Maplin Development Act 1973

1973 CHAPTER 64

An Act to provide for the reclamation from the sea of certain land for the purpose of the establishment of an airport and a seaport in south-east Essex, and for the development for other purposes of so much of the land as is not required for that purpose; for the granting of planning permission required for the construction and operation of the airport and the seaport; and for purposes connected with those matters. [25th October 1973]

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:—

The Maplin Development Authority

1.—(1) There shall be a body known as the Maplin Development Authority, which shall be a body corporate having perpetual succession and a common seal. The Maplin Development Authority.

(2) The Maplin Development Authority shall consist of not more than eleven members appointed by the Secretary of State and the Secretary of State shall appoint one of them to be chairman and one to be deputy chairman of the Authority.

(3) Schedule 1 to this Act shall have effect with respect to the Maplin Development Authority.

Reclamation and disposal of land in Maplin area.

2.—(1) For the purpose of reclaiming land from the sea for the establishment of an airport and a seaport in the area comprising Maplin Sands and Foulness Sands in south-east Essex the Maplin Development Authority may after such date as the Secretary of State may by order appoint carry out works in the line and in accordance with the levels shown on the deposited plan and the deposited section; but the works may deviate, from that line and upwards from those levels, to the extent of the limits of deviation so shown, and, downwards from those levels, to any extent.

(2) Subject to subsection (3) of this section, so much of the reclaimed land as is required for the provision of the airport shall be made available by the Authority to the British Airports Authority.

(3) So much of the reclaimed land as is required for the provision of air navigation services shall be made available by the Authority to the Civil Aviation Authority or, if it is part of the land required for the provision of the airport, either to the Civil Aviation Authority or to the British Airports Authority.

(4) So much of the reclaimed land as is required for the provision of the seaport shall be made available by the Authority to the Port of London Authority.

(5) The remainder may be—

(*a*) used by the Authority for such recreational, amenity or other purposes, but not commercial or industrial purposes; or

(*b*) made available by the Authority for such purposes, including commercial or industrial purposes,

as the Secretary of State may approve.

(6) In considering whether to approve any industrial purpose as a purpose for which any land may be made available under subsection (5)(*b*) of this section the Secretary of State shall have regard to the interests of the environment of any area that may be affected by the use of that land for that purpose, and he shall not give his approval unless satisfied that the use of the land for that purpose would be consistent with the proper distribution of industry and employment.

(7) Any question whether or in what state any land is to be made available under subsection (2), (3) or (4) of this section, or when different parts of the land to be made available under each of those subsections are to be reclaimed, shall be decided by the Maplin Development Authority in accordance with the reasonable requirements of the British Airports Authority or, as the case may be, the Civil Aviation Authority or the Port of London Authority but shall, in default of agreement between the Authorities concerned, be decided by the Secretary of State.

(8) Land to be made available under this section may be made available either by the conveyance of the fee simple or by the

grant of lesser interests, and the Authority shall acquire such interests in the land or make such arrangements for the conveyance or grant as may be necessary for that purpose.

(9) The power to make an order under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and before making such an order the Secretary of State shall consult with the Civil Aviation Authority, the British Airports Authority, the National Ports Council, the Port of London Authority, the Maplin Development Authority and such other persons as appear to him appropriate, and shall lay a report of the consultations and of his conclusions before Parliament and shall state in that report his assessment of the likely effect on other regions of any development to be carried out in or near the area in which land is to be reclaimed.

Ancillary functions of Maplin Development Authority.

3.—(1) The Maplin Development Authority may carry out such works and do such other things as may be necessary or expedient—

(*a*) in connection with the works authorised by section 2 of this Act or for the maintenance of any land reclaimed by those works;

(*b*) to such extent as the Secretary of State may approve, for the provision of services for any such land; and

(*c*) for the development of any land which is to be made available or used as mentioned in subsection (5) of that section;

and may do anything which is necessary or expedient for the exercise of its functions under this Act.

(2) The Maplin Development Authority shall provide for the local authorities in whose areas any of the land to be reclaimed under this Act is situated, for other local authorities whose areas may be affected by the reclamation or use of that land, and for other organisations representing the interests of persons in those areas, adequate facilities for consultation with respect to such matters relating to the Authority's functions as affect their interests.

Power of Secretary of State to give directions.

4.—(1) The Secretary of State may, after consultation with the Maplin Development Authority, give the Authority directions as to the exercise of its functions (including directions restricting that exercise), and the Authority shall comply with any such direction.

(2) A transaction between a person and the Authority shall not be void by reason only that it was carried out in contravention of a direction given by the Secretary of State, unless that person had actual notice of the direction.

Application or exclusion of certain enactments, etc.

5.—(1) Schedule 2 to this Act shall have effect with respect to the application of the enactments mentioned in that Schedule (which relate to statutory undertakers and related matters).

(2) Schedule 3 to this Act shall have effect with respect to the carrying out by the Maplin Development Authority of works for the reclamation or maintenance of land.

Acquisition of land, planning permission and extinguishment of rights

Acquisition of land.

6.—(1) The Maplin Development Authority may be authorised by the Secretary of State to acquire land compulsorily for any purpose connected with the exercise of its functions; and the provisions of the Acquisition of Land (Authorisation Procedure) Act 1946 shall apply in relation to a compulsory purchase by the Authority as if the Authority were a local authority and as if this subsection were contained in an Act in force immediately before the commencement of that Act.

1946 c. 49.

(2) For the purpose of the acquisition by the Authority of land by agreement the provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, 10, 27 and 31 shall apply.

1965 c. 56.

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

(4) Schedule 4 to this Act shall have effect for supplementing the provisions of this section.

