ELIZABETH II



1978 CHAPTER xiv

An Act to empower the British Transport Docks Board to construct works and to acquire lands; to confer further powers on the Board; and for other purposes.
[20th July 1978]

WHEREAS by the Transport Act 1962 the British Transport Docks Board (in this Act referred to as "the Board") were established: 1962 c. 46.

And whereas it is the duty of the Board under the Transport Act 1962 (inter alia) to provide, to such extent as they may think expedient, port facilities at the harbours (as defined by the said Act) owned or managed by the Board and to have due regard to efficiency, economy and safety of operation as respects the services and facilities provided by them and the Board are empowered to operate the harbours owned or managed by them:

And whereas it is expedient that the Board should be empowered to construct the works authorised by this Act and to acquire the lands referred to in this Act:

And whereas it is expedient that the other powers in this Act contained should be conferred upon the Board and that the other provisions in this Act contained should be enacted:

And whereas plans and sections showing the lines or situations and levels of the works to be constructed under the powers of this Act, and plans of the lands authorised to be acquired or used by this Act, and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of 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 officers of the county councils of the counties within which the said works will be constructed or the said lands are situated, which plans, sections and book of reference are respectively referred to in this Act as the deposited plans, the deposited sections and the deposited book of reference:

And whereas 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 British Transport Docks Act 1978.

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 relative subject-matter the same respective meanings and—

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;

PART I —*cont.*

" the Act of 1969 " means the British Transport Docks Act 1969;

" the Act of 1971 " means the British Transport Docks Act 1971;

1969 c. xxiii.
1971 c. lix.

" the Board " means the British Transport Docks Board;

" enactment " means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

" land " includes any estate or interest in land and land covered by water;

" the level of high water " means the level of mean high-water springs;

" the limits of deviation " means the limits of deviation shown on the deposited plans;

" tidal work " means so much of any work authorised by this Act as is on, under or over tidal waters or tidal lands below the level of high water;

" the undertaking " means the undertaking of the Board as authorised from time to time;

" vessel " has the meaning assigned to it in section 3 (Interpretation) of the Act of 1966;

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

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended or amended by, or by virtue of, any subsequent enactment, including this Act.

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

(4) 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.

(5) References in this Act to reference points shall be construed as references to ordnance survey National Grid reference points.

PART I —*cont.*

Incorporation of Acts.

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:—

1845 c. 20.

(*a*) the provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to mines lying under or near the railway:

Provided that—

(i) for the purposes of the said incorporated provisions with respect to the temporary occupation of lands near the railway during the construction thereof, the works shall be deemed to be the railway and the centre line of each work as shown on the deposited plans shall be deemed to be the centre of the railway and for the words " the period by the special Act limited for the completion of the railway " there shall be substituted the words " the period of five years from the commencement of the construction of any of the works authorised by the special Act ";

(ii) for the purposes of the said incorporated provisions with respect to mines lying under or near the railway, the works shall be deemed to be the railway and, for the purposes of section 78 of the said Act of 1845 (as amended by the Mines (Working Facilities and Support) Act 1923) in so far as it relates to the works, the area of protection shall, as regards mines and minerals lying within 172·21 metres of the surface of the ground or the bed of the river Severn or of the river Trent (as the case may be), be 121·92 metres and, as regards mines and minerals lying at a greater depth than 172·21 metres below the said surface, the area of protection shall be increased by 18·3 metres for every 30·48 metres or part thereof by which the mines and minerals lie deeper below the said surface than 172·21 metres;

1923 c. 20.

(*b*) the provisions of the Act of 1847 (except sections 6 to 9, 11 to 13, 16 to 23, 25, 26, 33, 49, 50, 79, 80, 84 to 90, 94, 95, 97 and 98):

Provided that—

(i) the expression " the harbour, dock, or pier " where used in the said incorporated provisions means, in relation to Works Nos. 1, 3A and 3B, those works;

(ii) the expression " the harbour master " where used in the said incorporated provisions means, in relation to Work No. 1, the Board's Docks and Marine Superintendent at Plymouth and, in relation to Works Nos. 3A and 3B, the Board's harbour master for the

PART I —*cont.*

Humber as appointed under the provisions of section 5 (Appointment of harbour master) of the British Transport Docks Act 1972; 1972 c. xxxvii.

