



Medway Ports Authority Act 1973

1973 CHAPTER xxi

PART II

DUTIES AND GENERAL POWERS OF THE AUTHORITY

5 General duties and powers

- (1) It shall be the duty of the Authority—
 - (a) to provide, maintain, operate and improve such port facilities in, or in the vicinity of, the port as they consider necessary or desirable and to take such action as they consider incidental to the provision of such facilities;
 - (b) to take such action as they consider necessary or desirable for or incidental to the maintenance, operation, improvement and conservancy of the port.
- (2) The Authority shall have power either themselves or by arrangement between themselves and another person to take such action as the Authority consider necessary or desirable whether or not in, or in the vicinity of, the port—
 - (a) for the purpose of discharging or facilitating the discharge of any of their duties, including the proper development or operation of the undertaking;
 - (b) for the provision, maintenance and operation of—
 - (i) warehousing services and facilities;
 - (ii) services and facilities for the consignment of goods on routes which include the port;
 - (c) for the purpose of turning their resources to account so far as not required for the purposes of the undertaking.
- (3) Particular powers conferred or particular duties laid upon the Authority by this Act shall not be construed as derogating from each other or from the generality of subsections (1) and (2) of this section.

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6 Jurisdiction of Authority

The Authority and the harbour master shall exercise jurisdiction within the limits of the port and, subject to the provisions of this Act, within the Medway approach area.

7 Power to acquire undertakings

The Authority may acquire by agreement an undertaking providing or intended to provide services or facilities of a kind which the Authority are themselves authorised to provide.

8 Powers relating to land

- (1) The Authority may for the purposes of the undertaking acquire land by agreement, whether by way of purchase, exchange, lease or otherwise.
- (2) The Secretary of State for the Environment may authorise the Authority to purchase compulsorily any land which they require for the purposes of the undertaking and the Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply as if the Authority were a local authority within the meaning of that Act and as if this Act had been in force immediately before that Act.
- (3) The Authority may dispose of land belonging to them in such manner, whether by way of sale, exchange, lease, the creation of any easement, right or privilege or otherwise, for such period, upon such conditions and for such consideration as they think fit.
- (4) The Authority—
 - (a) may, for the purposes of the undertaking, manage, use or develop land belonging to them as they think fit; and
 - (b) in addition may, with a view to selling or otherwise disposing of any right or interest in the land after the development is carried out—
 - (i) retain any land belonging to them which is not required for the purposes of the undertaking and develop it or procure its development for use by other persons; and
 - (ii) where the use of land belonging to them for the purposes of the undertaking can be combined with its use for other purposes, develop the land or procure its development for use wholly or partly by other persons.
- (5) Where the Authority intend to develop or procure the development of land belonging to them for purposes other than the purposes of the undertaking, and are of opinion that the land cannot by itself be developed satisfactorily, they may acquire adjoining land by agreement, whether by way of purchase, exchange, lease or otherwise, for the purpose of developing it or of procuring its development together with the other land.
- (6) Nothing in subsection (2) of this section shall authorise the compulsory acquisition of any operational land of the gas undertakers.
- (7) For the purpose of the acquisition by the Authority of land by agreement, the provisions of Part I (other than sections 4 to 8 and sections 27 and 31) and of subsection (3) of section 38 of the Compulsory Purchase Act, 1965, shall apply to the exclusion of the Lands Clauses Acts, and as if this Act were mentioned in Schedule 6 to the said Act of 1965.

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9 Authority to be local lighthouse authority

The Authority shall be a local lighthouse authority for the purposes of the Merchant Shipping Act, 1894.

10 Powers as to vessels, plant and equipment

The Authority may construct, purchase, contract for or hire and may maintain and use vessels, plant and equipment required by them for carrying out their functions, including tugs for the use and accommodation of vessels, and may sell or dispose of any such vessel, plant or equipment.

11 Power to license tugs, etc.

- (1) (a) The Authority may from time to time license such number of tugs belonging to any person for such period and on such terms and conditions as they think fit.
 - (b) The Authority may charge a fee not exceeding five pounds for the granting of a licence under paragraph (a) of this subsection.
- (2) (a) It shall not be lawful otherwise than in emergency for any person to use or employ any tug for moving vessels within the port unless there is in force in relation thereto a licence granted under paragraph (a) of subsection (1) of this section.
 - (b) Any person who contravenes the provisions of this section shall be liable on summary conviction to a fine not exceeding one hundred pounds.
- (3) In this section " tug " means any vessel other than a vessel of five tons gross or less.