Planning permission, etc.

7.—(1) Planning permission shall be deemed to have been granted under Part III of the Town and Country Planning Act 1971—

1971 c. 78.

(*a*) for the carrying out by the Maplin Development Authority of such development within the limits of deviation shown on the deposited plan as may be necessary or expedient for the reclamation of land in pursuance of this Act or the maintenance of land so reclaimed;

(*b*) for the construction by the British Airports Authority of two runways on the centre line shown on the plan marked "Location of runways" and bound up with the deposited plan and of other runways on a parallel centre line in the area so shown; and

(*c*) for the carrying out by the Civil Aviation Authority of such development of land so reclaimed as may be necessary or expedient for the exercise by that Authority of its functions of providing air navigation services.

(2) The permission granted by the Town and Country Planning General Development Order 1973 for development by statutory undertakers carrying on a dock, pier, harbour, water transport, canal or inland navigation undertaking shall extend to the construction by the Port of London Authority of a seaport on land made or to be made available to it under this Act (or, if that land exceeds 2,500 acres, on the first 2,500 acres thereof) and, in connection with the seaport to be constructed, to any development on that land, or the first 2,500 acres thereof, which is development permitted in connection with an existing dock, pier or harbour. S.I. 1973 No. 31.

(3) For the purposes of the Town and Country Planning Act 1971 and any instrument made or having effect as if made under it any land made or to be made available under this Act to the British Airports Authority, together with any land within 300 metres of the centre line first mentioned in subsection (1)(*b*) of this section, shall be deemed to be operational land of the undertaking of that Authority. 1971 c. 78.

(4) Nothing in section 41 of the Town and Country Planning Act 1971 (limit on duration of planning permission) shall apply to any planning permission deemed to have been granted by virtue of this section.

Extinguishment of public rights in reclamation area.

8.—(1) For the purpose of enabling land to be reclaimed under this Act the Secretary of State may by order made by statutory instrument extinguish any public rights of fishery, public rights of way, rights of navigation or other public or customary rights that may be exercisable in any part of the area in which land is to be so reclaimed.

(2) A draft of any statutory instrument to be made under this section shall be laid before Parliament.

Protection of amenities, etc.

Protection of flora and fauna.

9.—(1) It shall be the duty of the Maplin Development Authority, before beginning any work of reclamation authorised by this Act, to consult with the Nature Conservancy Council about the likely effect of the work on any flora or fauna.

(2) For the purpose of assisting the Nature Conservancy Council in conserving any of the flora or fauna adversely affected, or likely to be so affected, by any work of reclamation authorised by this Act, the Maplin Development Authority shall pay to that Council such sums as the Secretary of State may, with the consent of the Treasury, approve.

Havengore Creek.

10.—(1) It shall be the duty of the Maplin Development Authority to take such steps as are necessary to maintain a navigable channel in Havengore Creek in accordance with the provisions of this section, and the Authority may provide installations for facilitating the use of the channel.

(2) Subject to subsections (5) and (6) below, the channel to be maintained by the Maplin Development Authority shall be such as to allow direct access to Havengore Creek from the sea, at all times during a period beginning one hour before and ending one hour after mean high water springs, by any vessel—

(*a*) requiring clearance above water level of not more than 4 metres;

(*b*) having a depth below water level of not more than 1·2 metres at any point; and

(*c*) possessing no feature (other than its height above or depth below water level) which would have prevented it from gaining such access at the time of the passing of this Act.

(3) The Secretary of State may, out of moneys provided by Parliament, make such grants to the Maplin Development Authority towards the cost of providing the installations mentioned in subsection (1) above as he may, with the consent of the Treasury, determine.

(4) If it appears to the Secretary of State that, before the passing of this Act, the owner of a vessel requiring clearance above water level of more than four metres habitually navigated Havengore Creek in that vessel and—

(*a*) that, without a reduction of the clearance so required, the channel maintained in accordance with this section would not allow or have allowed such access by it as is mentioned in subsection (2) above; but

(*b*) that the clearance so required has been or could be sufficiently reduced by conversion of the vessel at reasonable expense;

he may, out of moneys provided by Parliament, make to the owner such grant for or towards the cost of the conversion as he may with the consent of the Treasury determine.

(5) The Maplin Development Authority may, for so long as it considers necessary in connection with the carrying out of any works authorised by this Act, from time to time close to navigation so much of Havengore Creek as lies within the limits of deviation shown on the deposited plan.

(6) Where the Maplin Development Authority satisfies the Secretary of State that serious adverse effects have arisen, or are likely to arise, from any siltation, scouring or alteration of tidal flow attributable to the maintenance of a navigable channel in Havengore Creek in accordance with this section the Secretary of State may by order provide for the closing to navigation of so much of the creek within the said limits of deviation as he considers appropriate.

(7) An order under subsection (6) above shall be contained in a statutory instrument and shall not be made unless a draft of

the order has been approved by resolution of each House of Parliament.

(8) Nothing in this section shall be taken to require the Maplin Development Authority to take any steps before beginning the work of reclamation authorised by this Act.

Dredging, etc. to make good interference with sailing and other recreations.

11.—(1) This section applies to the waters of—

(*a*) the River Crouch and the River Roach, and

(*b*) the creeks and watercourses leading out of those rivers, except for Havengore Creek, New England Creek and Shelford Creek.

(2) Any body certified by the Secretary of State as being a body representative of the persons whose interests are or may be affected by any mischief to which this section applies may require the Maplin Development Authority to carry out (subject to compliance with any provision contained in, or having effect under, any Act, whether general or local) any dredging or other works—

(*a*) which are necessary or expedient for the removal of the cause of the mischief; and

(*b*) which are reasonably required, having regard to the cost of the works, and of the degree of benefit likely to be derived from them;

and, subject to subsection (3) below, the Authority shall comply with any such requirement.