(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) section 53 of the Act of 1847 shall not be construed as requiring the harbour master to serve upon the master of a vessel a notice in writing of his directions but such directions may be given orally or otherwise communicated to such master:

Provided that a notice which is not in writing shall not be deemed to be sufficient unless in the opinion of the court before which any case may be heard it was not reasonably practicable to serve a written notice on the master of the vessel.

(2) In the construction of the enactments so incorporated with this Act, the expression " special Act " shall be read as a reference to this Act and the expression " company " shall mean the Board.

Application of Part I of Compulsory Purchase Act 1965. 1965 c. 56. 1946 c. 49.

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 Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 applies and as if this Act were a compulsory purchase order under the said Act of 1946.

(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 fourteen days' notice), as so applied, for the words " fourteen days " there shall be substituted the words " three months ".

(3) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act. 1845 c. 18.

PART II

LANDS

Power to acquire lands.

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

PART II —*cont.*

(2) The powers of the Board for the compulsory acquisition of land under this section shall cease after the expiration of five years from 31st December, 1978.

Compulsory acquisition of rights over land.

1965 c. 56.

6.—(1) In this section—

" the Act " means the Compulsory Purchase Act 1965;

" new rights " in relation to any land means easements or other rights over such land which are not in existence at the passing of this Act.

(2) The Board may for the purpose 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 they 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.

(3) The Act, 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) of this section as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the Act 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) of this section, in relation to the purchase of rights in pursuance of subsection (2) of this section—

(*a*) Part I of the Act shall have effect with the modifications specified in the Schedule 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 provisions of Acts of 1964 and 1969 relating to lands.

7. The following provisions of the undermentioned Acts are incorporated with, and form part of this Part of, 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, the Board may, in the lines and situations and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith:—

In the county of Devon—

In the city of Plymouth—

(Reclamation and wall at Plymouth Docks.)

Work No. 1 A reclamation of the bed and filling in of the western side of the Inner Basin at Plymouth Docks, comprising an area of 1·8935 hectares, together with a wall bounding such area, such wall commencing at a point on the quay wall of the North Quay 130 metres eastwards of the junction of that wall with the quay wall of the West Quay, extending in a southerly direction and parallel to the last-mentioned quay wall for a distance of 133 metres, thence proceeding in a south-easterly direction for a distance of 28 metres and there terminating by a junction with the quay wall of the South Quay at its north-eastern end.

In the county of Gloucestershire—

In the district of the Forest of Dean—

In the parish of Lydney—

(Dam, embankment or wall at Lydney Docks.)

Work No. 2 A dam, embankment or wall to be formed by the filling in of the space between the flood gates of the lower dock and the inner gates of the tidal basin at Lydney Docks.

In the county of Humberside—

In the district of Boothferry—

In the parish of Keadby with Althorpe—

(Mooring dolphins at Derrythorpe.)

Work No. 3A A line of mooring dolphins with interconnecting walkways on the bed of the river Trent commencing at reference point SE 83053: 08928 and terminating at reference point SE 83043: 08873.

PART III —*cont.*

In the borough of Glanford—

In the parish of East Butterwick—

(Mooring dolphins at East Butterwick.)

Work No. 3B A line of mooring dolphins with interconnecting walkways on the bed of the river Trent commencing at reference point SE 83774: 06082 and terminating at reference point SE 83768: 06026.

(2) Subject to the provisions of this Act, the Board may within the limits of deviation from time to time extend, enlarge, alter, replace or relay temporarily or permanently the works.

Works to form part of undertaking.

9. The works shall for all purposes form part of the undertaking.

Application of byelaws of Board.

10. All byelaws, rules and regulations of the Board in force at Plymouth Docks immediately before the passing of this Act shall, unless the Board shall otherwise determine, be deemed to apply to Work No. 1 and may be enforced by the Board accordingly until such time as new byelaws, rules or regulations relating to that work shall be made by the Board and come into operation.

Incorporation of provisions of Acts of 1964, 1966, 1969 and 1971 relating to works.

11.—(1) The following provisions of the undermentioned Acts are incorporated with, and form part of this Part of, this Act:—

The Act of 1964—

Section 30 (Fine for obstructing works):

The Act of 1966—

Section 9 (Subsidiary works);

Section 10 (Power to deviate);

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

Section 23 (Abatement of works abandoned or decayed);

Section 24 (Survey of tidal works); and

Section 26 (Lights on tidal works during construction):

The Act of 1969—

Section 17 (Provision against danger to navigation):

The Act of 1971—

Section 16 (Permanent lights on works):

Provided that—

(*a*) the provisions of the said section 9, as so incorporated, shall have effect as if in the proviso to subsection (1) the words after " those works " were omitted; and

PART III —*cont.*

(*b*) the provisions of the said sections 26, 17 and 16, as so incorporated, shall have effect as if in subsection (2) of each of those sections the words "two hundred pounds" were substituted for the words "one hundred pounds".