12 Power to operate transport

- (1) Subject to obtaining any licence necessary under Part V of the Transport Act, 1968, the Authority may operate road transport vehicles for the purpose of conveying goods to and from any part of the docks.
- (2) The Authority may operate railways for the purpose of conveying goods or passengers within the docks.
- (3) For the said purposes the Authority may from time to time purchase, contract for or hire and may maintain road or rail transport vehicles and equipment and may sell or dispose of any such vehicles and equipment.

13 Power to hire out plant

The Authority may let upon hire (with or without the services of their employees) on such terms as they think fit any vessel, plant, equipment or other property belonging to them.

14 Power to provide parking places and to make charges

- (1) The Authority may, on any land for the time being vested in or occupied by them, provide and maintain parking places at which vehicles may be left, and may make reasonable charges in respect of any vehicle left at any such parking place or elsewhere on the docks:

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Provided that nothing in this subsection shall apply to a road within the meaning of the Road Traffic Act, 1972.

- (2) If a vehicle is left without the permission of the Authority—
- (a) in a parking place provided under subsection (1) of this section for a longer period than twenty-four hours;
 - (b) in any place within the docks where it is likely to obstruct or interfere with the use of the docks; or
 - (c) in any part of the docks where the parking of vehicles is prohibited by such traffic signs as may be prescribed or authorised for the purpose by the Secretary of State for the Environment in pursuance of his powers contained in sections 54 and 55 of the Road Traffic Regulation Act, 1967, erected by the Authority;
- the Authority may remove the vehicle, or cause it to be removed.
- (3) Any such traffic sign as is referred to in paragraph (c) of subsection (2) of this section shall be conspicuously posted in or in proximity to the place to which it relates.
- (4) Where the Authority in exercise of the powers of subsection (2) of this section remove a vehicle, or cause it to be removed, the expenses of and incidental to the removal shall be recoverable by the Authority from the owner of the vehicle as a simple contract debt in any court of competent jurisdiction.
- (5) If the Authority in exercise of the powers of this section remove a vehicle to a place not readily visible from the place whence it is so removed, they shall, if and as soon as it is reasonably practicable to do so, send to the owner of the vehicle or, if there is no such person or the vehicle does not carry a G.B. registration mark (as defined in the Removal and Disposal of Vehicles Regulations, 1968), to the person who appears to the Authority to be the owner of the vehicle notice in accordance with regulation 13 of the said regulations of 1968 or any other regulation having the like effect for the time being in force that they have exercised the powers of this section and of the place to which the vehicle has been removed.
- (6) A traffic sign conforming to such design as the Secretary of State for the Environment may authorise; for the purpose, stating the general effect of subsection (2) of this section, shall be displayed in a prominent position at each entrance to any parking place provided under subsection (1) of this section.
- (7) (a) In this section—
- " owner " means the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations, 1964, or any other regulations having the like effect for the time being in force and in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement includes the person entitled to possession of the vehicle under the agreement;
 - " vehicle " includes a trailer.
- (b) In relation to a trailer which has been removed by the Authority paragraph (a) of this subsection shall have effect as if for the reference to the person for the time being registered as the owner of the vehicle there was substituted a reference to the owner of the trailer.

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15 Power to provide dwelling-houses and make loans

The Authority may, subject to such terms and conditions as they think fit—

- (a) from time to time erect or provide on any lands belonging to them and may purchase, take on lease or hire elsewhere dwelling-houses for persons employed by them and may (without prejudice to their power to impose other terms and conditions) permit the same to be occupied by such persons with or without payment of any rent;
- (b) permit a person formerly in their employment to continue to occupy a dwelling-house provided by them after his employment with the Authority has ceased and also permit the widow or dependants of such a person to continue to occupy a dwelling-house so provided;
- (c) make loans to persons employed by them to assist such persons to acquire housing accommodation and may guarantee loans made by building societies and other lenders for house purchase purposes to such persons;
- (d) continue a loan made by them to a person formerly in their employment after his employment with the Authority has ceased or the guarantee of a loan given by them in respect of such a person.

16 Returns and statistics

The Authority shall give the Secretary of State for the Environment such returns, statistics and information with respect to the exercise of their powers as he may require.

17 Authority may contract for police

The Authority may contract and agree from time to time with the chief constable and the police authority for the Kent police area for the execution by constables of the police force maintained for that area of police duty within the port or any part thereof on such terms and conditions and for such payment or consideration as the Authority shall think proper and as shall be agreed between them and the said police authority.