(3) If the Authority disputes the requirement, the question shall be referred to the arbitration of a single arbitrator, who shall be appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.

(4) The mischief to which this section applies is interference with the facilities in waters to which this section applies for sailing and other recreations as they exist at the passing of this Act, and the cause of the mischief is siltation, scouring or alteration of tidal flow occurring as a result of any works carried out by the Authority for the reclamation or maintenance of land under this Act.

Restrictions on road traffic.

12.—(1) Subject to the following provisions of this section, material to be used for the reclamation of land in the reclamation area shall not be brought to that area by road.

(2) Subject to the following provisions of this section, goods vehicles shall not be used—

(*a*) on journeys from the seaport mentioned in section 2(1) of this Act which begin with the vehicles being unloaded from ships or with the vehicles taking on board goods

unloaded from ships at that seaport and end outside the reclamation area ; or

(*b*) on journeys from outside the reclamation area to that seaport which end with the vehicles being loaded into ships or with the vehicles discharging goods to be loaded into ships at that seaport.

(3) If the Secretary of State is satisfied that roads have been constructed affording access to the reclamation area which make the restrictions imposed by subsections (1) and (2) above unnecessary, he may by order provide that they shall cease to have effect on such date as is specified in the order.

(4) Subsections (1) and (2) above shall not apply to anything done in accordance with an order made by the Secretary of State.

(5) A person who uses a vehicle in contravention of subsection (1) or (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(6) Any order under this section shall be made by statutory instrument except an order under subsection (4) applying only to specified vehicles or to vehicles of specified persons.

(7) Any power to make an order under this section includes power to vary or revoke the order by a subsequent order.

(8) In this section—

" reclamation area " means the area within the limits of deviation shown on the deposited plan ;

" goods vehicle " means a vehicle constructed or adapted for the carriage of goods by road.

Financial provisions

The initial debt.

13.—(1) The Maplin Development Authority shall on its establishment assume a debt to the Secretary of State (in this Act referred to as " the initial debt ") of such amount as the Secretary of State may with the approval of the Treasury determine by notice in writing given to the Authority.

(2) In determining the amount of the initial debt the Secretary of State shall have regard to the expenses incurred by him before the establishment of the Authority with a view to the reclamation of land under this Act.

(3) The amount of the initial debt shall not exceed £2 million.

(4) The rate of interest payable on the initial debt, the arrangements for paying off the principal, and the other terms of the debt shall be such as the Secretary of State may with the approval of the Treasury from time to time determine.

(5) Any sums received by the Secretary of State by way of interest on or repayment of the initial debt shall be paid into the National Loans Fund.

Borrowing powers.

14.—(1) Subject to subsection (4) of this section, the Maplin Development Authority may, with the consent of the Secretary of State or in accordance with a general authorisation given by him, borrow temporarily by overdraft or otherwise such sums in sterling as the Authority may require.

(2) Subject to subsection (4) of this section, the Authority may borrow from the Secretary of State otherwise than by way of temporary loan, and the Secretary of State may lend to the Authority, such sums in sterling as the Authority may require.

(3) Subject to subsection (4) of this section, the Authority may with the consent of the Secretary of State borrow on such terms as the Secretary of State may from time to time specify—

(*a*) from such persons as he may so specify sums in a currency other than sterling, and

(*b*) from the European Investment Bank, sums in any currency.

(4) The aggregate amount outstanding by way of the principal of—

(*a*) the initial debt;

(*b*) any money borrowed by the Authority under this section; and

(*c*) any money borrowed by a subsidiary of the Authority;

shall not exceed £200 million or such greater sum not exceeding £250 million as the Treasury may specify by order made by statutory instrument.

(5) An order under this section shall not be made unless a draft of it has been laid before and approved by the House of Commons.

(6) The Authority shall not borrow money otherwise than under this section.

(7) References in this section to the Secretary of State are references to him acting with the approval of the Treasury; and references in this section to borrowing do not include any borrowing from a subsidiary of the Authority or from the Authority.

(8) Any loan made by the Secretary of State in pursuance of this section shall be repaid to him at such times and by such methods, and interest on the loan shall be paid to him at such rates and at such times, as he may from time to time determine.

(9) The Treasury may issue out of the National Loans Fund to the Secretary of State such sums as are necessary to enable him to make loans in pursuance of subsection (2) of this section and any sums received by the Secretary of State in pursuance of subsection (8) of this section shall be paid into that Fund.

Guarantees.

15.—(1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on any sums which the Maplin Development Authority borrows from a person other than the Secretary of State.

(2) Immediately after a guarantee is given under this section the Treasury shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling the guarantee so given the Treasury shall, as soon as possible after the end of each financial year (beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged), lay before each House of Parliament a statement relating to that sum.

(3) Any sums required by the Treasury for fulfilling a guarantee under this section shall be charged on and issued out of the Consolidated Fund.

(4) If any sums are issued in fulfilment of a guarantee given under this section, the Maplin Development Authority shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued and payments of interest, at such rate as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.

(5) Any sums received by the Treasury in pursuance of subsection (4) of this section shall be paid into the Consolidated Fund.

Miscellaneous financial powers and duties.

16.—(1) It shall be the duty of the Maplin Development Authority in framing and carrying out proposals involving substantial outlay to act on lines settled from time to time with the approval of the Secretary of State; and to secure that any subsidiary of the Authority also acts on those lines in framing and carrying out such proposals.