(2) Any reference in the said incorporated provisions to "the works" or to a "tidal work" shall be construed as a reference to "the works" or to a "tidal work" as defined in section 2 (Interpretation) of this Act.

(3) Notwithstanding anything in the said section 9 of the Act of 1966, as so incorporated, the Board shall not—

(*a*) use any telegraphic line belonging to or used by the Post Office; or

(*b*) alter any such line except in accordance with and subject to the provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act 1878. 1878 c. 76.

(4) In this section "alter" and "telegraphic line" have the same meanings as in the Telegraph Act 1878.

PART IV

PROTECTIVE PROVISIONS

Crown rights.

12. The provisions of section 30 (Crown rights) of the Act of 1966 are incorporated with, and form part of this Part of, this Act.

For protection of Severn-Trent Water Authority.

13. For the protection of the Severn-Trent Water Authority (in this section referred to as "the authority") the following provisions shall, unless otherwise agreed between the Board and the authority, apply and have effect:—

(1) In this section—

"authorised work" means Work No. 2 together with all necessary works and conveniences connected therewith and includes the construction, maintenance, extension, enlargement, alteration and replacement of such works;

"the engineer" means the Director of Operations of the authority;

"plans" includes sections, drawings and particulars:

(2) The Board shall, before commencing the authorised work (other than works of maintenance), furnish to the authority proper and sufficient plans thereof for the

PART IV —*cont.*

approval of the engineer and shall not commence the authorised work until such plans shall have been approved by the engineer or, in the case of difference between the engineer and the Board, until they shall have been settled by arbitration:

Provided that—

(*a*) the approval of the engineer shall not be unreasonably withheld;

(*b*) if within three months after such plans have been furnished to the authority the engineer shall not have intimated his approval or disapproval thereof, he shall be deemed to have approved them:

(3) The Board shall give to the engineer twenty-eight days' notice of their intention to commence the construction of the authorised work and except in emergency (when they shall give such notice as may be reasonably practicable) also of their intention to carry out any works for the maintenance of the authorised work:

(4) The authorised work shall, when commenced, be carried out with all reasonable dispatch in accordance with the approved plans and to the reasonable satisfaction of the engineer:

(5) The Board shall, as part of the authorised work, carry out to the reasonable satisfaction of the engineer such works as will lower by 0·6 metre the impounded water level at the existing overflow weir at the eastern end of the Lower Dock:

(6) The Board shall from time to time carry out such dredging operations as shall be reasonably necessary to maintain the discharge of water from the river Lydd through the canal and Lower Dock:

(7) Any difference between the Board and the authority under this section shall be settled by arbitration.

For further protection of Severn-Trent Water Authority.

14. For the further protection of the Severn-Trent Water Authority (in this section referred to as "the authority") the following provisions shall, unless otherwise agreed between the Board and the authority, apply and have effect:—

(1) The Board shall not construct Work No. 2 until after the expiration of a period of three years from the passing of this Act or such shorter period as may be notified by the giving of three months' notice in writing to the Board by the authority:

PART IV —*cont.*

(2) Any expenditure incurred by the Board by reason of their obligation to comply with the provisions of this section shall be reimbursed by the authority to the Board:

(3) If before the expiration of the said period of three years the transfer of the undertaking of the Board at Lydney to the authority has been authorised by, or by virtue of, any enactment, then, as from the date of transfer of the said undertaking at Lydney, so much of section 8 (Power to make works) as relates to Work No. 2 and the provisions of section 13 (For protection of Severn-Trent Water Authority) of this Act and of this section shall cease to have effect.

PART V

MISCELLANEOUS AND GENERAL

Extension of limits of Swansea harbour, etc., and power to dredge.