18 Powers of interrogation, removal and search

- (1) Any constable or any responsible officer of the Authority may require any person on or seeking access to the docks or any vessel using the docks to state truly his name and address and the nature and place of his business thereon or his purpose thereon or in seeking access thereto and may require any such person to produce for inspection by such constable or officer any pass or other authority which may have been issued to him by or on behalf of the Authority, and any person who fails to comply with any such requirement shall be liable on summary conviction to a fine not exceeding ten pounds.
- (2) Any constable may remove from the port or from any vessel using the port any disorderly person or any person having no right or lawful purpose thereon and may prevent any such person from having access thereto.
- (3) Any officer of Her Majesty's Customs and Excise may detain and search within the port any person or any vehicle, vessel or other property, upon whom or in or about which there is reasonable cause for believing that there may be any uncustomed or prohibited goods.

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19 Power to supply electricity and water

The Authority may supply, or contract for the supply of, electricity and water to vessels entering and using the port, and for use on the docks:

Provided that the Authority shall not supply, or contract for the supply of, electricity in the exercise of the powers of this section except with the consent of the electricity undertakers.

20 General directions to vessels in the port and the Medway approach area

(1) The Authority may, after consultation in each case with the pilotage authority and the Chamber of Shipping of the United Kingdom, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the port and the Medway approach area and, without prejudice to the generality of the foregoing, for any of the following purposes:—

- (a) for designating areas, routes or channels in the port or the Medway approach area which vessels are to use or refrain from using for movement or mooring;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) for prohibiting-
 - (i) entry into or movement in the port or the Medway approach area by vessels at times of poor visibility due to the weather or to the presence of dust or smoke; and
 - (ii) entry into the port or the Medway approach area by a vessel which for any reason would be, or be likely to become, a danger to other vessels in the port or the Medway approach area;
- (d) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master in order to effect the objects of this subsection.

(2) Directions given under subsection (1) of this section may apply—

- (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction;
- (b) to the whole of the port or the Medway approach area or to a part designated, or the designation of which is provided for, in the direction; and
- (c) at all times or at times designated, or the designation of which is provided for, in the direction;

and every direction made under this section shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c) of this subsection.

(3) The Authority may, after consultation with the pilotage authority and the Chamber of Shipping of the United Kingdom, revoke or amend directions given under this section.

21 Special directions to vessels in the port and the Medway approach area

(1) A direction under this section may be given for any of the purposes set out in subsection (2) of this section by the harbour master to a vessel anywhere in the port or the Medway approach area and to a vessel prior to its entering the port from a dock.

(2) A direction under this section may be given for any of the following purposes:—

- (a) requiring a vessel to comply with a requirement made in or under a general direction;

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- (b) regulating or requiring for the ease, convenience or safety of navigation the movement, mooring or unmooring of a vessel;
- (c) regulating for the safety of navigation the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores.

22 Directions to vessels at the docks

- (1) The Authority may give directions applicable to all vessels, or to a specified class of vessels, at the docks, for the purpose of ensuring the safety of vessels at the docks, preventing injury to persons at, or to property at, or forming part of, the docks or of securing the efficient conduct of the business carried on at the docks and, without prejudice to the generality of the foregoing, such directions may relate to—
 - (a) the movement, berthing or mooring of a vessel;
 - (b) the dispatch of its business at the dock;
 - (c) the disposition or use of its appurtenances or equipment;
 - (d) the use of its motive power;
 - (e) the embarking or landing of passengers;
 - (f) the loading or discharging of cargo, fuel, water or ship's stores;
 - (g) the use of ballast.
- (2) The harbour master may give a direction requiring the removal from a dock of a vessel if—
 - (a) it is on fire;
 - (b) it is in a condition where it is liable to become immobilised or waterlogged, or to sink;
 - (c) it is making an unlawful or improper use of the dock;
 - (d) it is interfering with the use of the dock by other vessels, or is otherwise interfering with the proper use of the dock or the dispatch of business therein;
 - (e) the removal is necessary to enable maintenance or repair work to be carried out to the dock or to an adjacent part of the dock.
- (3) The harbour master may give a direction to a vessel at the docks for the following purposes:—
 - (a) any of the purposes referred to in subsection (1) of this section;
 - (b) requiring the vessel to comply with a general direction made under this section. .
- (4) In this section reference to a vessel at a dock includes reference to a vessel entering or about to enter a dock and to a vessel leaving or having just left a dock.

