any equipment or machinery forming part of the barrage or used in its construction, maintenance or alteration, or
  - (b) otherwise interferes with the barrage or its operation,shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.

### *Management of inland bay and outer harbour*

## **11 Power of management.**

The Development Corporation shall have power to manage the inland bay and the outer harbour and shall exercise it in accordance with sections 12 and 13 below.

## **12 Water quality.**

- (1) The Development Corporation—
  - (a) shall manage the inland bay with a view to ensuring, and
  - (b) shall comply with any reasonable direction given by the National Rivers Authority for the purpose of ensuring,that the quality of water in the bay meets or continues to meet the relevant standard.
- (2) For the purposes of this section whether the quality of water meets the relevant standard shall be determined as for the purposes of section 8 above.
- (3) Subject to subsection (4) below, notice of a direction under subsection (1)(b) above—
  - (a) shall be given in writing by a duly authorised officer of the National Rivers Authority, and
  - (b) shall be given as long as possible, but in any case not less than twenty-four hours, before the direction is to be complied with.
- (4) In case of emergency notice of such a direction—
  - (a) may be given orally to be complied with as soon as it is practicable to do so, but
  - (b) shall be confirmed as soon as may be by notice given as required by subsection (3)(a) above.
- (5) Where there arises any dispute as to the reasonableness of any direction given under subsection (1)(b) above the matter shall be referred to the Secretary of State for determination by him.

## **13 Use by vessels and for recreational purposes.**

- (1) The Development Corporation shall manage the inland bay and the outer harbour so as to facilitate their use—
  - (a) by pleasure craft and other vessels, and

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- (b) for water sports and other open-air recreational activities.
- (2) In managing the outer harbour the Development Corporation shall secure that it is at all times available for use by pleasure craft and other vessels which—
  - (a) are about to pass to, or have recently passed from, the inland bay, or
  - (b) need to use it as a harbour of refuge.
- (3) In connection with the management of the inland bay and the outer harbour the Development Corporation may license and control—
  - (a) the hiring to the public of pleasure craft and fishing boats,
  - (b) the use of water buses, water taxis and other vessels plying for hire, and
  - (c) the use of houseboats and other moored vessels.
- (4) The Development Corporation may—
  - (a) provide, maintain and use moorings and berths for vessels on so much of the bed or banks of the inland bay as is owned or occupied by them, and
  - (b) grant persons licences to use, or enjoy preference in the use of, moorings or berths provided there by the Development Corporation.
- (5) The Development Corporation may—
  - (a) on such terms and conditions as they think fit, grant licences permitting, and
  - (b) contribute to the cost of,

the provision, maintenance and use by any persons of moorings and berths for vessels on so much of the bed or banks of the inland bay as is owned or occupied by the Development Corporation.
- (6) Nothing in this section shall prejudice the exercise by the Cardiff City Council of the power conferred by section 94 of the <sup>M6</sup>Public Health Acts Amendment Act 1907 (pleasure boat licences).

#### Marginal Citations

M6 1907 c. 53.

## 14 Development and conservation of flora and fauna.

- (1) When managing the inland bay (including when doing so to comply with a direction given under section 12(1)(b) above) the Development Corporation shall have regard to the desirability of developing and conserving flora and fauna.
- (2) The Development Corporation shall consult the Countryside Council for Wales to seek their view as to ways in which the inland bay may be managed so as to develop and conserve flora and fauna.

## 15 Charges.

- (1) The Development Corporation may impose reasonable charges—
  - (a) in respect of any vessel for use of (or of any part of) the inland bay or for passing through any lock in the barrage,
  - (b) in respect of any vessel for use of, or for entering or leaving, the outer harbour,
  - (c) in respect of licences granted under section 13(3) above,



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- (d) for fishing in the inland bay,
  - (e) in respect of licences granted under section 13(4)(b) or (5)(a) above, and
  - (f) for the use of any facilities which the Development Corporation provide in the inland bay or the outer harbour.
- (2) The Development Corporation may agree a discount, or make any other arrangements, with any persons with respect to the amounts payable by them in respect of charges under this section on any occasion or during any period.
- (3) In setting the amount of any charges under this section, and in agreeing discounts or making other arrangements under subsection (2) above, the Development Corporation shall have regard to the desirability of enabling the local community to participate at low cost in the water sports and other open-air recreational activities permitted in the inland bay and outer harbour.
- (4) Section 31 of the <sup>M7</sup>Harbours Act 1964 (right of objection to ship, passenger and goods dues) shall apply in relation to charges imposed under subsection (1)(a), (b) or (e) above as if they were ship, passenger and goods dues.
- (5) No charges relating to the inland bay or the outer harbour—
- (a) shall be imposed by the Development Corporation otherwise than under this section, or
  - (b) subject to subsection (6) and section 26 below and to the power of the Development Corporation to transfer the whole or any part of their undertaking, shall be imposed by any other person.
- (6) Subsection (5) above shall not prejudice—
- (a) the exercise by the Cardiff City Council of the power conferred by section 94 of the <sup>M8</sup>Public Health Acts Amendment Act 1907 (charges for pleasure boat licences), or
  - (b) the power of the National Rivers Authority under Part IV of the <sup>M9</sup>Salmon and Freshwater Fisheries Act 1975 (charges for fishing licences).

#### **Marginal Citations**

- M7** 1964 c. 40.
- M8** 1907 c. 53.
- M9** 1975 c. 51.

## **16 Byelaws.**

- (1) The Development Corporation may make byelaws for the good rule and government of the inland bay and the outer harbour and, in particular, may make byelaws applicable in, or in any part of, the inland bay or outer harbour for—
- (a) regulating use of the inland bay and the outer harbour and of any facilities provided there by the Development Corporation,
  - (b) preventing damage to property and injury to persons,
  - (c) preventing and removing obstructions,
  - (d) regulating the provision, maintenance and use of moorings and berths,
  - (e) regulating matters relating to vessels including, in particular—
    - (i) the use of vessels for particular purposes,

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- (ii) the speed and manner of navigation,
  - (iii) noise on board vessels or caused by their navigation,
  - (iv) the use of lights and signals,
  - (v) the launching and recovery of vessels,
  - (vi) the entry of vessels into, and their departure from, the inland bay, and
  - (vii) the embarkation and disembarkation of passengers,
  - (f) prohibiting or regulating discharges into water,
  - (g) regulating fishing (including prohibiting it at specified times or in specified areas),
  - (h) regulating water sports and other recreational activities (including prohibiting them at specified times or in specified areas),
  - (i) regulating or prohibiting the use of vehicles, and
  - (j) otherwise regulating the conduct of persons.
- (2) Byelaws made under this section may provide that a person who contravenes or fails to comply with a byelaw shall be guilty of an offence.
- (3) A person guilty of any such offence shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale, and
  - (b) in the case of a continuing offence, to a fine not exceeding £40 for each day on which the offence continues after conviction.
- (4) Before making any byelaw under this section the Development Corporation shall consult—
- (a) any harbour authority (within the meaning of the <sup>M10</sup>Harbours Act 1964) which may be affected by the proposed byelaw,
  - <sup>F1</sup>(b) the South Glamorgan County Council,
  - (c) to the extent that the proposed byelaw would apply in the City of Cardiff, the Cardiff City Council, and
  - (d) to the extent that it would apply in the Borough of the Vale of Glamorgan, the Vale of Glamorgan Borough Council.
- (5) Before making any byelaw under this section relating to discharges into water, fishing or water sports or other recreational activities, the Development Corporation shall consult the National Rivers Authority.
- (6) In making a byelaw under this section the Development Corporation shall take account of the navigation requirements of pleasure craft and other vessels in, or passing to or from, the inland bay or the area seaward of the barrage.
- (7) Byelaws under this section may make different provision for different cases.
- (8) Sections 236(3) to (8) and (11) and 238 of the <sup>M11</sup>Local Government Act 1972 (procedure for making, and confirmation and evidence of, byelaws) shall apply to byelaws under this section as if—
- (a) the Development Corporation were a local authority, and
  - (b) the Chief Executive of the Development Corporation were the proper officer of that local authority.
- (9) The Secretary of State may by virtue of subsection (8) above (instead of confirming or refusing to confirm a byelaw under this section) confirm a byelaw under this section

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with such modifications as he thinks fit; and where the Secretary of State proposes to make a modification which appears to him to be material—

- (a) he shall inform the Development Corporation and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification, and
  - (b) he shall not confirm the byelaw until the end of such period as he thinks reasonable for consideration of, and comment on, the proposed modification by the Development Corporation and other persons who have been informed of it.
- (10) The Secretary of State may cause an inquiry to be held in connection with the confirmation of byelaws under this section; and subsections (2) to (5) of section 250 of the <sup>M12</sup>Local Government Act 1972 shall apply to such an inquiry as if—
- (a) it were an inquiry held under that section, and
  - (b) the Development Corporation were a local authority.

#### Textual Amendments

**F1** S. 16(4)(b) omitted (E.W.)(1.4.1996) by virtue of S.I. 1996/525, art. 3, Sch. Pt I para. 4(1)

#### Marginal Citations

**M10** 1964 c. 40.

**M11** 1972 c. 70.

**M12** 1972 c. 70.

## 17 Development Corporation as harbour authority.

On and after such date as the Secretary of State may direct—

- (a) the Development Corporation shall for the purposes of any enactment referring to harbour authorities (including any passed after this Act) be regarded as the harbour authority for the inland bay and the outer harbour, and
- (b) subject to the power of the Development Corporation to transfer the whole or any part of their undertaking, no other person shall for the purpose of any such enactment be regarded as the harbour authority for any part of the inland bay or outer harbour.

## 18 Application of harbours clauses.

- (1) Subject to subsection (2) below, the <sup>M13</sup>Harbours, Docks and Piers Clauses Act 1847, in so far as it is not inconsistent with the provisions of this Act, shall be incorporated with this Act.
- (2) Sections 6 to 23, 37 to 50, 60, 66 to 68 and 79 to 90 of that Act shall not be incorporated with this Act.
- (3) In its application by virtue of this section that Act shall have effect as if—
  - (a) references to the harbour, dock or pier were references to the inland bay and the outer harbour,
  - (b) “vessel” had the same meaning as in this Act,
  - (c) any provision referring to rates applied to charges imposed under section 15(1) (a), (b) or (e) above as if they were rates payable under this Act,

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- (d) in section 33 for the words “the harbour” onwards there were substituted the words “ all persons shall have access to the inland bay and the outer harbour in order to use them in accordance with the provisions of the special Act or of any byelaws made or licence granted under it ”,
- (e) in section 63 for the words “liable to” onwards there were substituted the words “ guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale ”, and
- (f) in section 69 for the words “shall forfeit” onwards there were substituted the words “ shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale ”.

#### Marginal Citations

M13 1847 c. 27.

#### *Other provisions*

### **19 Operation and management: supplementary.**

Schedule 6 to this Act, which contains supplementary provisions about the operation and management of the barrage, outer harbour and inland bay etc., shall have effect.