(2) The Authority may—

(*a*) with the consent of the Secretary of State, subscribe for or acquire any securities of a body corporate;

(*b*) with the consent of the Secretary of State, lend money to or give a guarantee for the benefit of any person for the purposes of any undertaking carried on by him or, if that person is a body corporate, any undertaking carried on by a subsidiary of that body;

(*c*) turn its resources to account so far as they are not required for the exercise of the Authority's functions.

(3) Any excess of the revenues of the Authority for any accounting year over the total sums properly chargeable by it to revenue account for that year shall be applied by the Authority

in such manner as the Secretary of State may, after consultation with the Authority and with the approval of the Treasury, direct; and the direction may require the whole or part of the excess to be paid to the Secretary of State.

(4) The Secretary of State may, with the approval of the Treasury, give to the Authority directions as to any matter relating to the establishment or management of reserves or the carrying of sums to the credit of any reserves or the application of any reserves for the purposes of its functions.

(5) The Secretary of State may, with the approval of the Treasury and after consultation with the Authority, direct the Authority to pay to the Secretary of State the whole or part of any sums for the time being standing to the credit of any reserves of the Authority or being of a capital nature and not required for the exercise of the Authority's functions.

(6) Any sums received by the Secretary of State in pursuance of this section shall be paid into the Consolidated Fund.

Terms for making land available.

17.—(1) The terms on which any part of the land reclaimed by the Maplin Development Authority is made available by it as required by subsections (2) to (4) of section 2 of this Act shall be such as to secure that the Authority recovers so much of its expenditure as in the opinion of the Secretary of State is attributable to that part; and the terms on which any other part of the land is made available by the Authority shall be the best that can reasonably be obtained, having regard to the Authority's duties under this Act.

(2) The reference in subsection (1) of this section to the Authority's expenditure includes the repayment of and payment of interest on the initial debt.

Contributions to cost of maintaining reclaimed land.

18. (1) The Maplin Development Authority shall make a scheme for the recovery by the Authority of the cost of maintaining the land reclaimed by it by means of such contributions from persons occupying or owning or having interests in any part of the land as may be determined by or under the scheme.

(2) A scheme under this section may contain such incidental and supplementary provisions as may appear to the Authority to be necessary or expedient and may be revoked or amended by a subsequent scheme under this section.

(3) A scheme under this section shall not have effect unless it is approved by the Secretary of State by a statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Accounts and audit.

19.—(1) The Maplin Development Authority shall—

(*a*) keep proper accounts and proper records in relation to the accounts; and

(*b*) prepare in respect of each accounting year a statement of accounts, in such form as the Secretary of State may with the approval of the Treasury require, showing the state of affairs and the profit or loss of the Authority.

(2) The accounts of the Authority shall be audited by auditors appointed by the Secretary of State after consultation with the Authority, and a person shall not be qualified to be so appointed unless he is a member of one or more of the following bodies—

the Institute of Chartered Accountants in England and Wales;

the Institute of Chartered Accountants of Scotland;

the Association of Certified Accountants;

the Institute of Chartered Accountants in Ireland;

any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(*a*) of the Companies Act 1948 by the Secretary of State;

1948 c. 38.

but a Scottish firm may be so appointed if each of the partners is qualified to be so appointed.

(3) The Secretary of State shall for each financial year prepare, in such form and manner as the Treasury may approve, an account of—

(*a*) sums issued to the Secretary of State in pursuance of section 14 of this Act, and the disposal by the Secretary of State of those sums;

(*b*) sums required to be paid into the National Loans Fund in pursuance of section 13 or 14 of this Act;

(*c*) sums required to be paid into the Consolidated Fund in pursuance of section 16 of this Act;

and shall send a copy of the account to the Comptroller and Auditor General not later than the end of November next following that year; and the Comptroller and Auditor General shall examine, certify and report on the account and shall lay copies of it and of his report on it before Parliament.

Miscellaneous

Subsidiaries.

20. It shall be the duty of the Maplin Development Authority to exercise its control over any subsidiary of the Authority so as to ensure that the subsidiary—

(*a*) does not do anything which the Authority has no power to do or has been directed by the Secretary of State not to do; and

(*b*) does not, except with the consent of the Secretary of State, borrow money from any person other than the Authority; and

(*c*) does not, except with the consent of the Secretary of State, raise money by the issue of shares or stock to any person other than the Authority.

Liability for damage, etc. caused by reclamation or maintenance works.

21. Where through siltation, scouring or an alteration of tidal flow occurring as a result of any works carried out by the Maplin Development Authority for the reclamation or maintenance of land under this Act—

(*a*) damage or loss is sustained by any person; or

(*b*) additional expenses or liabilities are incurred by any authority in the exercise of functions under any enactment;

the Maplin Development Authority shall pay compensation to that person or, as the case may be, indemnify that authority.

Payments to local authorities and statutory undertakers.

22. Where the expenditure incurred by a local authority or statutory undertakers in the performance of their functions is increased as a result of the reclamation of any land under this Act or the development of the reclaimed land, the Maplin Development Authority may with the consent of the Secretary of State contribute such sums towards meeting the increase as the Secretary of State may with the concurrence of the Treasury determine.

Payment to certain persons affected by land reclamation.

23. Where it appears to the Secretary of State—

(*a*) that any person, before 1st December 1972, derived the whole or part of his means of livelihood from the taking of fish or shellfish or the gathering of white weed within the limits of deviation shown on the deposited plan or from the processing of white weed so gathered; and

(*b*) that after losing the whole or part of the means so derived as a result of the reclamation of land under this Act or of works carried out for the reclamation he will have no reasonable expectation of replacing the loss by similar means;

the Secretary of State shall direct the Maplin Development Authority to pay to that person such sums as he may with the consent of the Treasury determine.