23 Publication of general directions

- (1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Authority once in Lloyd's List and Shipping Gazette newspaper or some other newspaper specialising in shipping news, and, if the notice relates to the giving or amendment of a general direction, shall state a place at which copies of the direction may be inspected and bought and the price thereof.

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- (2) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the harbour master considers appropriate.

24 Manner of giving special directions

A special direction may be given in any reasonable manner considered appropriate.

25 Master's responsibility to be unaffected

The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

26 Failure to comply with directions

- (1) The master of a vessel who fails to comply with a general or special direction shall be liable to a fine not exceeding two hundred pounds.
- (2) It shall be a defence to the master of a vessel charged with an offence under subsection (1) of this section to prove that he had reasonable ground for supposing that compliance with the direction in question would be likely to imperil his vessel or any person for whom he is responsible or that in the circumstances compliance was impracticable.

27 Enforcement of directions

- (1) Without prejudice to any other remedy available to the Authority, if a special direction is not complied with within a reasonable time, the harbour master may, where practicable, put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.
- (2) If there is no one on board a vessel to attend to a special direction, the harbour master may proceed as if the direction had been given and not complied with:
Provided that the powers of this subsection shall not be exercised—
- (a) in relation to a vessel other than a lighter, unless after reasonable inquiry has been made the master cannot be found; or
 - (b) in relation to a lighter, unless it is obstructing the access to or exit from a dock or otherwise interfering with navigation.
- (3) Expenses incurred by the Authority in the exercise of the powers conferred by subsection (1) of this section shall be recoverable by the Authority as a simple contract debt.

28 Obstruction of harbour master and others

Any person who obstructs or interferes with the harbour master or with any officer or servant of the Authority in the exercise of his powers or the performance of his duties under this Act shall be liable on summary conviction to a fine not exceeding fifty pounds.

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29 Hydrographic surveys within the Medway approach area

- (1) The Authority may carry out such surveys of the bed of the river Thames within the Medway approach area as they consider necessary or desirable.
- (2) The Authority shall publish all surveys made by them under this section.

30 Further powers within the Medway approach area

- (1) The Authority may from time to time place and lay down such buoys and beacons as they consider necessary within the Medway approach area.
- (2) All byelaws made or deemed to have been made by the Authority from time to time under section 78 (General byelaws) and section 79 (Byelaws as to lights and signals, etc.) of this Act for the regulation of the port and the navigation thereof, and for prescribing the lights and signals to be carried, exhibited or made by vessels shall extend and apply within the Medway approach area.
- (3) Subject to the provisions of this Act, the Authority may within the port and the Medway approach area require the owner or occupier of any structure below the level of high water to exhibit on or near that structure and keep burning every night from sunset to sunrise such lights and take such other steps for the prevention of danger to navigation as they shall from time to time direct.

31 Priority for Her Majesty's vessels

- (1) In this section—
 - " Her Majesty's vessels " includes vessels for the time being in the service of Her Majesty;
 - " the Queen's harbour master " means the person for the time being appointed to be Queen's harbour master of the dockyard port of Chatham under the Dockyard Ports Regulation Act, 1865.
- (2) The Queen's harbour master may within the river and the Medway approach area require priority for the movement of any of Her Majesty's vessels.
- (3) When one of Her Majesty's vessels is to be afforded priority by virtue of a requirement under the last foregoing subsection, the Queen's harbour master shall inform the harbour master of such requirement as soon as is reasonably practicable and the harbour master shall take such steps as are open to him to ensure that other vessels are kept out of the way of the vessel to which the requirement relates.
- (4) (a) When one of Her Majesty's vessels is exhibiting—
 - (i) in the case of a submarine, on the bridge superstructure;or
 - (ii) in the case of any other vessel, at the foremast head; such light by night or such signal by day as may be respectively prescribed for the time being for the purposes of this section by the Queen's harbour master, all other vessels under way within the river and the Medway approach area shall keep out of the way of that vessel and of any tug which may be in attendance upon her.
- (b) Where the Queen's harbour master prescribes any light or signal for the purposes of this subsection he shall give written notice thereof to the Authority accordingly and the Authority shall take such steps as they may deem

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expedient for causing the contents of such notice to be made known to parties affected thereby.