### **20 The Cardiff Bay Advisory Committee.**

- (1) The Development Corporation shall establish a Committee to be known as the Cardiff Bay Advisory Committee.
- (2) The Committee shall consist of persons with an interest in, or representing persons or bodies with an interest in—
  - (a) the operation of the barrage,
  - (b) the management of the inland bay, or
  - (c) navigation in the inland bay or outer harbour.
- (3) The following bodies shall be represented on the Committee—
  - [<sup>F2</sup>(a) the South Glamorgan County Council,]
  - (b) the Cardiff City Council, and
  - (c) the Vale of Glamorgan Borough Council.
- (4) The Secretary of State may, after consultation with the Cardiff City Council and the Vale of Glamorgan Borough Council, direct the Development Corporation—
  - (a) that any person specified in the direction shall be a member of the Committee, or
  - (b) that any person or body so specified shall be represented on the Committee.
- (5) The Development Corporation shall, except where it is not reasonably practicable to do so, consult the Committee about any matter substantially affecting—
  - (a) the environment or amenities of the inland bay, or
  - (b) navigation in the inland bay or outer harbour.

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- (6) The Development Corporation shall inform the Committee if the level of the water immediately behind the barrage falls below four metres above ordnance datum (Newlyn) otherwise than by reason of the operation of the barrage—
- (a) for any of the purposes mentioned in section 7(3) above, or
  - (b) in order to comply with a direction given by the National Rivers Authority under section 8 above.
- (7) The Committee may make to the Development Corporation representations relating to any matter affecting—
- (a) the environment or amenities of the inland bay, or
  - (b) navigation in the inland bay or outer harbour,
- whether or not the Development Corporation have consulted the Committee about it.
- (8) The Development Corporation shall, in exercising any of their functions under this Act, take into account any representations made by the Committee under subsection (7) above.

#### Textual Amendments

**F2** S. 20(3)(a) omitted (E.W.)(1.4.1996) by virtue of S.I. 1996/525, art. 3, Sch. Pt. I para. 4(2)

## PART IV

### GROUNDWATER DAMAGE PROTECTION

#### 21 Groundwater damage protection.

- (1) Schedule 7 to this Act, which makes provision for ascertaining, and preventing or repairing, damage to property resulting from any alteration of groundwater levels which may occur in consequence of the construction of the barrage, shall have effect.
- (2) The Secretary of State may by regulations made by statutory instrument amend any provision of that Schedule.
- (3) Regulations shall not be made under subsection (2) above unless a draft of the instrument containing the regulations has been laid before Parliament and approved by a resolution of each House.

#### 22 Powers to deal with consequences of altered groundwater levels.

The <sup>M14</sup>Land Drainage Act 1991 shall have effect as if each of the references to flooding in sections 14, 15 and 66 of that Act included a reference to any other adverse consequence of an alteration of groundwater levels occurring as a result of the construction of the barrage.

#### Marginal Citations

**M14** 1991 c. 59.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

## PART V

### MISCELLANEOUS, GENERAL AND SUPPLEMENTARY

#### *Miscellaneous and general*

#### **23 Regulations to protect interests.**

- (1) The Secretary of State may by regulations made by statutory instrument make provision for protecting relevant interests of any persons or bodies, or any description of persons or bodies, specified in the regulations; and in this subsection “relevant interests” means interests which may be affected by the exercise of any function conferred or imposed on the Development Corporation under this Act.
- (2) Regulations under subsection (1) above may provide that such a function—
  - (a) shall not be exercisable, or shall be exercisable only, in such circumstances as may be specified in the regulations, or
  - (b) shall be exercisable only if such conditions or requirements as may be so specified are met.
- (3) Before making any regulations under subsection (1) above the Secretary of State shall consult the Development Corporation and any persons or bodies, or representatives of any description of persons or bodies, proposed to be specified in the regulations.

#### **24 Planning permission.**

- (1) Planning permission shall be deemed to have been granted under Part III of the <sup>M15</sup>Town and Country Planning Act 1990 for any development of land consisting in the carrying out of any works or other operations authorised by this Act or the making of any change in the use of land by the carrying out of any such operations.
- (2) Nothing in section 91 of that Act (limit on duration of planning permission) shall apply to the planning permission deemed to have been granted under subsection (1) above.

#### **Marginal Citations**

**M15** 1990 c. 8.

#### **25 Disapplication of certain statutory requirements.**

- (1) Section 109 of the <sup>M16</sup>Water Resources Act 1991 (controls on structures in, over or under a main river) shall not apply to any structure constructed under any of the powers conferred by section 1 of this Act.
- (2) The inland bay shall not be taken to be a reservoir for the purposes of the <sup>M17</sup>Reservoirs Act 1975.

#### **Marginal Citations**

**M16** 1991 c. 57.

**M17** 1975 c. 23.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

## **26 Delegation of functions and leases.**

- (1) The Development Corporation may by agreement under this section delegate to any person any of the functions exercisable by the Development Corporation under section 7, 8, 9, 11, 12, 13, 15, 19 or 20(5) to (8) above or Schedule 6 to this Act.
- (2) Where any of the functions exercisable under section 7, 8 or 9 above or Schedule 6 to this Act are delegated by an agreement under this section, the Development Corporation shall give notice of the delegation to the National Rivers Authority.
- (3) Functions delegated by an agreement under this section shall be exercised in accordance with—
  - (a) the provisions of this Act and regulations made under it, and
  - (b) any such conditions (including conditions requiring the making of payments to the Development Corporation) as the Development Corporation may attach to the delegation.
- (4) The Development Corporation may grant to any person a lease or other interest in or right over land if it appears expedient to do so for the purposes of or in connection with the exercise by him of any function exercisable by him by virtue of an agreement under this section.

## **27 Development Corporation: transfer of functions.**

For the purposes of section 165 of the <sup>M18</sup>Local Government, Planning and Land Act 1980 (power of urban development corporation to transfer whole or part of undertaking) the functions exercisable by the Development Corporation under or by virtue of this Act, and all related rights and liabilities of the Development Corporation, shall be taken to form part of their undertaking.

### **Marginal Citations**

**M18** 1980 c. 65.

## **28 Service of notices.**

Section 168 of the Local Government, Planning and Land Act 1980 (provisions about service by an urban development corporation of notices under Part XVI of that Act) shall have effect in relation to any notice required or authorised to be served by the Development Corporation by or by virtue of this Act as if it were so required or authorised by that Part of that Act.

## **29 Arbitration.**

Where under any provision of this Act any difference is to be determined by arbitration it shall be referred to and settled 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 to the other not less than one week's notice in writing) by the President of the Institution of Civil Engineers.

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*Status: Point in time view as at 01/06/2009.*

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### **30 Crown exemption.**

- (1) Nothing in this Act shall bind the Crown and, in particular, nothing in it shall authorise any person to acquire, take possession of, use, enter or in any way interfere with any land (including any part of the bed or foreshore of the sea or of the bed or banks of the inland bay) if to do so would affect a Crown interest in the land.
- (2) For the purposes of this section a Crown interest in land is an interest in land which—
  - (a) belongs to Her Majesty in right of the Crown, or
  - (b) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.

### **31 Offences by bodies corporate.**

- (1) Where a body corporate is guilty of an offence under this Act and the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such a capacity, he (as well as the body corporate) shall be guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### *Supplementary*

### **32 Financial provision.**

- (1) There shall be paid out of money provided by Parliament the increases attributable to this Act in the sums payable out of such money under any other enactment.
- (2) Any amounts recovered by the Secretary of State from the Development Corporation under this Act shall be paid into the Consolidated Fund.

### **33 Interpretation.**

- (1) In this Act, except where the context otherwise requires—
  - “the barrage” means the barrage the construction of which is Work No. 1,
  - “the book of reference” means the book deposited in November 1991 in connection with the Cardiff Bay Barrage Bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons,
  - “the deposited plans” and “the deposited sections” mean respectively the plans and sections deposited in November 1991 in connection with the Cardiff Bay Barrage Bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons,
  - “the Development Corporation” means the Cardiff Bay Development Corporation,
  - “exercise” includes perform and cognate expressions shall be construed accordingly,
  - “functions” includes powers, duties and obligations,
  - “the inland bay” has the meaning given by section 1(6),



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“the limits of deviation” means the limits of deviation which are shown on the deposited plans,

“maintenance” includes repair and cognate expressions shall be construed accordingly,

“the outer harbour” means the harbour the construction of which is Work No. 3 and (except in Part I) includes the area bounded by the barrage, the breakwaters or other immovable structures of the outer harbour and an imaginary straight line drawn between the breakwaters or other structures which is the shortest such line which can be so drawn,

“owner”, in relation to any land, means a person (other than a mortgagee not in possession) who—

- (a) is for the time being entitled to dispose of the fee simple of the land (whether in possession or in reversion), or
- (b) holds, or is entitled to the rents and profits of, the land under a lease or agreement,

and cognate expressions shall be construed accordingly,

“the promenade” means the promenade the construction of which is Work No. 2,

“street” has the same meaning as in Part III of the <sup>M19</sup>New Roads and Street Works Act 1991,

“tidal work” means so much of any work authorised by this Act as is on, over or under tidal waters or land below the level of mean high-water springs and “tidal structure” means so much of any structure erected under this Act as is on, over or under tidal waters or such land,

“Trinity House” means the Corporation of Trinity House of Deptford Strond, and

“vessel” means every description of vessel (whether with or without means of propulsion of any kind), and includes anything constructed or used to carry persons, goods or plant or machinery by water, or constructed to be propelled or moved on water, a seaplane on or in the water and a hovercraft (within the meaning of the <sup>M20</sup>Hovercraft Act 1968).

(2) For the purposes of this Act—

- (a) any reference to a work identified by a number is a reference to the work of that number described in Schedule 1 to this Act,
- (b) any reference to a grid reference is 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 it,
- (c) any reference to operating the barrage shall be construed in accordance with section 7(1), and
- (d) persons are statutory undertakers if they are for the purposes of Part XVI of the <sup>M21</sup>Local Government, Planning and Land Act 1980 and “statutory undertaking” shall be construed accordingly.

[<sup>F3</sup>(3) References in this Act to the City of Cardiff and the Borough of the Vale of Glamorgan shall, subject to paragraph 1(3) of Schedule 7, be construed in relation to the exercise of any functions on or after 1st April 1996 as references to the County of Cardiff and the County Borough of the Vale of Glamorgan respectively.

(4) References in this Act to the Cardiff City Council and the Vale of Glamorgan Borough Council shall be construed respectively as references to the new councils established

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for the areas of Cardiff and the Vale of Glamorgan under the Local Government (Wales) Act 1994.]

**Textual Amendments**

**F3** S. 33(3)(4) added (E.W.)(1.4.1996) by S.I. 1996/525, art. 3, **Sch. Pt. I para. 4(3)**

**Marginal Citations**

**M19** 1991 c. 22.

**M20** 1968 c. 59.

**M21** 1980 c. 65.

**34 Short title.**

This Act may be cited as the Cardiff Bay Barrage Act 1993.

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### DESCRIPTIONS OF MAIN WORKS

Work No. 1—Construction of a barrage across the mouth of Cardiff Bay, incorporating a roadway (with associated retaining walls), a lock or locks with lock gates and control building or buildings and movable bridge or bridges, water control sluices and gates and fish passes, commencing with the existing cliff beach and foreshore on the south side of the bay at grid reference ST 18926 72436 and terminating by a junction with the existing dock wall and pitched slope on the north side of the bay at grid reference ST 19334 73454.

Work No. 2—Construction of a promenade, comprising a pedestrian and cycle route along the foreshore beneath Penarth Head, commencing with the concrete sea defence works to the promenade at Penarth at grid reference ST 18964 71389 and terminating with the existing cliff beach and foreshore beneath Penarth Head at grid reference ST 19067 72328.

