ELIZABETH II



1988 CHAPTER xviii

An Act to empower Associated British Ports to construct works and to acquire lands; to confer further powers on A.B. Ports; and for other purposes.

[28th June 1988]

WHEREAS—

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

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

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

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

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

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

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

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Associated British Ports (Barrow) Act 1988.

Interpretation.

2.—(1) In this Act, unless there be something in the subject or context repugnant to such construction, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the related subject-matter the same respective meanings and—

"A.B. Ports" means Associated British Ports;

1847 c. 27. "the Act of 1847" means the Harbours, Docks, and Piers Clauses Act 1847;

1964 c. xxxviii. "the Act of 1964" means the British Transport Docks Act 1964;

1966 c. xxxi. "the Act of 1966" means the British Transport Docks Act 1966;

1969 c. xxiii. "the Act of 1969" means the British Transport Docks Act 1969;

1971 c. lix. "the Act of 1971" means the British Transport Docks Act 1971;

1978 c. xiv. "the Act of 1978" means the British Transport Docks Act 1978;

"enactment" includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

"the limit of deviation" means the limit of deviation shown on the deposited plan;

"the undertaking" means the undertaking of A.B. Ports as authorised from time to time;

"vessel" means every description of vessel, however propelled or moved, including a hovercraft (within the meaning of the Hovercraft Act 1968), a hydrofoil vessel and anything constructed or used to carry persons or goods by water; and

1968 c. 59.

"the works" means the works authorised by Part III (Works, etc.) of this Act.

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

PART I
—*cont.*

Incorporation of general enactments.
1845 c. 20.

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

(*a*) sections 30 to 44 of the Railways Clauses Consolidation Act 1845 (temporary occupation of lands near the railway during the construction thereof);

(*b*) sections 77 to 85E of that Act (mines lying under or near the railway); and

(*c*) the Act of 1847, except sections 6 to 9, 11 to 13, 16 to 23, 25, 26, 48, 49, 50, 79, 80, 84 to 90, 94, 95, 97 and 98.

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

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

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

(i) the expression "the harbour, dock, or pier" means the works;

(ii) the expression "the harbour master" means, in relation to the works, A.B. Ports' Port Manager and Harbour Master at Barrow;

(iii) the meaning of the word "vessel" as defined in this Act shall be substituted for the meaning assigned to it by section 3 of the Act of 1847; and

(iv) for the purpose of section 53 of the Act of 1847 notice of the harbour master's directions may be given to the master of a vessel orally, or otherwise communicated to him in unwritten form, in any case where it is not reasonably practicable to serve on him a notice in writing.

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

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

1981 c. 67.

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

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

PART I —*cont.*

1845 c. 18.

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

PART II

LANDS

Power to acquire lands.

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

(2) The powers of A.B. Ports for the compulsory acquisition of land under this section shall cease on 31st December 1993.

Purchase of rights over land.

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

(2) A.B. Ports may for the purposes of constructing, using, maintaining, renewing or removing the works, or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, purchase compulsorily such new rights as it may require over any of the lands which may be acquired under section 5 (Power to acquire lands) of this Act instead of acquiring those lands under that section.

1965 c. 56.

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

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

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

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

Incorporation of lands provisions.

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

The Act of 1964—

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

The Act of 1969—

Section 8 (Disregard of recent improvements and interests); and

Section 9 (Extinction of private rights of way).

PART III

WORKS, ETC.

Power to make works.

8.—(1) Subject to the provisions of this Act, A.B. Ports may, in the lines and situations shown on the deposited plan and within the limit of deviation and according to the levels shown on the deposited sections, make and maintain

PART III —*cont.*

the following works in the borough of Barrow-in-Furness, county of Cumbria, with all necessary works and conveniences connected therewith:—

(Works at Barrow Docks).

Work No. 1 A new entrance from Walney Channel to Ramsden Dock Basin at Barrow Docks comprising the removal of part of the existing dock and sea walls on the south-eastern side of the existing entrance to the said basin and the provision of a new dock gate and sluices to the south-east of and adjacent to the existing dock gates together with roundheads extending into the said channel on either side of the new entrance;

Work No. 2 A lead-in jetty of open construction commencing at a point on the southern end of the Belfast Berth 170 metres west of the existing entrance and terminating at the roundhead on the western end of the sea wall on the southern side of the existing entrance;

Work No. 3 A dock wall across the existing entrance from Walney Channel to Ramsden Dock Basin 20 metres from the inner face of the existing dock gates.