Reports and information.

24.—(1) The Maplin Development Authority shall as soon as possible after the end of each accounting year make to the Secretary of State a report on the exercise of its functions during that year.

(2) The report for any accounting year—

(*a*) shall set out any direction given to the Authority under section 4 of this Act, unless the Secretary of State has notified to the Authority his opinion that it would be against the national interest to do so; and

(*b*) shall include such information relating to the plans, and past and present activities, of the Authority and the financial position of the Authority, as the Secretary of State may from time to time direct.

(3) There shall be attached to the report for each accounting year a copy of the statement of accounts in respect of that year and a copy of any report made on the statement by the auditors.

(4) The Secretary of State shall lay before Parliament copies of each report made to him under subsection (1) of this section and of the statement and report attached to it.

(5) The Authority shall, in addition to the information to be given under the preceding provisions of this section, furnish to the Secretary of State such returns or other information relating to its property, financial position, activities or proposed activities as the Secretary of State may from time to time require.

Interpretation.

25.—(1) In this Act—

" accounting year " means any period of twelve months ending with 31st March or the period beginning with the passing of this Act and ending with 31st March 1974;

" land " includes land covered by water and (except where the context otherwise requires) any interest in or right over land;

1971 c. 78.

" local authority " has the same meaning as in the Town and Country Planning Act 1971;

" securities " means shares, stock, debentures, debenture stock and any securities of a like nature;

" statutory undertakers" includes the Post Office and otherwise has the same meaning as in the Town and Country Planning Act 1971;

1948 c. 38.

" subsidiary " has the same meaning as in the Companies Act 1948;

" the deposited plan " and " the deposited section " mean the plan and section deposited in connection with the Bill for this Act with the Clerk of the Essex County Council and in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons;

" the initial debt " has the meaning assigned to it by section 13 of this Act.

(2) References in this Act to rights over land include references to the right to do, or to place and maintain, any thing in, on or under the land or in the air-space above its surface.

Short title.

26. This Act may be cited as the Maplin Development Act 1973.

SCHEDULES

SCHEDULE 1

Section 1.

THE MAPLIN DEVELOPMENT AUTHORITY

Members

1. In appointing members of the Maplin Development Authority the Secretary of State shall have regard to the desirability of securing the services of persons with knowledge and experience of engineering, aviation, sea transport, planning or commercial or financial matters or of safeguarding the interests of the environment; and four of the members shall be appointed by him after consultation with one or more local authorities, amenity societies in Essex and Kent or other bodies appearing to him to be concerned with matters that may be affected by the exercise of the Authority's functions.

2.—(1) Before appointing a person to be a member of the Authority the Secretary of State shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise of his functions as a member, and the Secretary of State shall also satisfy himself from time to time with respect to every member of the Authority that he has no such interest; and any person who is, or whom the Secretary of State proposes to appoint, a member of the Authority shall, whenever requested by him to do so, furnish him with such information as the Secretary of State considers necessary for the performance of his duties under this paragraph.

(2) A member of the Authority who is in any way directly or indirectly interested in a contract made or proposed to be made by the Authority shall disclose the nature of his interest at a meeting of the Authority, and the disclosure shall be recorded in the minutes of the Authority; and the member shall not take part in any decision of the Authority with respect to that contract.

(3) For the purposes of sub-paragraph (2) above a member of the Authority shall not be treated as directly or indirectly interested in a contract by reason only that he is a member of or a person employed by a body to which land has been or is to be made available under subsection (2), (3) or (4) of section 2 of this Act.

(4) For the purposes of sub-paragraph (2) above a general notice given at a meeting of the Authority by a member of the Authority to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with the company or firm shall be regarded as a sufficient disclosure of his interest in relation to any contract so made.

(5) A member of the Authority need not attend in person at a meeting of the Authority in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read at the meeting.

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3. Subject to the following provisions of this Schedule, a person shall hold office as a member or as chairman or deputy chairman of the Authority in accordance with the terms of his appointment.

4.—(1) A person may at any time resign his office as a member or as chairman or deputy chairman of the Authority.

(2) If the Secretary of State is satisfied that a member of the Authority—

(*a*) has become bankrupt or made an arrangement with his creditors, or

(*b*) is incapacitated by physical or mental illness, or

(*c*) has been absent from meetings of the Authority for a period longer than three months without the permission of the Authority, or

(*d*) is otherwise unable or unfit to perform the functions of a member,

he may remove him from office as a member.

(3) If the chairman or deputy chairman of the Authority ceases to be a member of the Authority he shall also cease to be chairman or deputy chairman.

1957 c. 20.

5. In Part II of Schedule 1 to the House of Commons Disqualification Act 1957, as it applies in relation to the House of Commons of the Parliament of the United Kingdom, there shall be inserted at the appropriate place the words "The Maplin Development Authority".

6. The Authority—

(*a*) shall pay to the members of the Authority such salaries or fees, and such allowances, as the Secretary of State may with the approval of the Minister for the Civil Service determine, and

(*b*) as regards any members in whose case the Secretary of State may so determine with the approval of the Minister for the Civil Service, shall make provision for or pay to or in respect of them such pensions, allowances and gratuities as may be so determined,

and if a person ceases to be a member of the Authority and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the Secretary of State may with the approval of the Minister for the Civil Service require the Authority to pay to that person such sum as the Secretary of State may with the approval of the Minister for the Civil Service determine.

Staff

7. The number of persons employed by the Authority and the remuneration paid to them shall be such as may be determined by the Authority with the consent of the Secretary of State given with the approval of the Minister for the Civil Service.