Work No. 3—Construction of an outer harbour, commencing at grid reference ST 19032 72312 and terminating at grid reference ST 19130 72598, consisting of solid or screen breakwaters or other immobile structures.

Work No. 4—Construction of breasting dolphins, comprising tubular piles, pile caps and fendering system, in a line commencing in the turning-basin adjacent to the Queen Alexandra Dock approach channel at grid reference ST 19238 73056 and terminating off the north lead-in wall to the Queen Alexandra Dock entrance at grid reference ST 19367 73210.

### SCHEDULE 2

Section 2.

#### WORKS: SUPPLEMENTARY

##### *Supplementary works*

- 1 (1) For the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act the Development Corporation may, within the limits of deviation or elsewhere within the inland bay—
  - (a) make temporary junctions or communications (for use by pedestrians or other traffic) between a work and any existing street and divert, widen or alter the line or level of any existing street,
  - (b) remove, alter or divert any sewers, drains or other watercourses,
  - (c) alter any mains, pipes, wires or other works or apparatus for conveying or transmitting water, gas, electricity or petroleum (as defined in the <sup>M22</sup>Petroleum (Consolidation) Act 1928) or for [<sup>F4</sup>electronic communications],
  - (d) execute any works for the protection or improvement of any adjoining land or buildings,

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- (e) execute any works or do any other thing necessary for strengthening or supporting walls of adjoining buildings,
  - (f) raise, sink or otherwise alter the levels of any land,
  - (g) reclaim any land or (in the inland bay) create islands,
  - (h) dispose of spoil or other material excavated in the execution of the works, or
  - (i) alter any steps, walls, gateways, railings or pavements.
- (2) The Development Corporation shall not—
- (a) interrupt the flow in any sewer, drain or other watercourse under paragraph (b) of sub-paragraph (1) above, or
  - (b) interrupt any water supply by means of any mains, pipes or other works or apparatus under paragraph (c) of that sub-paragraph,
- unless they have provided a suitable alternative.
- (3) For the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act the Development Corporation may—
- (a) with the agreement of the owners and occupiers of any land abutting on land within the limits of deviation or elsewhere within the inland bay, exercise the powers conferred by sub-paragraph (1)(d) and (e) above on that abutting land, and
  - (b) accordingly carry out any works for providing or facilitating access to or from such land, or for preserving its amenities, in connection with the exercise of those powers on it.

#### Textual Amendments

**F4** Words in [Sch. 2 para. 1\(c\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\)](#), [Sch. 17 para. 124\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

#### Marginal Citations

**M22** [1928 c. 32.](#)

#### *Interference with sea and inland bay*

- 2 (1) For the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act the Development Corporation may—
- (a) deepen, dredge, scour, cleanse, remove obstructions in or otherwise alter or interfere with the bed or foreshore of the sea or the bed or banks of the inland bay, and
  - (b) use or dispose of any material (other than wreck within the meaning of Part IX of the <sup>M23</sup>Merchant Shipping Act 1894) removed in the exercise of the power conferred by paragraph (a) above.
- (2) No material removed under sub-paragraph (1) above, other than any removed for the purpose of any of the works authorised by section 1 of this Act or filling in or reclaiming any of the bed or foreshore of the sea situated within the limits of deviation, shall be deposited below the level of mean high-water springs except in such places and in accordance with any such conditions and restrictions as may be specified or approved by the Secretary of State.

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*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

### Marginal Citations

M23 1894 c. 60.

- 3 (1) The Development Corporation may, with the consent of the owners and the National Rivers Authority, carry out such sealing of so much of the bed or banks of the inland bay as may be necessary or expedient for the protection or efficacy of any of the works authorised by section 1 of this Act.
- (2) Any consent requested for the purposes of sub-paragraph (1) above shall not be unreasonably withheld; and any question whether such consent is or is not unreasonably withheld shall be determined by arbitration.
- 4 (1) The Development Corporation may temporarily close the inland bay or any part of it to navigation in the course of executing any of the works authorised by section 1 of this Act or doing anything in pursuance of any of the preceding provisions of this Schedule.
- (2) The Development Corporation shall so exercise the power conferred by this paragraph as to ensure that no more of the inland bay is closed to navigation, and for no longer, than is reasonably necessary in the circumstances.
- 5 (1) The Development Corporation may remove or interfere with any mooring in the inland bay in any case where it appears to them to be necessary or expedient to do so for the purposes of any of the works authorised by section 1 of this Act or anything authorised by paragraph 1, 2 or 3 above.
- (2) Before removing or interfering with any mooring under this paragraph the Development Corporation shall give notice in writing to the owners of the mooring.
- (3) Such a notice shall include a summary of this paragraph and—
- (a) in case of emergency shall be given as long before removing or interfering with the mooring as is reasonably practicable, and
  - (b) otherwise shall be given not less than twenty-eight days before removing or interfering with the mooring.
- (4) Where—
- (a) the Development Corporation propose to remove or interfere with any mooring under this paragraph, or
  - (b) the owners of any mooring which the Development Corporation propose to remove under this paragraph themselves remove, or procure the removal of, the mooring,
- the owners of the mooring may require the Development Corporation to provide a replacement mooring elsewhere within the inland bay in a reasonably convenient location.
- (5) Except where it is not reasonably practicable to do so, any replacement mooring which the Development Corporation are required to provide under this paragraph shall be provided before the mooring which it replaces is removed or interfered with.
- (6) The owners of a mooring—
- (a) which is removed or interfered with by the Development Corporation under this paragraph, or

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(b) which the Development Corporation propose to remove under this paragraph but is removed by or at the instigation of the owners, shall be entitled to recover from the Development Corporation any reasonable costs incurred in consequence of the removal of or interference with the mooring.

(7) This paragraph shall be regarded for the purposes of section 37(5) of the <sup>M24</sup>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 Development Corporation under this paragraph.

#### Marginal Citations

M24 1973 c. 26.

6 For the purposes of or in connection with the works authorised by section 1 of this Act or anything authorised by this Schedule the Development Corporation may moor or anchor vessels, or cause vessels to be moored or anchored, in the inland bay.

#### *Tidal works*

7 (1) A tidal work shall not be constructed, altered, 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, replaced or re-laid in contravention of this paragraph or of any condition or restriction imposed under this paragraph—

- (a) the Secretary of State may by notice in writing require the Development Corporation at their own expense to remove the tidal work or any part of it and to restore the site to its former condition or so near its former condition as is acceptable to him, or
- (b) where it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work, or part of it, and so restore the site.

(3) If at the end of the period of twenty-eight days from the date when notice is served on the Development Corporation under sub-paragraph (2)(a) above they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice.

(4) The Secretary of State may, if he considers it expedient, order a survey and examination of any site on which it is proposed to execute a tidal work.

(5) The Secretary of State shall be entitled to recover from the Development Corporation any expenditure incurred by him under sub-paragraph (2)(b) or (3) above or on a survey and examination under sub-paragraph (4) above.

8 (1) The Development Corporation shall—

- (a) during the whole time of the construction, alteration, replacement or re-laying of a tidal work, exhibit every night from sunset to sunrise at or near the work any such lights, and
- (b) take such other steps for the prevention of danger to navigation from the construction, alteration, replacement or re-laying of a tidal work,

as the Secretary of State may direct.

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- (2) If the Development Corporation fail to comply in any respect with a direction given under this paragraph they shall be guilty of an offence and liable—
    - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
    - (b) on conviction on indictment, to a fine.
  - (3) In proceedings for an offence under sub-paragraph (2) above it shall be a defence for the Development Corporation to show that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
  - (4) If in any case the defence provided by sub-paragraph (3) above involves the allegation that the commission of the offence was due to the act or default of another person, the Development Corporation shall not, without the leave of the court, be entitled to rely on the defence unless, not later than seven clear days before the hearing of the proceedings, they have served on the prosecution a notice in writing giving such information as was then in their possession identifying or assisting in the identification of the other person.
  - (5) Nothing in this paragraph shall prejudice or derogate from the powers, rights and privileges of Trinity House.
- 9 Notwithstanding anything in any other provision of this Act, any pipes to be laid or placed in the exercise of any of the powers conferred by section 1 of this Act or this Schedule under or over any tidal waters or land below the level of mean high-water springs shall be laid or placed at such depth under, or such height over, the tidal waters or land as the Secretary of State may require.

*Other matters relating to water etc.*

- 10 (1) Notwithstanding anything in any other enactment, the Development Corporation may for the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act or anything authorised by any of the preceding provisions of this Schedule—
  - (a) take, impound or use water from, or discharge water into, the sea, or
  - (b) pump any water required by them from or into the inland bay or pump any water found by them into the inland bay;and, in order to do so, they may, within the limits of deviation, lay down, take up or alter pipes or other apparatus and make any convenient connections with the inland bay.
- (2) Notwithstanding anything in any other enactment, the Development Corporation may for the purposes of or in connection with—
  - (a) the works authorised by section 1(1) of this Act, or
  - (b) anything authorised by section 1(5) of this Act, or any of the preceding provisions of this Schedule, to be done for the purposes of or in connection with those works,pump any water found by them into any sewer or drain; and, in order to do so, they may, within the limits of deviation, make any convenient connections with any sewer or drain.
- (3) The Development Corporation shall not under this paragraph—
  - (a) discharge any water into any sewer or drain except with the consent of the appropriate person or otherwise than in accordance with such terms and conditions as that person may reasonably impose,

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- (b) make any opening into any sewer or drain except in accordance with plans reasonably approved by and under the superintendence (if given) of the appropriate person, or
  - (c) take, impound, use or pump any water from upstream of either the weir at Blackweir in the river Taff or the Wiggins Teape Weir in the river Ely.
- (4) In sub-paragraph (3) above “the appropriate person” means—
- (a) in the case of a private sewer or a drain, the owner, and
  - (b) in the case of a public sewer, the sewerage undertaker for the area where it is situated.
- (5) Any consent requested for the purposes of sub-paragraph (3)(a) above shall not be unreasonably withheld.
- (6) Nothing in this paragraph shall exempt the Development Corporation from any requirement of the <sup>M25</sup>Prevention of Oil Pollution Act 1971.
- (7) Subject to sub-paragraph (8) below, nothing in this paragraph shall exempt the Development Corporation from any requirement of the <sup>M26</sup>Water Resources Act 1991; and, accordingly, this paragraph shall not be regarded as a local statutory provision for the purposes of section 88 of that Act (defences to pollution offences under section 85).
- (8) In the application of section 85 of that Act to, and to the consequences of, a discharge effected under this paragraph that section shall have effect with the omission of subsections (2) to (4) (offences involving discharge from sewer or drain in contravention of prohibition under section 86 or discharge of trade or sewage effluent).

#### **Marginal Citations**

**M25** 1971 c. 60.

**M26** 1991 c. 57.

- 11 (1) Where the National Rivers Authority and the sewerage undertaker for the area in which any sewer, drain or other watercourse (or any part of a sewer, drain or other watercourse) within the limits of deviation is situated consider—
- (a) in the case of (or of a part of) a sewer or drain, that it has become unnecessary by reason of the exercise of any of the powers conferred by section 1 of this Act or the preceding provisions of this Schedule, or
  - (b) in the case of any other watercourse (or part of a watercourse), that it has ceased to be of use for any purpose connected with water supply, land drainage or conservation or recreation by reason of the exercise of any of those powers,
- the Development Corporation shall remove it or fill it in.
- (2) Any difference between the Development Corporation and the National Rivers Authority or a sewerage undertaker as to whether the condition in paragraph (a) or (b) of sub-paragraph (1) above is satisfied shall be determined by arbitration.