- (c) If the master of any vessel acts in contravention of the provisions of paragraph (a) of this subsection, he shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

32 Repair of landing places and embankments

- (1) The Authority may by notice require the owner or occupier of a landing place or embankment which in the opinion of the Authority is, or is likely to become, by reason of its insecure condition or want of repair—
 - (a) dangerous to persons or vessels using the port;
 - (b) injurious to the condition of any navigable waterway within the port; or
 - (c) a hindrance to the navigation of the port;to remedy its condition to the satisfaction of the harbour master within a reasonable time specified in the notice.
- (2) If a person to whom notice is given under this section fails to comply with the notice within the time stated in the notice or, if he appeals and the appeal is not allowed, within the time stated in the notice or such other time as the court may substitute therefor—
 - (a) he shall be liable on summary conviction to a fine not exceeding one hundred pounds and to a daily fine not exceeding ten pounds; and
 - (b) the Authority may carry out the work they consider necessary to remedy the condition of the landing place or embankment in question and may recover the expenses of so doing from the person on whom the notice was served as a debt in any court of competent jurisdiction.
- (3) A notice under subsection (1) of this section shall have annexed to it a copy of this section.
- (4) A person aggrieved by a notice served by the Authority under subsection (1) of this section may appeal to a magistrates' court.
- (5) Nothing in this section shall relieve any person acting on the requirement of the Authority from liability for damage caused by him to any electricity work, gas work or sewerage work.

33 Removal of obstructions

- (1) The Authority may remove anything, other than a vessel or any wreck within the meaning of Part IX of the Merchant Shipping Act, 1894, causing or likely to become an obstruction or impediment in any part of the port.
- (2) (a) If anything removed by the Authority under subsection (1) of this section is so marked as to be readily identifiable as the property of any person, the Authority shall within one month of its coming into their custody give notice, as required by subsection (5) of this section, to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period vest in the Authority.
 - (b) If anything removed by the Authority under subsection (1) of this section which is not so marked is not within three months of its coming into the custody of the Authority proved to the reasonable satisfaction of the Authority to belong to any person, it shall thereupon vest in the Authority.

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- (3) The Authority may at such time and in such manner as they think fit dispose of anything referred to in paragraph (b) of subsection (2) of this section which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Authority under this section, and if it is sold the proceeds of sale shall be applied by the Authority in payment of the expenses incurred by them under this section in relation to the thing, and any balance—
- (a) shall be paid to any person who within three months from the time when the thing came into the custody of the Authority proves to the reasonable satisfaction of the Authority that he was the owner thereof at that time; or
 - (b) if within the said period no person proves his ownership at the said time, shall vest in the Authority.
- (4) If possession of anything removed under this section is retaken or if anything so removed—
- (a) is sold by the Authority and the proceeds of sale are insufficient to reimburse the Authority for the amount of the expenses incurred by them in the exercise of their powers of removal; or
 - (b) is unsaleable;
- the Authority may recover as a debt in any court of competent jurisdiction the whole of the expenses or the deficiency, as the case may be, from the person who was the owner at the time when the thing removed came into the custody of the Authority or who was the owner at the time of its abandonment or loss.
- (5) A notice given under paragraph (a) of subsection (2) of this section shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Authority possession may be retaken at a place named in the notice within the time specified in the notice, being not less than fourteen days after the date when the notice is served.
- (6) (a) The Authority shall not under the powers of this section remove anything placed or constructed by the river authority or any drainage authority or by a local authority or any statutory undertakers in the exercise of their functions under any enactment or by virtue of a consent or licence given or issued by the Authority or their predecessors and for the time being in force.
- (b) In this subsection " statutory undertakers " means the Post Office and any company, body or person authorised by any enactment to supply electricity, gas or water.

34 Reclaiming creeks, etc.

The Authority may fill up, raise and reclaim creeks, inlets, bends, mud flats, sands and sloblands in and adjoining the port, and for that purpose may place piles in the port and construct groynes, retaining walls and other works in or upon the bed and banks of the port notwithstanding interference with public rights of navigation and other public rights:

Provided that the Authority shall not exercise the powers of this section—

- (a) in relation to any land not owned by them unless they first obtain the consent in writing of the owner thereof; or
- (b) in relation to any part of the port in front of or adjoining land belonging to Her Majesty in right of the Crown or to a government department or held in trust

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for Her Majesty for the purposes of a government department and protected by section 86 (Crown rights) of this Act without the consent in writing of the Crown Estate Commissioners or the government department, as the case may be.

35 Works in the port

The Authority may lay down, maintain and operate in and over the port such works and equipment as are required for or in connection with the exercise by them of any of their functions.