8.—(1) The Authority shall, in the case of such of the persons employed by it as may be determined by the Authority with the consent of the Secretary of State given with the approval of the Minister for the Civil Service, pay such pensions, allowances or gratuities to or in respect of them as may be so determined, make

such payments towards the provision of such pensions, allowances or gratuities as may be so determined or provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities as may be so determined.

(2) Where a person employed by the Authority and participating in a scheme for the payment of pensions, allowances or gratuities which is applicable to such persons becomes a member of the Authority, his service as a member may be treated for the purposes of the scheme as service as a person employed by the Authority, whether or not provision for or in respect of him is made under paragraph 6(*b*) above.

Proceedings and instruments

9. The quorum of the Authority and the arrangements relating to its meetings shall be such as the Authority may determine.

10. The validity of any proceedings of the Authority shall not be affected by any defect in the appointment of a member or a vacancy in the office of chairman or deputy chairman.

11. A document purporting to be duly executed under the seal of the Authority or to be signed on behalf of the Authority shall be received in evidence and shall be deemed to be so executed or signed unless the contrary is proved.

Status of Authority and its property

12. The Authority shall be a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.

13. The Authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown; and its property shall not be regarded as property of or property held on behalf of the Crown.

SCHEDULE 2

Section 5(1).

APPLICATION OF ENACTMENTS RELATING TO STATUTORY UNDERTAKERS ETC.

1. In section 61(1) of the Land Drainage Act 1930 (which protects certain undertakings from works executed under that Act) after paragraph (*h*) there shall be added the following paragraph— 1930 c. 44.

"(*i*) the undertaking of the Maplin Development Authority."

2.—(1) Subject to sub-paragraph (3) below, subsection (3) of section 39 of the Public Health Act 1936 (which exempts buildings belonging to statutory undertakers from certain drainage requirements) and section 71 of that Act (which exempts such buildings from building regulations) shall apply in relation to the Maplin Development Authority as they apply in relation to statutory undertakers. 1936 c. 49.

(2) Subject to sub-paragraph (3) below, section 330 of the Public Health Act 1936 (power of certain undertakers to alter sewers)

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and section 333 of that Act (protection of certain undertakings from works executed under that Act) shall apply in relation to the Authority and any property owned by the Authority as they apply in relation to a railway company and its railway.

(3) Nothing in the preceding sub-paragraphs applies in relation to land which the Maplin Development Authority has made available under section 2(5) of this Act.

1945 c. 42.

3.—(1) Section 93 of Schedule 3 to the Water Act 1945 (which relates to the protection of certain statutory undertakers) shall apply with the necessary modifications in relation to any works along, upon or under any property owned by the Maplin Development Authority which statutory water undertakers propose to execute, whether or not that section has been applied to the undertakers by an order under that Act.

(2) In sub-paragraph (1) above "statutory water undertakers" means statutory water undertakers within the meaning of the Water Act 1945 other than a local authority or board supplying water under the Public Health Act 1936 and includes a person authorised to construct works by an order under section 23 of the Water Act 1945.

1936 c. 49.

1949 c. 74.

4. Section 47 of the Coast Protection Act 1949 (which gives protection from works under that Act) shall apply in relation to the Maplin Development Authority as it applies in relation to a river authority.

5.—(1) The Maplin Development Authority shall be deemed to be statutory undertakers and its undertaking a statutory undertaking for the purposes of—

1946 c. 49 (*a*) the Acquisition of Land (Authorisation Procedure) Act 1946;

1949 c. 67. (*b*) the Civil Aviation Act 1949;

1949 c. 97. (*c*) the National Parks and Access to the Countryside Act 1949;

1959 c. 25. (*d*) the Highways Act 1959;

1961 c. 33. (*e*) section 11 of the Land Compensation Act 1961;

1962 c. 58. (*f*) the Pipe-lines Act 1962;

1964 c. 40. (*g*) Schedules 3 and 5 to the Harbours Act 1964;

1965 c. 36. (*h*) Schedule 6 to the Gas Act 1965;

1965 c. 59. (*i*) the New Towns Act 1965;

1968 c. 41. (*j*) paragraph 6 of Schedule 2 to the Countryside Act 1968;

1971 c. 41. (*k*) the Highways Act 1971;

1971 c. 78. (*l*) the Town and Country Planning Act 1971.

(2) In the Pipe-lines Act 1962, the New Towns Act 1965 and the Town and Country Planning Act 1971, "operational land" in relation to the Authority shall mean land owned or occupied by the Authority and used or intended for use for the purpose of any of the functions of the Authority, but excluding land which the Authority has made available under section 2(5) of this Act.

SCHEDULE 3

Section 5(2).

EXCLUSION OR MODIFICATION OF CERTAIN PROVISIONS

1. In this Schedule—

"reclamation or maintenance works" means any works carried out by the Maplin Development Authority for the reclamation or maintenance of land;

"the limits of deviation" means the limits of deviation shown on the deposited plan; and

"the Port of London Authority area" means the area within the limits described in paragraph 2 of Schedule 1 to the Port of London Act 1968. 1968 c. xxxii

2.—(1) Paragraphs 3 and 4 of this Schedule shall apply in relation to reclamation or maintenance works and, subject to sub-paragraph (3) below—

(*a*) the provisions mentioned in sub-paragraph (2) below shall not apply to such works carried out within the limits of deviation; and

(*b*) a licence under section 73 of the Port of London Act 1968 shall not be required for any reclamation or maintenance works carried out within that part of the Port of London Authority area which lies seawards of a line drawn from Garrison Pier on Shoebury Ness to Garrison Point on the Isle of Sheppey.