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*Duty to avoid inconvenience*

- 12 In the exercise of any of the powers conferred by the preceding provisions of this Schedule the Development Corporation shall cause as little detriment or inconvenience to other persons as the circumstances permit.

*Compensation*

- 13 (1) The Development Corporation shall pay compensation to any person for any damage sustained by him by reason of the exercise of any of the powers conferred by paragraphs 1, 2, 3, 6 and 10 above.
- (2) Any dispute as to a person's entitlement to compensation under sub-paragraph (1) above, or as to the amount of any such compensation, shall be determined by the [<sup>F5</sup>Upper Tribunal].

**Textual Amendments**

- F5** Words in Sch. 2 para. 13(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 252](#) (with Sch. 5)

*Works affecting highway*

- 14 (1) In so far as they authorise the execution of any works on, over or under any highway, the powers conferred on the Development Corporation by section 1 of this Act and this Schedule shall not be exercised without the consent of the highway authority.
- (2) Any consent requested for the purposes of sub-paragraph (1) above shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a condition requiring a monetary payment for the grant of the consent) as the highway authority may impose.
- (3) Any question whether such consent is or is not unreasonably withheld, or any conditions so imposed are or are not reasonable, shall be determined by arbitration.

*Works affecting apparatus*

- 15 (1) Sub-paragraph (2) below applies where—
- (a) statutory undertakers' apparatus is or may be affected by any works executed under any of the powers conferred on the Development Corporation by section 1 of this Act or this Schedule, and
  - (b) section 84 of the <sup>M27</sup>New Roads and Street Works Act 1991 does not apply.
- (2) Where this sub-paragraph applies the Development Corporation and the statutory undertakers shall take such steps as are reasonably required—
- (a) to identify any measures needing to be taken in relation to the apparatus in consequence of, or in order to facilitate, the execution of the works,
  - (b) to settle a specification of the necessary measures and determine by whom they are to be taken, and
  - (c) to co-ordinate the taking of those measures and the execution of the works, so as to secure the efficient implementation of the necessary work and the avoidance of unnecessary delay.

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- (3) The costs of those measures shall be borne by the Development Corporation except—
- (a) where the apparatus in question was placed after the Development Corporation had given the statutory undertakers notice in writing of their intention to execute the works, or
  - (b) where they are taken to remedy matters for which the Development Corporation were not to blame.
- (4) Any question arising under this paragraph shall, in default of agreement, be settled by arbitration.
- (5) If there is a failure on the part of the Development Corporation or the statutory undertakers to comply with an agreement or arbitrator’s decision as to any of the matters mentioned in sub-paragraph (2) above, the Development Corporation or the statutory undertakers shall be liable to compensate the other in respect of any loss or damage resulting from the failure.
- (6) In this paragraph “apparatus” and “affected by” have the same meanings as in Part III of the <sup>M28</sup>New Roads and Street Works Act 1991.

#### Marginal Citations

**M27** 1991 c. 22.

**M28** 1991 c. 22.

- 16 Paragraph 23 of Schedule 2 to the <sup>M29</sup>Telecommunications Act 1984 (procedure where works involve the alteration of [<sup>F6</sup>electronic communications apparatus]) shall apply to the Development Corporation for the purposes of any works carried out by them in exercise of any of the powers conferred by section 1 of this Act or this Schedule.

#### Textual Amendments

**F6** Words in [Sch. 2 para. 16](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\)](#), [Sch. 17 para. 124\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

#### Marginal Citations

**M29** 1984 c. 12.

## SCHEDULE 3

Section 3.

### REQUIREMENTS OF DEEMED IMPOUNDMENT LICENCE

#### *Introductory*

- 1 The provisions of the licence treated as having been granted by section 3 of this Act shall be taken to impose—

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*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

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- (a) the requirements relating to the construction of the barrage, and the carrying out of other works and operations, specified in paragraph 2 below,
- (b) the requirements relating to sewage outfalls specified in paragraph 3 below,
- (c) the requirements relating to fish specified in paragraph 4 below, and
- (d) the requirements relating to monitoring specified in paragraph 5 below.

*Works and operations*

- 2 (1) The licence shall be taken to require—
- (a) that, except in case of emergency, no relevant work or operation be commenced unless—
    - (i) full details of the work or operation have been submitted to the National Rivers Authority,
    - (ii) the details have been approved by the National Rivers Authority,
    - (iii) reasonable notice of the date and time when the work or operation is to be commenced has been given to the National Rivers Authority, and
    - (iv) a copy of any plans or sections sent to the Secretary of State for the purposes of paragraph 7 of Schedule 2 to this Act, and (on any such plans or sections being approved by the Secretary of State) a copy of the approval and of any conditions or restrictions imposed by the Secretary of State under that paragraph, have been sent to the National Rivers Authority,
  - (b) that, where any relevant work or operation is carried out in case of emergency, the Development Corporation submit to the National Rivers Authority—
    - (i) before beginning the work or operation, such details of the work or operation as it is reasonably practicable to submit, and
    - (ii) as soon as possible afterwards, full details of the work or operation,
  - (c) that, subject to paragraph 7 of Schedule 2 to this Act, any relevant work or operation be carried out in accordance with the details submitted to the National Rivers Authority,
  - (d) that the Development Corporation, in carrying out any relevant work or operation, comply with any requirements which the National Rivers Authority may reasonably impose as conditions of their approval, or (in case of emergency) on receipt of any details required to be given by paragraph (b) above, in order—
    - (i) to protect the quality of water in the inland bay by ensuring that it meets or continues to meet the relevant standard,
    - (ii) to prevent or alleviate flooding, or
    - (iii) to protect fish in the inland bay or allow the passage of migratory fish to or from the inland bay, and
  - (e) that the Development Corporation allow the National Rivers Authority access at all reasonable times for the purpose of inspecting any relevant work or operation.
- (2) In this paragraph “relevant work or operation” means the construction of the barrage or any other work or operation authorised by section 1 of this Act, or Schedule 2 to this Act, which—
- (a) may affect the bed or banks of any watercourse, or

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- (b) may affect the quality of water, or obstruct the passage of fish, in any watercourse.
- (3) For the purposes of sub-paragraph (1)(d)(i) above, whether the quality of water meets the relevant standard shall be determined as for the purposes of section 8 of this Act.

#### *Sewage outfalls*

- 3 Except as may be otherwise agreed by the National Rivers Authority, the licence shall be taken to require that any sewage outfall which will be rendered inoperative or otherwise adversely affected in consequence of the impoundment of water by means of the barrage be removed, relocated or improved before the commencement of impoundment in such manner as the National Rivers Authority may approve.

#### *Fish*

- 4 (1) The licence shall be taken to require—
  - (a) that at all times during the construction of the barrage the Development Corporation maintain a channel sufficient for the passage of migratory fish to and from the inland bay in which, except where circumstances beyond their control prevent it, the flow of water is not less than the relevant minimum flow,
  - (b) that, except where circumstances beyond their control prevent it and except as may be otherwise agreed by the National Rivers Authority, at all times after completion of the barrage the Development Corporation maintain a flow of water through the fish passes in the barrage not less than the relevant minimum flow,
  - (c) that before the commencement of construction of the barrage the Development Corporation submit to the National Rivers Authority details of the steps which they have taken, or propose to take, to enable them to comply with paragraphs (a) and (b) above and that those steps have been approved by the National Rivers Authority as adequate for that purpose,
  - (d) that the fish passes be approved by the Secretary of State, and
  - (e) that the Development Corporation pay to the National Rivers Authority costs reasonably incurred by them—
    - (i) in formulating in consultation with the Development Corporation, and giving effect to, a programme for monitoring the effect on fish of the construction, and any alteration or replacement, of the barrage and of its operation, and
    - (i) in supervising the operation of the fish passes and of the sluices, gates and other parts of the barrage in securing the passage of migratory fish.
- (2) For the purposes of sub-paragraph (1) above the relevant minimum flow of water is a flow not less than that for which the fish passes in the barrage are designed or adapted.
- (3) Where an approval for the purposes of the requirement in sub-paragraph (1)(d) above is given (by reference to the design of the fish passes) before the time when the barrage is completed, the approval may be withdrawn if it appears to the Secretary of State during such period beginning with that time as he considers appropriate for monitoring the operation of the fish passes that their operation is unsatisfactory.

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### *Monitoring*

- 5 The licence shall be taken to require—
- (a) that the Development Corporation provide and maintain apparatus for the continuous monitoring and recording of—
    - (i) the flow of water and passage of fish through the fish passes in the barrage, and
    - (ii) the quality, level and temperature of the water in the inland bay,
  - (b) that the apparatus be designed and located in accordance with any requirements which the National Rivers Authority may reasonably impose,
  - (c) that the Development Corporation allow the National Rivers Authority access at all reasonable times to the apparatus and to records of the readings taken from the apparatus, and
  - (d) that the Development Corporation send to the National Rivers Authority as soon as is reasonably practicable after the end of each month details of the readings taken from the apparatus during that month.

### *Approvals*

- 6 Any approval requested for the purposes of paragraph 2(1)(a)(ii), 3 or 4(1)(c) above shall not be unreasonably withheld.

### *Appeals*

- 7 (1) Where there arises any dispute as to—
- (a) the reasonableness of the withholding by the National Rivers Authority of approval required by paragraph 2(1)(a)(ii), 3 or 4(1)(c) above,
  - (b) whether, in relation to any work or operation, the requirement imposed by paragraph 2(1)(c) has been complied with, or
  - (c) the reasonableness of any requirements imposed under paragraph 2(1)(d) or 5(b) above,
- the matter shall be referred to the Secretary of State for determination by him.
- (2) Any difference between the Development Corporation and the National Rivers Authority as to whether costs have been reasonably incurred as mentioned in paragraph 4(1)(e) above shall be determined by arbitration.

## SCHEDULE 4

Section 5.

### COMPULSORY LAND ACQUISITION: SUPPLEMENTARY

#### *Acquisition of rights*

- 1 (1) The Development Corporation may under section 4 of this Act compulsorily acquire rights in, over or under land by creating them as well as by acquiring rights already in existence.
- (2) In relation to the compulsory acquisition of a right by virtue of sub-paragraph (1) above the provisions of the <sup>M30</sup>Highways Act 1980 specified in sub-paragraph (3) below shall apply—

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*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

- (a) as if the Development Corporation were a highway authority, and
  - (b) 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.
- (3) The provisions of the Highways Act 1980 referred to in sub-paragraph (2) above are—
- (a) section 250(4) and (5) and Part II of Schedule 19 (adaptations of the <sup>M31</sup>Compulsory Purchase Act 1965 and the enactments relating to compensation for compulsory purchase), and
  - (b) section 251(1) to (3) and (5) (rights acquired to be binding on successive owners of the land).

#### Marginal Citations

**M30** 1980 c. 66.

**M31** 1965 c. 56.

#### *Mines and minerals*

- 2 Parts II and III of Schedule 2 to the <sup>M32</sup>Acquisition of Land Act 1981 (exemption of mines and minerals from compulsory purchase and regulation of the working of mines and minerals underlying an authorised undertaking) shall apply in relation to land which may be compulsorily acquired under section 4 of this Act as if it were comprised in a compulsory purchase order providing for the incorporation with the order of those Parts of that Schedule.