15.—(1) (*a*) In this section—

" the added area " means the area seawards of the existing limits (as hereinafter defined) bounded by an imaginary line commencing at the point on the east side of the existing limits where latitude 51° 35′ 24″ north intersects longitude 3° 53′ 49″ west and from there drawn on a bearing of 201° true for a distance of 1,225 metres to the point where latitude 51° 34′ 47″ north intersects longitude 3° 54′ 12″ west, thence on a bearing of 248½° true for a distance of 3,250 metres to the point where latitude 51° 34′ 08″ north intersects longitude 3° 56′ 50″ west, thence on a bearing of 297½° true for a distance of 4,000 metres to the point where latitude 51° 35′ 08″ north intersects longitude 3° 59′ 54″ west (such point being the westernmost point of the existing limits), thence on a bearing of 093½° true for a distance of 5,375 metres (the line on this bearing being coincident with the seaward boundary of the existing limits) to the point where latitude 51° 34′ 57″ north intersects longitude 3° 55′ 14″ west, thence on a bearing of 063° true for a distance of 1,840 metres (the line on this bearing being coincident as aforesaid) to the point first hereinbefore mentioned and there terminating;

" the approach channel " means the existing dredged channel extending from the roll on/roll off terminal and the King's Dock lock entrance in the harbour to the northern limit of the dredged area and shall include the bed of the harbour and of the sea for 320 metres on either side of the centre line of such channel;

PART V —*cont.*

" the dredged area " means the area bounded by an imaginary line commencing at the point where latitude 51° 35′ 30″ north intersects longitude 3° 55′ 49″ west and from there drawn on a bearing of 160° true for a distance of 1,908 metres to the point where latitude 51° 34′ 32″ north intersects longitude 3° 55′ 15″ west, thence on a bearing of 248½° true for a distance of 1,970 metres to the point where latitude 51° 34′ 08″ north intersects longitude 3° 56′ 50″ west, thence on a bearing of 297½° true for a distance of 400 metres to the point where latitude 51° 34′ 15″ north intersects longitude 3° 57′ 07″ west, thence on a bearing of 019½° true for a distance of 2,500 metres to the point where latitude 51° 35′ 31″ north intersects longitude 3° 56′ 24″ west, thence on a bearing of 092½° true for a distance of 640 metres to the point first hereinbefore mentioned and there terminating;

" the existing limits " means the limits within which the powers of the Board's dock and harbour master at Swansea may be exercised under the Swansea Acts;

" the harbour " means the docks and harbour comprising the undertaking of the Board as existing from time to time in the city of Swansea in the county of West Glamorgan;

" the Swansea Acts " means the Swansea Harbour Acts 1854 to 1919;

and a reference to a bearing means that bearing to the nearest half degree.

(*b*) For the purposes of the Act of 1847, as incorporated with the Swansea Acts, the expression " the harbour, dock or pier " shall include the added area.

(2) The limits of the harbour shall be deemed to be the existing limits and are hereby extended to include the added area.

(3) The limits within which the powers of the Board's dock and harbour master at Swansea may be exercised under and subject to the provisions of the Act of 1847, as incorporated with the Swansea Acts, are hereby extended to include the added area and such of the provisions of the Act of 1847 as immediately before the passing of this Act were operative within the existing limits shall extend and apply to the added area.

(4) All byelaws, rules and regulations of the Board for the time being in force within the existing limits shall, unless the Board shall otherwise determine, apply within the added area and may be enforced by the Board accordingly.

(5) (*a*) The Board may provide, place and erect inside or outside the dredged area in such places as they deem proper, lighthouses,

buoys, beacons, guiding posts or signs for the guidance of vessels proceeding to or from the harbour. PART V —*cont.*

(*b*) The Board may maintain and repair any lighthouses, buoys, beacons, guiding posts or signs provided and erected by them under paragraph (*a*) of this subsection.

(*c*) The Board shall have the powers and be subject to the duties of a local lighthouse authority as set out in Part XI of the Merchant Shipping Act 1894. 1894 c. 60.

(6) The Board may from time to time, for the purpose of affording uninterrupted means of access for vessels going to and from the harbour, deepen, dredge, scour, cleanse, alter and improve the bed of the sea and blast any rock in the approach channel and within the dredged area and any sand, gravel, rock or other materials taken up or collected by means of such deepening, dredging, scouring or blasting shall be the property of the Board and they may sell or otherwise dispose of or remove or deposit the same as they think fit:

Provided that no such sand, gravel, rock or other materials shall be deposited below the level of high water except in such places and in accordance with such restrictions or regulations as may be approved or prescribed by the Secretary of State.