(2) A.B. Ports may fill in so much of the existing entrance from Walney Channel to Ramsden Dock Basin as lies between Work No. 3 and the existing dock gates.

(3) Subject to the provisions of this Act, A.B. Ports may within the limit of deviation from time to time renew, alter, replace or relay temporarily or permanently the works.

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

Power to dredge in Walney Channel and approaches, etc.

9.—(1) For the purpose of affording uninterrupted means of access to the works, A.B. Ports may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of Walney Channel and its approaches between the works and the point at which latitude 53°59·8′ North intersects longitude 3°14·2′ West (being marked by the Lightning Knoll buoy) and may (subject to subsection (2) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it from Walney Channel and its approaches in the course of any such operations.

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

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

1894 c. 60.

(3) A.B. Ports' Port Manager and Harbour Master at Barrow may exercise the powers of sections 51 to 65 of the Act of 1847 in respect of any area in which A.B. Ports exercise the powers of subsection (1) above, and sections 77 and 78 of the Act of 1847 shall apply in respect of that area.

Incorporation of works provisions.

10.—(1) The following provisions of the undermentioned Acts are, with necessary modifications, incorporated with this Act:—

The Act of 1964—

Section 30 (Fine for obstructing works):

The Act of 1966—

Section 9 (Subsidiary works);

Section 10 (Power to deviate);

Section 21 (Tidal works not to be executed without approval of Board of Trade);

PART III —*cont.*

Section 23 (Abatement of works abandoned or decayed);
Section 24 (Survey of tidal works); and
Section 26 (Lights on tidal works during construction):

The Act of 1969—
Section 17 (Provision against danger to navigation):

The Act of 1971—
Section 16 (Permanent lights on works).

(2) (*a*) For the purpose of the said section 9, as so incorporated, the words after "those works" in the proviso to subsection (1) thereof shall be omitted.

(*b*) For the purposes of the said sections 26, 17 and 16, as so incorporated, for the words "one hundred pounds" in subsection (2) of each of those sections there shall be substituted "level 4 on the standard scale".

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

(i) use any telecommunication apparatus kept installed for the purposes of a telecommunications code system; or

(ii) alter any such apparatus except in accordance with and subject to the provisions of paragraph 23 of the telecommunications code.

(*b*) In paragraph (*a*) above—

"alter" and "telecommunication apparatus" have the same meanings as in paragraph 1 of Schedule 2 to the Telecommunications Act 1984; 1984 c. 12.

"the telecommunications code" means the code contained in the said Schedule 2; and

"telecommunications code system" has the same meaning as in Schedule 4 to the said Act of 1984.

PART IV

PROTECTIVE PROVISIONS

Crown rights.

11.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this Act authorises A.B. Ports to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

(*a*) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners; or

(*b*) belonging to Her Majesty in right of Her Crown and under the management (pursuant to any statute or otherwise) of the Secretary of State without his consent in writing; or

(*c*) belonging to Her Majesty in right of Her Duchy of Lancaster, without the consent of the Chancellor for the time being of the said duchy; or

(*d*) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.

PART V

GENERAL

Planning permission. S.I. 1977/289.

12.—(1) In this section "Class XII development" means development authorised by article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).

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

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

Costs of Act.

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

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CHAPTER xviii

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section
1. Short title.
2. Interpretation.
3. Incorporation of general enactments.
4. Application of Part I of Compulsory Purchase Act 1965.

PART II

LANDS

5. Power to acquire lands.
6. Purchase of rights over land.
7. Incorporation of lands provisions.

PART III

WORKS, ETC.

8. Power to make works.
9. Power to dredge in Walney Channel and approaches, etc.
10. Incorporation of works provisions.

PART IV

PROTECTIVE PROVISIONS

Section
11. Crown rights.

PART V

GENERAL

12. Planning permission.
13. Costs of Act.