#### Marginal Citations

**M32** 1981 c. 67.

#### *Extinguishment of rights*

- 3 (1) All rights in, over or under land which may be compulsorily acquired under section 4 of this Act, including rights of laying down, erecting, continuing or maintaining any apparatus on, over or under land, shall be extinguished on the earlier of—
- (a) the acquisition of the land, or
  - (b) the entry on the land in pursuance of section 11(1) of the <sup>M33</sup>Compulsory Purchase Act 1965, as applied by that section;
- and any such apparatus shall vest in the Development Corporation.
- (2) Sub-paragraph (1) above shall not apply to—
- (a) any right vested in, or apparatus belonging to, statutory undertakers for the purposes of carrying on their statutory undertaking,
  - (b) any right vested in, or apparatus belonging to, the National Rivers Authority, or
  - (c) any right conferred by or in accordance with [<sup>F7</sup>the electronic communications code] on the operator of [<sup>F8</sup>an electronic communications code network] or any apparatus kept installed for the purposes of any [<sup>F9</sup>such network.]

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

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- (3) Any person who suffers loss by the extinguishment of any right or the vesting of any apparatus under this paragraph shall be entitled to compensation from the Development Corporation of an amount to be determined, in default of agreement, under and in accordance with the <sup>M35</sup>Land Compensation Act 1961.

#### Textual Amendments

- F7** Words in Sch. 4 para. 3(2)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\)](#), [Sch. 17 para. 125\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F8** Words in Sch. 4 para. 3(2)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\)](#), [Sch. 17 para. 125\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F9** Words in Sch. 4 para. 3(2)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\)](#), [Sch. 17 para. 125\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F10** Words in Sch. 4 para. 3(2) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\)](#), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

#### Marginal Citations

- M33** 1965 c. 56.  
**M34** 1984 c. 12.  
**M35** 1961 c. 33.

#### Compensation

- 4 Section 4 of the <sup>M36</sup>Acquisition of Land Act 1981 (assessment of compensation where unnecessary work undertaken to obtain compensation) shall have effect in relation to a compulsory acquisition under section 4 of this Act as if it were a compulsory purchase to which that Act applies.

#### Marginal Citations

- M36** 1981 c. 67.

#### Power to survey land

- 5 Section 167 of the <sup>M37</sup>Local Government, Planning and Land Act 1980 (power to survey land proposed to be acquired compulsorily by an urban development corporation) shall apply in relation to any land which the Development Corporation are considering acquiring under section 4 of this Act as if they were proposing to acquire it compulsorily under that Act.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

#### Marginal Citations

M37 1980 c. 65.

#### *Correction of deposited plans and book of reference*

- 6 (1) If the deposited plans or the 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 Development Corporation, after giving not less than ten days' notice to the owners and occupiers 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 plans or book of reference.
- (2) If on such an application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify accordingly and shall in their certificate state in what respect a matter is misstated or wrongly described.
- (3) The certificate shall be deposited as soon as is reasonably practicable in the office of the Clerk of the Parliaments and a copy of it shall be so deposited in the Private Bill Office of the House of Commons and at the principal offices of—
- (a) the Development Corporation,
  - [<sup>F11</sup>(b) the South Glamorgan County Council,]
  - (c) the Cardiff City Council, and
  - (d) the Vale of Glamorgan Borough Council;
- and a copy shall also be given as soon as is reasonably practicable to each person who is an owner or occupier of the land in question.
- (4) Where a copy of the certificate is deposited under sub-paragraph (3) above, it shall be kept with the documents to which it relates.
- (5) The deposited plans or the book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Development Corporation, in accordance with the certificate, to proceed under this Act as if the deposited plans or the book of reference had always been in the corrected form.

#### Textual Amendments

F11 Sch. 4 para. 6(3)(b) omitted (E.W.)(1.4.1996) by virtue of S.I. 1996/525, art. 3, Sch. Pt. I para. 4(4)

## SCHEDULE 5

Section 6.

### TEMPORARY OCCUPATION AND USE OF LAND

- 1 (1) The Development Corporation may, for the purposes of this Act, enter on and take temporary possession of the land shown on the deposited plans—
- (a) numbered 60 to 67 and 71 in the City of Cardiff, and
  - (b) numbered 123 and 124 in the Borough of the Vale of Glamorgan.
- (2) Where the Development Corporation have taken possession of any land under this paragraph they may—



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- (a) remove any structures on it, and
  - (b) execute temporary works and erect temporary structures on it,
- for the purposes of this Act.
- (3) The Development Corporation shall not remain in possession of any land under this paragraph after the end of the period of ten years beginning with the date of entry on the land without the agreement of the owners and occupiers of the land.
- (4) Before giving up possession of any land of which temporary possession has been taken under this paragraph, the Development Corporation shall, subject to any agreement to the contrary with the owners and occupiers of the land—
- (a) remove any temporary works executed and any temporary structures erected on the land, and
  - (b) so far as reasonably practicable restore the land to its condition immediately before their entry on it.
- 2 The Development Corporation may use the land shown on the deposited plans—
- (a) numbered 73 to 77 in the City of Cardiff, and
  - (b) numbered 125 and 126 in the Borough of the Vale of Glamorgan,
- for the purpose of obtaining access to and from the barrage and the promenade during their construction.
- 3 Section 167 of the <sup>M38</sup>Local Government, Planning and Land Act 1980 shall apply in relation to any land which the Development Corporation are considering taking possession of or using under this Schedule as if they were proposing to acquire it compulsorily under that Act.

**Marginal Citations**

**M38** 1980 c. 65.

- 4 The Development Corporation shall not exercise any of the powers conferred by paragraphs 1 and 2 above in relation to any land without having first given to the owners and occupiers of the land not less than twenty-eight days' notice in writing of their intention to do so.
- 5 The Development Corporation shall not be empowered to purchase compulsorily any land in relation to which any of the powers conferred by paragraphs 1 and 2 above has been exercised; but this paragraph shall not prevent the compulsory acquisition of new rights by virtue of paragraph 1 of Schedule 4 to this Act.
- 6 (1) The Development Corporation shall pay compensation to the owners and occupiers of any land for any loss or damage resulting to them by reason of the exercise in relation to the land of any of the powers conferred by paragraphs 1 and 2 above.
- (2) Nothing in this paragraph shall affect any liability to pay compensation under section 10(2) of the <sup>M39</sup>Compulsory Purchase Act 1965, as applied by section 4 of this Act, or under any other enactment, in respect of loss or damage arising from the execution of any of the works authorised by this Act other than loss or damage for which compensation is payable under sub-paragraph (1) above.
- (3) Any dispute as to a person's entitlement to compensation under sub-paragraph (1) above, or as to the amount of any such compensation, shall be determined by the [<sup>F12</sup>Upper Tribunal].

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

#### Textual Amendments

**F12** Words in Sch. 5 para. 6(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 253](#) (with Sch. 5)

#### Marginal Citations

**M39** 1965 c. 56.

## SCHEDULE 6

Section 19.

### OPERATION AND MANAGEMENT: SUPPLEMENTARY

#### *Damage etc. to structures*

- 1 (1) In case of damage to or destruction or decay of a tidal structure, or any part of a tidal structure, the Development Corporation—
- (a) shall forthwith give notice to Trinity House, and
  - (b) shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may direct.
- (2) If the Development Corporation fail to notify Trinity House as required by this paragraph or to comply in any respect with a direction given under this paragraph they shall be guilty of an offence.

#### *Abandonment etc. of structures*

- 2 (1) Where a tidal structure is abandoned, or allowed to fall into decay, the Secretary of State may by notice in writing require the Development Corporation at their own expense—
- (a) to repair and restore the structure, or any part of it, or
  - (b) to remove the structure and restore the site to its former condition or so near its former condition as is acceptable to him.
- (2) Where—
- (a) a structure erected under this Act part of which is a tidal structure is abandoned or allowed to fall into decay, and
  - (b) the part of the structure on or over land above the level of mean high-water springs is in such a condition as—
    - (i) to interfere, or cause reasonable apprehension that it may interfere, with the right of navigation or any public rights over the foreshore, or
    - (ii) to be detrimental, or cause reasonable apprehension that it may be detrimental, to the quality of water in the inland bay,
 the Secretary of State may include that part of the structure, or any portion of it, in any notice under sub-paragraph (1) above.
- (3) If at the end of the period of twenty-eight days from the date when notice is served on the Development Corporation under sub-paragraph (1) above they have failed to

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comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice.

*Surveys etc.*

- 3       The Secretary of State may, if he considers it expedient, order a survey and examination of any tidal structure.

*Protection of navigation*

- 4       (1) The Development Corporation shall—
- (a) exhibit at the outer extremity of a tidal structure every night from sunset to sunrise any such lights, and
  - (b) take such other steps for the prevention of danger to navigation from a tidal structure,
- as Trinity House may direct.
- (2) If the Development Corporation fail to comply in any respect with a direction given under this paragraph they shall be guilty of an offence.

*Powers relating to water*

- 5       Paragraph 10(1) and (3) to (8) of Schedule 2 to this Act (powers relating to water) shall have effect for the purposes of, in connection with or in consequence of the operation or management of the barrage, outer harbour and inland bay as for the purposes of, in connection with or in consequence of the works authorised by section 1 of this Act.

*Offences*

- 6       (1) Where the Development Corporation are guilty of an offence under paragraph 1 or 4 above they shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.
- (2) In proceedings for any such offence it shall be a defence for the Development Corporation to show that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (3) If in any case the defence provided by sub-paragraph (2) above involves the allegation that the commission of the offence was due to the act or default of another person, the Development Corporation shall not, without the leave of the court, be entitled to rely on the defence unless, not later than seven clear days before the hearing of the proceedings, they have served on the prosecution a notice in writing giving such information as was then in their possession identifying or assisting in the identification of the other person.

*Expenses*

- 7       The Secretary of State shall be entitled to recover from the Development Corporation any expenditure incurred by him under paragraph 2(3) above or on a survey and examination under paragraph 3 above.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

### *Saving*

- 8 Nothing in this Schedule shall prejudice or derogate from the powers, rights and privileges of Trinity House.

## SCHEDULE 7

Section 21.

### GROUNDWATER DAMAGE PROTECTION

#### *Introductory*

- 1 (1) In this Schedule—
- “groundwater damage” means damage caused or probably caused by an alteration of groundwater levels occurring in consequence of the construction of the barrage,
- “remedial work” means work for preventing or repairing groundwater damage, and
- “survey”, in relation to a building, means a survey for the purpose of ascertaining whether the building has suffered or is likely to suffer groundwater damage and, insofar as may be necessary in connection with that, for ascertaining the general structural condition of the building.
- (2) References in this Schedule to a building—
- (a) include, where appropriate, references to a private sewer or a drain relating to a building, and
- (b) do not include references to any building, or any part of a building, constructed after the commencement of construction of the barrage unless any construction work has previously been carried out;
- and for the purposes of paragraph (b) above the digging of a trench for foundations or the laying of mains or pipes to foundations or such a trench shall be taken to be construction work.
- [<sup>F13</sup>(3) References in this Schedule to the City of Cardiff are as references to that local government area as it existed immediately before the passing of this Act.]