16. Subsection (1) of section 22 (For the protection of traders and shippers of the district of the Forest of Dean) of the Great Western and Midland Railway Companies (Severn and Wye and Severn Bridge Railway) Act 1894 is hereby repealed. Repeal. 1894 c. clxxxix.

17.—(1) In this section— As to cost of Works Nos. 3A and 3B.

"the authorised works" means Works Nos. 3A and 3B with all necessary works and conveniences connected therewith, and any subsidiary works relating thereto constructed under section 9 (Subsidiary works) of the Act of 1966, as incorporated with this Act;

"the Secretary of State" means the Secretary of State for Transport in his capacity as highway authority.

(2) The Secretary of State shall reimburse the Board for such proportion of the costs, charges and expenses reasonably incurred and properly paid by them under section 22 (Costs of Act) of this Act as is attributable to the provisions of this Act relating to Works Nos. 3A and 3B.

(3) The Secretary of State shall reimburse the Board for all costs, charges and expenses (including establishment expenses) incurred by the Board in connection with the construction,

PART V —*cont.*

maintenance, removal, replacement and relaying temporarily or permanently of the authorised works and in connection with any extension, enlargement or alteration of the authorised works which may be occasioned by the exercise of his powers by the Secretary of State at any place between the respective sites of the authorised works.

(4) Before commencing the construction of the authorised works, the Board shall submit to the Secretary of State for his reasonable approval plans, sections and particulars relating thereto and, notwithstanding anything shown on the deposited plans and the deposited sections, the authorised works shall not be constructed otherwise than in accordance with such plans, sections and particulars as may be approved by the Secretary of State as aforesaid, or, if such approval be refused, as may be settled by arbitration:

Provided that, if within twenty-eight days after the submission to him of plans, sections and particulars in accordance with the provisions of this subsection the Secretary of State has not signified his approval or disapproval thereof and the grounds for such disapproval, he shall be deemed to have approved thereof.

(5) Before carrying out any substantial works of removal, replacement or relaying of the authorised works, or any substantial works of extension, enlargement or alteration thereof for which the Secretary of State is required to reimburse the Board for the costs, charges and expenses, the Board shall notify the Secretary of State of their intention to carry out such works so that the Secretary of State may inform the Board of any requirement which he may have that the provisions of subsection (4) of this section shall apply to such works and, in the event of his having any requirement, such works shall be treated as if they were the construction of the authorised works:

Provided that, if within twenty-eight days after the notification of such intention in accordance with the provisions of this subsection the Secretary of State has not informed the Board of his having any requirement, he shall be deemed to have informed the Board of his having none.

(6) The Board shall, at all reasonable times during the construction of the authorised works or the carrying out of works to which the provisions of subsection (4) of this section are to be applied, afford to the Secretary of State or his duly authorised representatives access to the authorised works for the purpose of inspection.

(7) The Secretary of State shall keep the Board indemnified against all actions, costs, claims and demands whatsoever which may be brought or made against the Board by any person, or

PART V —*cont.*

which the Board may incur or have to pay, in respect of loss or damage caused by or arising from or out of the exercise of the powers conferred by this Act in relation to the making and maintaining of the authorised works:

Provided that—

(i) nothing in this subsection shall impose any liability on the Secretary of State in respect of any such actions, costs, claims and demands in so far as and to the extent to which they are attributable to the wrongful act, neglect or default of the Board, their contractors, agents, workmen or servants; and

(ii) the Board shall give to the Secretary of State immediate notice of any such actions, costs, claims and demands and no settlement or compromise thereof shall be made except with the consent of the Secretary of State who (if he so elects) shall at his expense have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the same.

(8) Notwithstanding the liability of the Secretary of State in respect of any loss or damage falling outside the limit prescribed by section 503 of the Merchant Shipping Act 1894, nothing in this section shall relieve the Board from any obligation to maintain the authorised works as part of their undertaking or to pursue any claim for loss or damage caused, with or without actual fault or privity, to the authorised works. 1894 c. 60.

(9) The obligations of the Secretary of State to the Board under subsections (3) and (7) of this section may be discharged by payments made at such times and in such manner as may be agreed between him and the Board.

(10) Any difference arising between the Board and the Secretary of State under this section (other than a difference as to the construction thereof or as to the time and manner of making payments under subsection (9) thereof) shall be settled by arbitration.

Saving for Wireless Telegraphy Act 1949.