(2) The provisions referred to in sub-paragraph (1)(*a*) above are—

section 19 of the Salmon and Freshwater Fisheries Act 1923 1923 c. 16.

any byelaw made under section 47 of the Land Drainage Act 1930 or section 34 of the Land Drainage Act 1961 1930 c. 44. 1961 c. 48.

sections 16, 18 and 34 of the Coast Protection Act 1949 1949 c. 74.

sections 28 and 31 of the Land Drainage Act 1961

any byelaw made or having effect as made under section 5(1) of the Sea Fisheries Regulation Act 1966 1966 c. 38.

section 70 of the Port of London Act 1968.

(3) In relation to works carried out outside the Port of London Authority area after such date as may be certified by the Secretary of State as the date on which reclamation under this Act has been completed, sub-paragraph (2) above shall have effect as if the reference to section 34 of the Coast Protection Act 1949 were omitted.

3.—(1) If it appears to the Secretary of State that any reclamation or maintenance works within the limits of deviation but outside the Port of London Authority area are likely to cause obstruction or danger to navigation the Maplin Development Authority shall during their construction and after their completion take such steps for the prevention of danger to navigation as he may direct.

(2) If it appears to the Port of London Authority that any reclamation or maintenance works within the Port of London Authority area are likely to cause obstruction or danger to navigation or to prejudice

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the conservancy of the River Thames the Maplin Development Authority shall during their construction and after their completion take such steps for the prevention of the danger or for the conservancy of the river as the Port of London Authority may direct.

(3) Where a direction is given to the Maplin Development Authority under sub-paragraph (2) above, the Authority may within fourteen days or such longer period as the Secretary of State may allow appeal against the direction to the Secretary of State; and on any such appeal the Secretary of State may confirm, vary or cancel the direction.

(4) Subject to sub-paragraph (5) below, where the Maplin Development Authority fails to comply with a direction given under this paragraph the Secretary of State or, as the case may be, the Port of London Authority may take the steps specified in the direction and recover the costs reasonably incurred in doing so from the Maplin Development Authority; and if that Authority disputes that costs so incurred by the Port of London Authority were reasonably incurred the question shall be determined by the Secretary of State.

(5) The Port of London Authority shall not take the steps specified in a direction given by it if an appeal against the direction is pending or may be brought (within fourteen days of the giving of the direction) unless it appears to the Authority that immediate action is required to prevent danger to navigation; and may not recover any costs incurred in taking such steps if the direction is cancelled on appeal.

(6) Subject to sub-paragraph (3) above, where the Maplin Development Authority fails to comply with a direction under this paragraph which—

(*a*) is given by the Secretary of State; or

(*b*) is given by the Port of London Authority and expressed to be given for the purpose of preventing danger to navigation;

the Maplin Development Authority shall be liable, on summary conviction, to a fine not exceeding £400 and, on conviction on indictment, to a fine.

1968 c. xxxii.

(7) Section 76 of the Port of London Act 1968 shall not apply in relation to anything done by the Maplin Development Authority in compliance with a direction given by the Port of London Authority under this paragraph.

1913 c. 31. (2 & 3 Geo. 5).

4. The provisions of the Pilotage Act 1913 with respect to compulsory pilotage shall not apply to tugs, dredgers, sludge-vessels, barges and similar craft whilst employed by the Maplin Development Authority in the exercise of its functions under this Act.

1967 c. 83.

5. The doing of any of the things mentioned in paragraphs (*b*) to (*e*) of section 7(4) of the Sea Fisheries (Shellfish) Act 1967 shall not be an offence under that section if it is done in the carrying out of reclamation or maintenance works within the limits of deviation; but nothing in this paragraph shall affect any liability to make compensation under that section.

SCHEDULE 4

Section 6.

ACQUISITION OF LAND

PART I

GENERAL

1.—(1) The Acquisition of Land (Authorisation Procedure) Act 1946 and the Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make them apply to the compulsory acquisition of a right by virtue of section 6(3) of this Act as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those Acts to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

1946 c. 49.
1965 c. 56.

(2) For the purpose of giving effect to section 6(3) of this Act, and without prejudice to the general adaptation of enactments under sub-paragraph (1) above,—

(*a*) Part II of this Schedule shall have effect for the adaptation of Part III of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 to cases of compulsory acquisition of rights;

(*b*) Part III of this Schedule shall have effect for the adaptation of Part I of the Compulsory Purchase Act 1965 to such cases; and

(*c*) as respects compensation in such cases, the enactments relating to compensation for the compulsory purchase of land shall apply, with the necessary modifications, as they apply to compensation on the compulsory purchase of land and interests in land.

2.—(1) Where by a deed or other instrument in which—

(*a*) it is stated that it is made in pursuance of a compulsory acquisition of rights by virtue of section 6(3) of this Act, or

(*b*) it is certified by the Maplin Development Authority that the instrument is made in connection with the performance of its functions under this Act,

any person having an interest in land grants or agrees to grant to the Authority any right over the land, the grant or agreement shall be binding upon his successors in title and persons deriving title under him or them (otherwise than by a disposition taking effect before the date of the grant) to the same extent as it is binding upon the grantor, notwithstanding that it would not have been binding upon such persons apart from this sub-paragraph.

(2) Where by a deed poll under any provision of the Compulsory Purchase Act 1965 the Authority vests in itself any right over land as against some person having an interest in the land, that right shall be binding upon that person's successors in title and persons deriving title under him or them (otherwise than by a disposition

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taking effect before the date of the deed poll) to the same extent as it is, or would have been, binding upon the first-mentioned person.

(3) Sub-paragraphs (1) and (2) above shall apply whether or not (apart from this paragraph) the right in question is capable in law of binding interests in the land other than the interest of the grantor or, as the case may be, the person first mentioned in sub-paragraph (2) above.