#### **Textual Amendments**

**F13** Sch. 7 para. 1(3) added (E.W.)(1.4.1996) by S.I. 1996/525, art. 3, Sch. Pt. I para. 4(5)(a)

- 2 (1) In this Schedule “the protected property area” means the area bounded by the outer edge of the line shown coloured green on the protected property area map; and in this sub-paragraph “the protected property area map” means the map marked “Revised Protected Property Area Map” which was deposited in February 1992 in connection with the Cardiff Bay Barrage Bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons.
- (2) References in this Schedule to a building within the protected property area include references to—
- (a) a building partly within that area, and
- (b) any building specified, or of a description specified, in a direction given by the Secretary of State under this paragraph.

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*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

- 3 (1) Not later than twenty-eight days before the commencement of construction of the barrage the Development Corporation shall publish in one or more local newspapers circulating in the County of South Glamorgan notice of the date on which construction of the barrage is intended to commence and of the effect of this Schedule in general terms.
- (2) On the commencement of construction of the barrage the Development Corporation shall publish in one or more local newspapers circulating in the County of South Glamorgan notice of the date on which the construction commenced; and references in this Schedule to the commencement of construction of the barrage shall be construed as references to the date of which notice is published under this sub-paragraph.
- (3) On the commencement of impoundment of water by means of the barrage the Development Corporation shall—
- (a) publish in one or more local newspapers circulating in the <sup>F14</sup>[County of Cardiff and the County Borough of the Vale of Glamorgan],
  - (b) give to the owners and occupiers of, or of any part of, a building which is within the City of Cardiff, the Community of Penarth or the Community of Llandough,
- notice of the date on which such impoundment commenced; and references in this Schedule to the commencement of impoundment shall be construed as references to the date of which notice is published and given under this sub-paragraph.

#### Textual Amendments

**F14** Words in [Sch. 7 para. 3\(3\)\(a\)](#) substituted (E.W.) (1.4.1996) by [S.I. 1996/525, art. 3, Sch. Pt. I para. 4\(5\)\(b\)](#)

#### *Surveys of buildings within protected property area*

- 4 (1) The Development Corporation shall—
- (a) before the commencement of impoundment, and
  - (b) during the period beginning two years, and ending three years, after the commencement of impoundment,
- arrange for a survey of every building within the protected property area.
- (2) The owner or occupier of, or of any part of, a building within the protected property area may during the period beginning three years, and ending twenty years, after the commencement of impoundment require the Development Corporation to arrange a survey of the building; but no more than one survey of a building may be required under this sub-paragraph.
- (3) The owner or occupier of, or of any part of, a building within the protected property area may at any time during the period beginning with, and ending twenty years after, the commencement of impoundment when he is able to show a justifiable concern that the building has suffered or is likely to suffer groundwater damage require the Development Corporation to arrange a survey of the building.

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*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Cardiff Bay Barrage Act 1993. (See end of Document for details)*

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*Surveys of buildings not within protected property area*

- 5 (1) The owner or occupier of, or of any part of, a building which is not within the protected property area but is within the City of Cardiff, the Community of Penarth or the Community of Llandough may before the commencement of impoundment require the Development Corporation to arrange a survey of the building; but no more than one survey of a building may be required under this sub-paragraph.
- (2) A person may not require a survey of a building under sub-paragraph (1) above after the end of the period of twelve months beginning with the commencement of construction of the barrage unless—
- (a) he was not an owner or occupier of the building, or any part of the building, at any time during that period, and
  - (b) sufficient time remains to allow the Development Corporation to make all necessary arrangements for the survey to be carried out before the commencement of impoundment.
- (3) Where a survey of a building has been carried out under sub-paragraph (1) above the owner or occupier of, or of any part of, the building may during the period beginning two years, and ending three years, after the commencement of impoundment require the Development Corporation to arrange a survey of the building; but no more than one survey of a building may be required under this sub-paragraph.
- (4) Where surveys of a building have been carried out under sub-paragraphs (1) and (3) above the owner or occupier of, or of any part of, the building may —
- (a) during the period beginning three years, and ending twenty years, after the commencement of impoundment require the Development Corporation to arrange a survey of the building unless a survey of the building has already been required under this paragraph, and
  - (b) at any time before the end of the period of twenty years beginning with the commencement of impoundment when he is able to show a justifiable concern that the building has suffered or is likely to suffer groundwater damage require the Development Corporation to arrange a survey of the building.
- 6 The owner or occupier of, or of any part of, a building which is not within the City of Cardiff, the Community of Penarth or the Community of Llandough may at any time during the period beginning with, and ending twenty years after, the commencement of impoundment when he is able to show a justifiable concern that the building has suffered or is likely to suffer groundwater damage require the Development Corporation to arrange a survey of the building.

*Surveys: notices, reports and disputes*

- 7 (1) To require a survey of a building under paragraph 4(2) or (3), 5 or 6 above the owner or occupier of, or of any part of, the building shall give to the Development Corporation written notice—
- (a) containing details sufficient to identify the building and his interest in it or any part of it, and
  - (b) (in the case of a survey under paragraph 4(3), 5(4)(b) or 6) specifying the nature of the groundwater damage which he considers the building has suffered or is likely to suffer.

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- (2) Where a survey of a building is carried out under paragraph 4, 5, or 6 above the Development Corporation shall arrange for the owners and occupiers of, or of any part of, the building to be supplied with a copy of the survey report.
- (3) Any dispute as to whether or not a person has shown a justifiable concern that a building has suffered or is likely to suffer groundwater damage for the purposes of paragraph 4(3), 5(4)(b) or 6 above shall be determined in accordance with paragraph 25 below.

#### *Survey costs*

- 8 (1) A survey under paragraph 4 above and, subject to the following provisions of this paragraph, a survey under paragraph 5 or 6 above shall be carried out at the expense of the Development Corporation.
- (2) A notice requiring a survey under paragraph 5 or 6 above shall be accompanied by a payment of £40 in respect of the survey.
- (3) If a survey of a building under paragraph 5 or 6 above shows that the building has suffered, or is likely to suffer, groundwater damage the Development Corporation shall immediately return to the person requiring the survey—
  - (a) the payment made by him under sub-paragraph (2) above in respect of it, and
  - (b) (in the case of a survey under paragraph 5(3) or (4)) any payment made by him under that sub-paragraph in respect of any earlier survey of that building under paragraph 5(1), (3) or (4)(a) above (and not previously returned).
- (4) If a survey of a building under paragraph 6 above does not show that the building has suffered or is likely to suffer groundwater damage the Development Corporation may order the person requiring the survey to pay the full cost of the survey less the payment made by him under sub-paragraph (2) above in respect of it.
- (5) The power of the Development Corporation to require payment of the cost of a survey of a building under sub-paragraph (4) above shall not apply where—
  - (a) the whole, or substantially the whole, of it is occupied as one or more private dwellings, or
  - (b) it is unoccupied but either—
    - (i) when it was last occupied the whole, or substantially the whole, of it was so occupied, or
    - (ii) it is intended that the whole, or substantially the whole, of it should be so occupied.

#### *Building deemed within protected property area following survey*

- 9 (1) Subject to sub-paragraph (2) below, if at any time a survey under paragraph 5(3) or (4) above shows that the building has suffered or is likely to suffer groundwater damage, that building shall, for the purposes of this Schedule, be treated from the day when the survey report is received by the Development Corporation as if it were a building within the protected property area.
- (2) Where—
  - (a) the survey is under paragraph 5(4)(a) above, or
  - (b) the survey is under paragraph 5(4)(b) above and a survey of the building has previously been carried out under paragraph 5(4)(a) above,

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paragraph 4(2) above shall not apply in relation to the building by virtue of sub-paragraph (1) above.

*Monitoring of buildings consequent on survey recommendation*

- 10 (1) The report of any survey of a building under paragraph 4, 5 or 6 above may recommend the monitoring of the building at specified intervals.
- (2) If such a report so recommends the Development Corporation shall arrange for the building to be monitored as recommended by the report.
- (3) Where a building is monitored under sub-paragraph (2) above the Development Corporation shall arrange for the owners and occupiers of the building, or any part of the building, to be supplied with a copy of the report of the monitoring.

*Review of groundwater*

- 11 (1) The Development Corporation shall—
- (a) until the commencement of impoundment, keep under review groundwater levels within the protected property area,
  - (b) as from the commencement of impoundment, keep under review the effect of the impoundment of water by means of the barrage on groundwater levels within any area which may be affected by the impoundment,
  - (c) carry out any such investigations of buildings and other land (including any such searches or borings in land) as they consider appropriate for performing the duties imposed by paragraphs (a) and (b) above, and
  - (d) in the case of any building which the Development Corporation when performing either of those duties conclude has suffered or is likely to suffer groundwater damage, make such offers for the carrying out of remedial work as they consider appropriate.
- (2) The Development Corporation shall perform the duties imposed by paragraphs (a), (b) and (c) of sub-paragraph (1) above in accordance with such programmes as may be prepared from time to time in consultation with the council for [<sup>F15</sup>any county or county borough] in which groundwater levels are to be kept under review; and if any such programme cannot be agreed between the Development Corporation and the council for the <sup>F15</sup>[county or county borough] in which it is to operate, the programme for the <sup>F15</sup>[county or county borough] shall be determined by arbitration.
- (3) The programme for a [<sup>F16</sup>county or county borough] shall include details of the nature and location of apparatus used or to be used in the district in keeping groundwater levels under review; and the Development Corporation shall—
- (a) supply to the council for the district recorded information produced by the apparatus, and
  - (b) make copies of that information available for inspection and copying by members of the public,
- in accordance with the provisions included in the programme under sub-paragraph (4) below.
- (4) The programme shall specify—



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- (a) how much of the recorded information produced by the apparatus is to be supplied, and at what intervals, in pursuance of the duty imposed by paragraph (a) of sub-paragraph (3) above, and
- (b) arrangements for complying with the duty imposed by paragraph (b) of that sub-paragraph.

#### Textual Amendments

**F15** Words in Sch. 7 para. 11(2) substituted (E.W.)(1.4.1996) by S.I. 1996/525, art. 3, Sch. Pt. I para. 4(5)(c)

**F16** Words in Sch. 7 para. 11(3) substituted (E.W.)(1.4.1996) by S.I. 1996/525, art. 3, Sch. Pt. I para. 4(5)(d)

#### *Right to remedial work indicated by survey or monitoring*

- 12 (1) If—
- (a) the report of a survey of a building carried out under paragraph 4, 5 or 6 above shows that the building has suffered or is likely to suffer groundwater damage, or
  - (b) the report of monitoring of a building carried out under paragraph 10 above recommends the carrying out of remedial work to the building,
- the owner or occupier of, or of any part of, the building may, before the end of the period of six months beginning with the day on which he receives the report, require the Development Corporation to carry out remedial work to the building.
- (2) Where a person requires the Development Corporation to carry out remedial work to a building under sub-paragraph (1) above, the work may be carried out notwithstanding the withholding of consent by some other person who has an interest in, or in any part of, the building which would be required apart from this sub-paragraph.