18. Nothing in this Act shall entitle or oblige the Board to install or use apparatus for wireless telegraphy as defined in the Wireless Telegraphy Act 1949 in contravention of the provisions of that Act. 1949 c. 54.

Saving for Merchant Shipping Act 1894.

19. Nothing in this Act shall be taken as exempting any person or body from the provisions of Part XI of the Merchant Shipping Act 1894.

PART V —*cont.*

Modification of Town and Country Planning Act 1971.

20.—(1) In their application to development authorised by this Act, 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) shall have effect as if the authority to develop given by this Act were limited to development begun within ten years after the passing of this Act.

(2) In this section any reference to article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 includes a reference to corresponding provisions of any general order superseding that order made under section 24 of the Town and Country Planning Act 1971 or any corresponding provision of an Act repealing that section.

1971 c. 78.

Arbitration. 1965 c. 56.

21. Where under this Act any difference (other than a difference to which the provisions of the Compulsory Purchase Act 1965, as applied by this Act, apply) is to be referred to or settled by arbitration, then, unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

Costs of Act.

22. 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 the Board and may in whole or in part be defrayed out of revenue.

SCHEDULE

Section 6.

ADAPTATION OF PART I OF THE COMPULSORY PURCHASE ACT 1965

1. In the Compulsory Purchase Act 1965 (hereafter in this Schedule referred to as " the Act ") for section 7 (which relates to compensation) there shall be substituted the following:— 1965 c. 56.

" 7.—(1) In assessing the compensation to be paid by the Board under this Act regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words ' land is acquired or taken ' there shall be substituted the words ' a right over land is purchased ' and for the words ' acquired or taken from him ' there shall be substituted the words ' over which the right is exercisable '." 1973 c. 26.

2. For section 8 of the Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following:—

" 8.—(1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (hereafter in this subsection referred to as ' the relevant land ')—

(*a*) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (hereafter in this section referred to as ' the Tribunal '); and

(*b*) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs;

the British Transport Docks Act 1978 shall, in relation to that person, cease to authorise the purchase of the right and be deemed

SCH. —*cont.*

to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which the British Transport Docks Act 1978 is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.

(3) Where, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section, the British Transport Docks Act 1978 is deemed by virtue of that subsection to authorise the purchase of an interest in land, the Board may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the Board to withdraw the notice.

1973 c. 26.

(4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) of this section, are that at the beginning of paragraphs (*a*) and (*b*) there shall be inserted the words ' a right over ', for the word ' severance ' there shall be substituted the words ' right on the whole of the house, building or manufactory or of the house and the park or garden ' and for the words ' part proposed ' and ' part is ' there shall be substituted respectively the words ' rights proposed ' and ' right is '."

3. The following provisions of the Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—

section 9 (4) (failure of owners to convey);

paragraph 10 (3) of Schedule 1 (owners under incapacity);

paragraph 2 (3) of Schedule 2 (absent and untraced owners); and

paragraphs 2 (3) and 7 (2) of Schedule 4 (common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the Board.

4. Section 11 of the Act (powers of entry) shall be so modified as to secure that, as from the date on which the Board have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) of the Act shall be modified correspondingly.

SCH. —*cont.*

5. Section 20 of the Act (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

6. Section 22 of the Act (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the Board, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR BERNARD M. THIMONT
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

50p net

ISBN 0 10 511478 2

British Transport Docks Act 1978

CHAPTER xiv

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

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

PART II

LANDS

5. Power to acquire lands.
6. Compulsory acquisition of rights over land.
7. Incorporation of provisions of Acts of 1964 and 1969 relating to lands.

PART III

WORKS, ETC.

Section
8. Power to make works.
9. Works to form part of undertaking.
10. Application of byelaws of Board.
11. Incorporation of provisions of Acts of 1964, 1966, 1969 and 1971 relating to works.

PART IV

PROTECTIVE PROVISIONS

12. Crown rights.
13. For protection of Severn-Trent Water Authority.
14. For further protection of Severn-Trent Water Authority.

PART V

MISCELLANEOUS AND GENERAL

15. Extension of limits of Swansea harbour, etc., and power to dredge.
16. Repeal.
17. As to cost of Works Nos. 3A and 3B.
18. Saving for Wireless Telegraphy Act 1949.
19. Saving for Merchant Shipping Act 1894.
20. Modification of Town and Country Planning Act 1971.
21. Arbitration.
22. Costs of Act.

SCHEDULE —Adaptation of Part I of the Compulsory Purchase Act 1965.