(4) Where any right conferred by a deed or other instrument to which sub-paragraph (1) or (2) above applies is transferred by the Authority to a local authority or statutory undertakers, those sub-paragraphs shall after the transfer apply in favour of the local authority or statutory undertakers.

(5) As respects registered land, nothing in this paragraph prejudices the provisions of the Land Registration Acts 1925 to 1971.

3.—(1) The following provisions of this paragraph shall have effect where there has come into force a compulsory purchase order made by the Maplin Development Authority in the exercise of powers conferred by this Act and providing for the acquisition of a right over land and notice to treat in respect of the right has been served on a person having an interest in the land.

(2) A person for the time being entitled to that interest ("the landowner") may, at any time within six weeks of service of the notice to treat, or such longer period as may be agreed in writing by the Authority, but so long only as the notice has not been withdrawn, serve on the Authority a counter-notice requiring it, instead of acquiring the right in question, to acquire his interest so far as it subsists in the land which is shown in the notice to treat as that over which the right is to be acquired.

(3) As from the date of service of the landowner's counter-notice—

(*a*) the compulsory purchase order shall, as against the landowner, cease to have effect so far as it authorises the acquisition of the right in respect of which the counter-notice was served and shall have effect instead so as to authorise the Authority to acquire compulsorily the landowner's interest in the land referred to in sub-paragraph (2) above, and

(*b*) the notice to treat referred to in sub-paragraph (1) above shall be deemed to have been served (on the date on which it was in fact served) in respect of the said interest, instead of in respect of the right (without prejudice to the Authority's power under section 31 of the Land Compensation Act 1961 to withdraw the notice at any time after this sub-paragraph has effect).

1961 c. 33.

(4) Nothing in this paragraph prevents the Authority from exercising any powers (and in particular any power of entry) which it has by virtue of having served notice to treat; and the operation of sub-paragraph (3) above shall not prejudice any such power of the Authority either as respects a previous exercise of it or as respects its continuance by virtue of sub-paragraph (3)(*b*).

4. Section 128 of the Town and Country Planning Act 1971 (consecrated land and burial grounds) shall have effect in relation to any land acquired by the Maplin Development Authority as it has effect in relation to land acquired by a statutory undertaker under Part VI of that Act. SCH. 4 1971 c. 78.

5. Where the Maplin Development Authority is authorised under section 6 of this Act to acquire compulsorily land forming part of a common, open space or fuel or field garden allotment, or rights over such land, it may be authorised under that section to acquire compulsorily land for giving in exchange for the land or rights acquired.

PART II

ADAPTATION OF ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT 1946 1946 c. 49.

6. In paragraphs 7 to 10 below, " the Schedule " means Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946; and in relation to compulsory acquisition of rights by virtue of section 6(3) of this Act that Schedule shall apply with the modifications made by those paragraphs.

7. In paragraph 9 of the Schedule (compulsory purchase affecting land of local authorities, statutory undertakers or National Trust) for references to compulsory purchase of land there shall be substituted references to compulsory acquisition of rights over land.

8. In paragraph 10 of the Schedule (land of statutory undertakers)—

(*a*) for the words " land comprised in the order " there shall be substituted the words " land over which a right is to be acquired by virtue of the order ";

(*b*) for the words " purchase of " there shall be substituted the words " acquisition of a right over ";

(*c*) for the words " it can be purchased and not replaced " there shall be substituted the words " the right can be acquired "; and

(*d*) for sub-paragraph (ii) there shall be substituted the following—

" (ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them ".

9.—(1) In paragraph 11 of the Schedule (common land, open spaces, etc.) the following shall be substituted for sub-paragraph (1)—

" (1) In so far as a compulsory purchase order authorises the acquisition of a right over land forming part of a common, open space, or fuel or field garden allotment, it shall be

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subject to special parliamentary procedure unless the Secretary of State is satisfied—

(*a*) that the land, when burdened with that right, will be no less advantageous to the persons in whom it is vested and to the persons, if any, entitled to rights of common or other rights, and to the public, than it was before; or

(*b*) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or

(*c*) that the land affected by the right to be acquired does not exceed 250 square yards in extent and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly."

(2) In the said paragraph 11, in sub-paragraph (3), for the words from "and for discharging" to the end there shall be substituted the words "and for discharging the land over which any right is to be acquired from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of that right".

10. In paragraph 12 of the Schedule for the words "the purchase of" there shall be substituted the words "the acquisition of a right over".

PART III

1965 c. 56.

ADAPTATION OF COMPULSORY PURCHASE ACT 1965

11. In relation to a compulsory acquisition of a right by virtue of section 6(3) of this Act, the Compulsory Purchase Act 1965 shall apply with the modifications made by paragraphs 12 to 17 below.

12. For section 7 of the Act (measure of compensation) there shall be substituted the following—

"7. In assessing the compensation to be paid by the acquiring authority 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 to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

13. For section 8(1) of the Act (protection for vendor against severance of house, garden etc.) there shall be substituted the following—

"(1) No person shall be required to grant any right over part only—

(*a*) of any house, building or manufactory; or

(*b*) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determines that—

(i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over that part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase".

14. The following provisions of the Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—

section 9(4) (refusal by owners to convey),

Schedule 1, paragraph 10(3) (owners under incapacity),

Schedule 2, paragraph 2(3) (absent and untraced owners), and

Schedule 4, paragraphs 2(3) and 7(2) (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 compulsorily acquired is vested absolutely in the acquiring authority.

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15. Section 11 of the Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority 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) shall be modified correspondingly.

16. Section 20 of the Act (protection for interests of tenants at will, etc.) 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 that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

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