#### *Execution of remedial work*

- 13 (1) On being required under paragraph 12 above to carry out remedial work the Development Corporation shall—
- (a) as soon as reasonably practicable, arrange for the execution of appropriate work at their expense,
  - (b) ensure that the work is commenced before the end of the period of six months beginning with the day on which they are so required, and
  - (c) be responsible for obtaining all necessary statutory consents and approvals in relation to the work.
- (2) If the Development Corporation fail to comply with sub-paragraph (1)(b) above, the person who required them to carry out the work may nominate a contractor (with the contractor's consent); and the Development Corporation shall make arrangements with the contractor for the execution of the work unless the Development Corporation—
- (a) have reasonable grounds for refusing to do so, and
  - (b) within twenty-eight days of receiving the nomination of the contractor, give the reasons for their refusal to the person who made the nomination.
- (3) Any dispute as to—

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- (a) whether the report of a survey of a building carried out under paragraph 4, 5 or 6 above shows that the building has suffered or is likely to suffer groundwater damage,
  - (b) whether the report of monitoring of a building carried out under paragraph 10 above recommends the carrying out of remedial work to the building,
  - (c) whether a requirement to carry out remedial work has been made to the Development Corporation,
  - (d) what constitutes appropriate work for the purposes of sub-paragraph (1) above, or
  - (e) whether the Development Corporation have reasonable grounds for refusing to make arrangements for the execution of work by a nominated contractor,
- shall be determined in accordance with paragraph 25 below.

*Extension of survey period following remedial work*

- 14 If work to a building is executed under paragraph 13 above, paragraphs 4 to 6 above shall have effect in relation to the building as if the references in them to the period ending twenty years after the commencement of impoundment were references to the period ending twenty years after the day on which the work is completed.

*Right to compensation instead of remedial work*

- 15 (1) Where a right to require the carrying out of remedial work to a building arises under paragraph 12 above as the result of a survey, a claim may be made for the Development Corporation to pay compensation instead of carrying out remedial work if—
- (a) the building is a building to which this paragraph applies,
  - (b) the survey report states that the building has already suffered groundwater damage, and
  - (c) no previous right to claim compensation has arisen under this paragraph in relation to the building.
- (2) This paragraph applies to a building if—
- (a) the whole, or substantially the whole, of it is occupied as one or more private dwellings, or
  - (b) it is unoccupied but either—
    - (i) when it was last occupied the whole, or substantially the whole, of it was so occupied, or
    - (ii) it is intended that the whole, or substantially the whole, of it should be so occupied.
- (3) The Development Corporation shall not be under any duty to pay compensation under this paragraph if they have reasonable grounds for believing that failure to carry out remedial work to a building will probably have an adverse effect on an adjoining building.
- (4) A claim under sub-paragraph (1) above may only be made by the person who has a relevant interest in the building or, if more than one person has such an interest, by all the persons who have such an interest acting together.
- (5) For the purposes of this paragraph a person has a relevant interest in a building if—

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- (a) he is entitled to dispose of the fee simple of the building or any part of it (whether in possession or in reversion),
  - (b) he holds, or is entitled to the rents and profits of, the building or any part of it under a lease or agreement granted or extended for a term of years certain of which not less than three years remains unexpired, or
  - (c) he is a person to whom sub-paragraph (6) below applies on the relevant day, unless he is a mortgagee not in possession.
- (6) This sub-paragraph applies to a person who—
- (a) is entitled under Part I of the <sup>M40</sup>Leasehold Reform Act 1967 to acquire the freehold or an extended lease of the building or any part of it and has given notice under that Act of his desire to have the freehold or an extended lease,
  - (b) is a qualifying tenant for the purposes of Chapter I of Part I of the <sup>M41</sup>Leasehold Reform, Housing and Urban Development Act 1993 of a flat contained in the building and is by virtue of his tenancy—
    - (i) a participating tenant in relation to a claim to exercise the right to collective enfranchisement under that Chapter, or
    - (ii) one of the participating tenants on whose behalf an acquisition by a nominee purchaser has been made in pursuance of such a claim, or
  - (c) is entitled under Chapter II of Part I of the Leasehold Reform, Housing and Urban Development Act 1993 to acquire a new lease of a flat contained in the building and has given notice under that Chapter of his claim to exercise the right to acquire a new lease.
- (7) A claim under sub-paragraph (1) above—
- (a) shall be made in writing to the Development Corporation not later than the end of the period of six months beginning with the relevant day, and
  - (b) shall contain full details of the interest of the claimant (or of each of the claimants) together with details, so far as known, of the interest which any other person has in the building or any part of the building;
- and a claimant shall, on being required to do so by the Development Corporation, produce all necessary evidence of his interest.
- (8) In this paragraph and paragraphs 16 and 17 below “the relevant day”, in relation to a claim for compensation under this paragraph, means—
- (a) the day on which a copy of the survey report on which the claim is based is sent to the owners and occupiers of the building or any part of it, or
  - (b) if copies are sent to those persons on different days, the last day on which one is sent to any of them.

**Marginal Citations**

**M40** 1967 c. 88.

**M41** 1993 c. 28.

*Measure of compensation instead of remedial work*

- 16 (1) The measure of compensation payable under paragraph 15 above to a claimant shall be the depreciation in the value of his interest which has occurred in consequence of the groundwater damage suffered by the building.

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- (2) In assessing compensation under paragraph 15 above in relation to an interest—
- (a) its value shall be assessed in accordance with rules (2) and (4) of the rules set out in section 5 of the <sup>M42</sup>Land Compensation Act 1961,
  - (b) reference shall be had to prices current on the relevant day and to the nature of the interest and the condition of the building as at the day on which the claim is received by the Development Corporation,
  - (c) if the interest is subject to a mortgage or a contract of sale, or is subject to a contract for the grant of a tenancy made after the relevant day, it shall be valued as if not so subject,
  - (d) there shall be left out of account in assessing the value of the interest any part of the value attributable to any improvement or extension of the building or any related building if the extension, improvement or building had not been occupied or brought into use on the relevant day, and
  - (e) subsections (2) to (5) of section 5 of the <sup>M43</sup>Land Compensation Act 1973 shall apply.
- (3) Subsections (1)(b) and (c), (2) and (3) of section 10 of the Land Compensation Act 1973 shall apply for the purpose of determining the extent to which compensation is payable under this paragraph and the manner in which such compensation is to be applied, dealt with or treated.
- (4) If a dispute arises as to whether paragraph 15(3) above applies it shall be determined in accordance with paragraph 25 below; but, subject to that, any dispute arising under paragraph 15 above or this paragraph shall be referred to and determined by the [<sup>F17</sup>Upper Tribunal].

#### Textual Amendments

**F17** Words in *Sch. 7 para. 16(4)* substituted (1.6.2009) by *The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307)*, art. 1, **Sch. 1 para. 254** (with *Sch. 5*)

#### Marginal Citations

**M42** 1961 c. 33.

**M43** 1973 c. 26.

#### *Effect of payment of compensation instead of remedial work*

- 17 (1) If compensation is paid in relation to any building under paragraph 15 above, then (subject to sub-paragraph (5) below) no further right shall arise under this Schedule—
- (a) to require the carrying out of a survey of the building or any remedial work to it, or
  - (b) to claim the payment of compensation in relation to it;
- and the Development Corporation shall not be under any duty to undertake any further survey or monitoring of the building.
- (2) The reference in sub-paragraph (1)(b) above to the payment of compensation does not include the payment of compensation under paragraph 18 below.
- (3) If—
- (a) a notice requiring the carrying out of a survey of a building or the carrying out of remedial work to it, or

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- (b) a claim for the payment of compensation in relation to it, is received by the Development Corporation during a period when a claim for compensation under paragraph 15 above has been submitted in respect of the building and remains undetermined, consideration of it may be deferred by the Development Corporation pending the determination of the claim under paragraph 15 above.
- (4) Subject to sub-paragraph (5) below, if compensation is paid under that paragraph in relation to a building the Development Corporation shall not be under any duty to take any further action in relation to any notice or claim which has been deferred under sub-paragraph (3) above.
- (5) A claim for compensation in relation to a building under paragraph 19 below shall, following the payment of compensation in relation to the building under paragraph 15 above, be considered by the Development Corporation to the extent that it relates to damage or disturbance occurring before the relevant day.

*Compensation etc. in respect of damage to gardens*

- 18 (1) Where a garden belonging to a building to which this paragraph applies has suffered groundwater damage, any person who—
- (a) has a relevant interest in the building,
  - (b) is entitled to carry out work to remedy the damage, and
  - (c) proposes to carry out such work,
- may make a claim under this paragraph at any time before the end of the period of twenty years beginning with the commencement of impoundment.
- (2) This paragraph applies to a building if it is within the protected property area and—
- (a) the whole or any part of it is occupied as a private dwelling, or
  - (b) it is unoccupied but either—
    - (i) when it was last occupied the whole or any part of it was so occupied, or
    - (ii) it is intended that the whole or any part of it should be so occupied.
- (3) For the purposes of this paragraph a person has a relevant interest in a building if—
- (a) he is entitled to dispose of the fee simple of the building or any part of it (whether in possession or in reversion),
  - (b) he holds, or is entitled to the rents and profits of, the building or any part of it under a lease or agreement granted or extended for a term of years certain of which not less than three years remains unexpired, or
  - (c) he is a person to whom paragraph 15(6) above applies,
- unless he is a mortgagee not in possession.
- (4) A claim under this paragraph—
- (a) shall be made in writing to the Development Corporation,
  - (b) shall contain details of the work which the person proposes to carry out, and
  - (c) shall be accompanied by three estimates of the cost of carrying out the work.
- (5) On receipt of a claim under this paragraph, the Development Corporation shall consider whether the work which the person making the claim proposes to carry out is appropriate for remedying the damage.

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- (6) Subject to sub-paragraph (8) below, where the Development Corporation consider that the work is appropriate for that purpose—
- (a) if they consider that any of the estimates accompanying the claim is reasonable, they shall pay to the person making the claim compensation of the amount specified in the estimate (or any of the estimates) which they consider reasonable, and
  - (b) if they consider that none of those estimates is reasonable, they shall reject the claim.
- (7) Subject to sub-paragraph (8) below, where the Development Corporation do not consider that the work is appropriate for that purpose they shall—
- (a) reject the claim, or
  - (b) give to the person making the claim details of the work which they reasonably consider to be appropriate for that purpose, including the amount which they so consider to be the cost of carrying it out, and (if he agrees to carry it out) pay to him compensation of that amount.
- (8) The Development Corporation may (as an alternative to acting as mentioned in sub-paragraph (6) or (7) above)—
- (a) before the end of the period of six months beginning with the day on which the claim is received by them, carry out any work which they reasonably consider to be appropriate for wholly or partly remedying the damage, and
  - (b) if that work is not intended wholly to remedy the damage, pay to the person making the claim compensation of the amount which they reasonably consider to be the cost of carrying out such other work as they reasonably consider to be necessary to complete the remedying of the damage.
- (9) The Development Corporation shall not be required to pay any compensation under this paragraph until the work in question has been satisfactorily completed but they may, if they consider it appropriate to do so, make a payment of the whole or any part of the compensation at an earlier time.
- (10) Any dispute under this paragraph as to—
- (a) whether a garden has suffered groundwater damage,
  - (b) whether any work is appropriate for remedying groundwater damage,
  - (c) whether any estimate is reasonable,
  - (d) the amount of any compensation under sub-paragraph (7) or (8), or
  - (e) whether any work has been satisfactorily completed,
- shall be determined in accordance with paragraph 25 below.
- (11) The rejection of a claim under this paragraph, or the carrying out of work by the Development Corporation, shall not prevent the making of another such claim in respect of the same damage.

#### *Other rights to compensation*

- 19 (1) If any person having an interest in, or in any part of, a building or in any land suffers damage or disturbance in respect of the building or land in consequence of—
- (a) the carrying out of any remedial work under this Schedule, or
  - (b) any entry into the building or onto the land under this Schedule,
- compensation shall be payable by the Development Corporation.

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- (2) If any person having an interest in, or in any part of—
- (a) a building within the protected property area, or
  - (b) any other building in respect of which a right under paragraph 12 above to require the carrying out of remedial work has arisen,
- suffers damage or disturbance to any fixtures, fittings or personal property in the building before the end of the period of twenty years beginning with the commencement of impoundment by reason of an alteration of groundwater levels occurring in consequence of the construction of the barrage, compensation shall be payable by the Development Corporation.
- (3) If the internal dimensions of any room in a building are decreased to any material extent as a result of any remedial work carried out under this Schedule, compensation in respect of any consequent diminution in value of the interest of any owner of, or of any part of, the building shall be payable by the Development Corporation.
- (4) Any question of disputed compensation under this paragraph shall be determined in accordance with paragraph 25 below.

*No double recovery*

- 20 Compensation shall not be payable in respect of the same matter both under this Schedule and under any other enactment, any contract or any rule of law.

*Powers of survey etc.*

- 21 (1) A person duly authorised in writing by the Development Corporation may at any reasonable time—
- (a) enter any building for the purpose of carrying out a survey or monitoring of that or any other building under this Schedule,
  - (b) install in any building apparatus for use in connection with such a survey or monitoring, or
  - (c) remove such apparatus from any building.
- (2) A person acting under this paragraph shall, if so required, produce evidence of his authority to do so.
- (3) Such a person may take with him into the building such other persons and such apparatus as he considers necessary for the survey or monitoring.
- (4) Such a person shall, if the building is unoccupied or the occupiers are temporarily absent, leave it as effectively secured against trespassers as he found it.
- (5) Such a person shall not—
- (a) enter the building if it is occupied unless notice in writing has been given to the occupiers of the building, or any part of it, by the Development Corporation at least twenty-eight days beforehand, or
  - (b) install any apparatus in the building or remove any apparatus from it—
    - (i) unless notice in writing has been given to the owners and occupiers of the building, or any part of it, by the Development Corporation at least twenty-eight days beforehand, and
    - (ii) where the building, or any part of the building, is owned or occupied by statutory undertakers or <sup>F18</sup>a provider of a public electronic

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communications network] and a notice of objection has been served on the Development Corporation, unless the Secretary of State authorises him in writing to do so.

- (6) In sub-paragraph (5) above “notice of objection” means a notice in writing stating the objection of the statutory undertakers [<sup>F19</sup>or provider] to the taking of the action of which notice has been given on the ground that it would be seriously detrimental to the carrying on of the statutory undertaking or the [<sup>F20</sup>provision of the public electronic communications network].
- (7) A person exercising in relation to a building which, or part of which, is owned or occupied by statutory undertakers or [<sup>F21</sup>a provider of a public electronic communications network] any of the powers conferred by sub-paragraph (1) above, and any person whom he has taken with him under sub-paragraph (3) above, shall comply with all reasonable conditions imposed by the statutory undertakers [<sup>F22</sup>or provider].
- (8) Where on an application made by the Development Corporation to a magistrates’ court the court is satisfied that—
- (a) a building has suffered or is likely to suffer groundwater damage, and
  - (b) failure to carry out remedial work to it will probably have an adverse effect on an adjoining building,
- the court may make an order empowering the Development Corporation to enter the building in order to carry out the work within such period as may be fixed by the order (beginning not sooner than twenty-eight days after the making of the order).
- (9) If any person, after receiving notice of an order under sub-paragraph (8) above, prevents a person from duly implementing the order, a magistrates’ court may order him to permit to be done everything which is required in order to carry into effect the provisions of the order.

<sup>F23</sup>(10) .....

#### Textual Amendments

- F18** Words in [Sch. 7 para. 21\(5\)\(b\)\(ii\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 126\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1 \(with art. 3\)](#) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with art. 11)
- F19** Words in [Sch. 7 para. 21\(6\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 126\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1 \(with art. 3\)](#) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with art. 11)
- F20** Words in [Sch. 7 para. 21\(6\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 126\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1 \(with art. 3\)](#) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with art. 11)
- F21** Words in [Sch. 7 para. 21\(7\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 126\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1 \(with art. 3\)](#) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with art. 11)
- F22** Words in [Sch. 7 para. 21\(7\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 126\(b\)](#) (with [Sch. 18](#)); [S.I.](#)



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2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

**F23** Sch. 7 para. 21(10) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

### *Offences*

- 22 (1) If a person—
- (a) intentionally obstructs a person carrying out a survey or monitoring in accordance with paragraph 21(1) above,
  - (b) intentionally obstructs—
    - (i) a person exercising any of the powers conferred by paragraph 21(1) above, or
    - (ii) a person whom such a person has taken with him under paragraph 21(3) above doing anything in connection with the exercise of any such power, or
  - (c) without lawful authority or reasonable excuse removes or otherwise interferes with apparatus installed in any building in accordance with paragraph 21 above,
- he shall be guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person who fails to comply with an order under paragraph 21(9) above shall be guilty of an offence.
- (4) A person guilty of an offence under sub-paragraph (3) above shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) A person who discloses information which he has obtained by virtue of this Schedule and which relates to the affairs of any particular business shall be guilty of an offence unless he does so—
- (a) with the consent of the person for the time being carrying on the business, or
  - (b) in the exercise of functions under this Schedule.
- (6) A person guilty of an offence under sub-paragraph (5) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to imprisonment not exceeding two years or a fine or both.

### *Local land charges*

- 23 (1) The status of any building as a building within the protected property area shall be a local land charge; and where—
- (a) a direction is given by the Secretary of State under paragraph 2(2)(b) above affecting any building, or
  - (b) paragraph 9 above applies in the case of any building,

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the Development Corporation shall notify the council of the [<sup>F24</sup>county or county borough] in which the building is situated of the fact that the building is, by virtue of that provision, to be regarded as being within the protected property area.

- (2) If a survey of a building is carried out under paragraph 5(1) or (3) above, or if compensation in relation to a building is paid under paragraph 15 above, the Development Corporation shall deposit with the council of the [<sup>F24</sup>county or county borough] in which that building is situated particulars of the survey or compensation, and those particulars shall be a local land charge.
- (3) For the purposes of the <sup>M44</sup>Local Land Charges Act 1975 the council of the [<sup>F24</sup>county or county borough] shall be treated as the originating authority as respects any charge constituted by virtue of this paragraph.

#### Textual Amendments

**F24** Words in [Sch. 7, para. 23](#) substituted (E.W.)(1.4.1996) by [S.I. 1996/525, art. 3, Sch. Pt. I para. 4\(5\)\(d\)](#)

#### Marginal Citations

**M44** 1975 c. 76.

#### *Appointment of surveyor*

- 24 (1) The surveyor appointed by the Development Corporation to carry out any survey of a building under paragraph 4, 5 or 6 above shall be such person as may be agreed by the council of the [<sup>F25</sup>county or county borough] in which the building to be surveyed is situated.
- (2) If a surveyor proposed to be appointed by the Development Corporation is not agreed by the [<sup>F26</sup>district] council in question, the Development Corporation may refer the matter of the appointment of a surveyor for determination in accordance with paragraph 25 below.

#### Textual Amendments

**F25** Words in [Sch. 7 para. 24\(1\)](#) substituted (E.W.) (1.4.1996) by [S.I. 1996/525, art. 3, Sch. Pt. I para. 5\(d\)](#)

**F26** Word in [Sch. 7 para. 24\(2\)](#) omitted (E.W.)(1.4.1996) by virtue of [S.I. 1996/525, art. 3, Sch. Pt. I para. 5\(e\)](#)

#### *Determination of disputes*

- 25 (1) Where under any provision of this Schedule any dispute or difference is to be determined in accordance with this paragraph, the dispute or difference shall be referred to and settled by an appropriately qualified and experienced person appointed by agreement between the parties or, in default of agreement, on the application of either party (after giving to the other not less than one week's notice in writing) by or on behalf of the President of the Royal Institution of Chartered Surveyors.
- (2) Any person appointed in accordance with the provisions of sub-paragraph (1) above shall not act as an arbitrator and his decision shall be final and binding on the parties

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but before reaching a decision he shall give to the parties such opportunity of making representations as they may reasonably require.

- (3) All remuneration and expenses of any person appointed in accordance with the provisions of sub-paragraph (1) above shall be borne by the Development Corporation together with any costs incurred in respect of any such appointment by the Royal Institution of Chartered Surveyors.

#### *Code of practice*

- 26 (1) The Development Corporation shall publish and may from time to time revise a code of practice indicating the procedure which they intend to adopt in their implementation of the provisions of this Schedule including, in particular, the procedures for the carrying out of surveys and the preparation of survey reports under paragraphs 4 to 6 above and the return under paragraph 8(3) above of payments made in respect of surveys.

- [<sup>F27</sup>(2) Before revising the code of practice referred to in sub-paragraph (1) above the Development Corporation shall submit a draft to the councils for the County of Cardiff and the County Borough of the Vale of Glamorgan and such other bodies as the Development Corporation consider appropriate; and before publishing the revisions the Development Corporation shall consider any observations made by any of those councils or any other body to whom a draft has been sent.]

#### **Textual Amendments**

**F27** Sch. 7 para. 26(2) substituted (E.W.) (1.4.1996) by S.I. 1996/525, art. 3, Sch. Pt. I para. 5(f)

- 27 (1) The Secretary of State shall appoint a person to be known as the Independent Groundwater Complaints Administrator who shall, subject to sub-paragraph (2) below, consider complaints which are made to him concerning the exercise by the Development Corporation of any of the functions conferred or imposed on them by this Schedule.
- (2) The Administrator shall not consider a complaint which amounts to a dispute required to be determined in accordance with paragraph 25 above or to be referred to and determined by the [<sup>F28</sup>Upper Tribunal].
- (3) The Administrator shall in the case of any complaint which is required to be considered by him either—
- reject the complaint, or
  - recommend to the Development Corporation steps which he considers should be taken by them with a view to resolving the matter complained of;
- and if the Development Corporation do not take the steps recommended he may issue a direction requiring them to take such steps as may be specified in it.
- (4) The Development Corporation shall—
- furnish such information,
  - disclose such documents,
  - provide such technical or other assistance, and
  - afford such facilities,

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as the Administrator may reasonably require for the purpose of exercising his functions.

- (5) The Administrator shall hold and vacate office in accordance with the terms of his appointment; and there shall—
- (a) be paid to him such remuneration as the Secretary of State may determine,
  - (b) be paid to or in respect of him such pension, allowances or gratuities, or be made to or in respect of him such payments towards the provision of a pension, as the Secretary of State may determine, and
  - (c) be paid to him appropriate travelling and other allowances.
- (6) Payments under this paragraph shall be made, and expenditure incurred under this paragraph by the Administrator shall be met, by the Development Corporation.

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**Textual Amendments**

**F28** Words in [Sch. 7 para. 27\(2\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 254](#) (with [Sch. 5](#))

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