36 Power to dredge

- (1) Subject to the provisions of this Act, the Authority may from time to time deepen, dredge, scour and improve the bed and foreshore of the waters of the port and blast any rock in the port.
- (2) Any material taken up or collected in the course of such operations shall be the property of the Authority and may be used, sold, removed, deposited or otherwise disposed of as the Authority may think fit :

Provided that no such material shall be laid down or deposited in any place below the level of high water, except in such position as the Secretary of State may approve and subject to such conditions or restrictions as he may impose.

- (3) (a) In the exercise of the powers conferred by this section the Authority shall not interfere with, damage or injuriously affect any electricity work, gas work or sewerage work without the consent of the electricity undertakers, the gas undertakers or the sewerage board, as the case may be.
 - (b) Before operations for deepening, dredging, scouring or improving the bed and foreshore of the port or blasting any rock are carried out under the powers of this section within 150 yards of any subaqueous cable belonging to or used by the Post Office, electricity work, gas work or sewerage work where blasting operations are involved, or in any other case within 50 yards of any such cable, electricity work, gas work or sewerage work, the Authority shall give in writing to the Post Office, the electricity undertakers, the gas undertakers or the sewerage board, as the case may be, not less than twenty-eight days' notice of their intention so to do.
 - (c) No materials taken up or collected shall be laid down or deposited in such a place or manner as to cover any such subaqueous cable, electricity work, gas work or sewerage work or in any way obstruct or impede any work of or connected with the inspection, maintenance, removal, renewal or repair of such a cable, electricity work, gas work or sewerage work without the written consent of the Post Office, the electricity undertakers, the gas undertakers or the sewerage board, as the case may be.

37 Licensing of works

- (1) The Authority may upon such terms and conditions as they think fit grant to any person a licence to construct, alter, renew, extend or maintain any works on, under or over tidal waters or tidal lands below the level of high water in the port notwithstanding interference with public rights of navigation and other public rights by such works as constructed, altered, renewed, extended or maintained.

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- (2) Application for a works licence shall be made in writing to the Authority and shall be accompanied by plans, sections and particulars of the works to which the application relates and shall specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefit of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted, and in granting any such licence the Authority may require modifications in the plans, sections and particulars so submitted.
- (3) If within three months from the date of the making of an application under subsection (2) of this section the Authority do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.
- (4) For the purposes of section 7 of the Telegraph Act, 1878, any work proposed to be done under a works licence shall be deemed to be work proposed to be done in the execution of an undertaking authorised by an Act of Parliament.
- (5) In the exercise of the powers conferred by a works licence, the holder of the licence shall not damage or injuriously affect any electricity work, gas work or sewerage work or, without the consent of the electricity undertakers, the gas undertakers or the sewerage board, as the case may be, interfere with or adversely affect the operation of any such work.

38 Licence to dredge

- (1) The Authority may upon such terms and conditions as they think fit grant to any person a licence to dredge in any part of the bed and foreshore of the waters of the port.
- (2) Application for a dredging licence shall be made in writing to the Authority and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence and in granting any such licence the Authority may require modifications in the plans, sections and particulars so submitted.
- (3) If within three months from the date of the making of an application under subsection (2) of this section the Authority do not grant a dredging licence in accordance with the application, they shall be deemed to have refused the application.
- (4) The issue of a licence under this section shall not confer statutory authority for the carrying out of the work covered by the licence.
- (5) Any materials taken up or collected by means of dredging in pursuance of a dredging licence shall be the property of the holder of the licence and he may use, sell or otherwise dispose of or remove or deposit the same as he thinks fit:

Provided that—

- (a) no such materials shall be laid down or deposited in an)' place below the level of high water except in such position as may be approved by the Authority and subject to such conditions or restrictions as may be imposed by the Authority;
- (b) if it appears to the holder of a dredging licence that the Authority have unreasonably withheld their approval under paragraph (a) of this proviso or that any restriction or regulation imposed by the Authority under that paragraph is unreasonable, he may appeal to the Secretary of State whose decision shall be binding upon the parties;
- (c) no such materials shall be laid down or deposited in any place or manner so as to cover any subaqueous cable belonging to or used by the Post Office or

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to impede in any way the inspection, maintenance, removal or renewal of any such cable.

- (6) In the exercise of the powers conferred by a dredging licence the holder of the licence shall not interfere with, damage, injuriously affect or adversely affect the operation of—
- (a) any electricity work without the consent of the electricity undertakers;
 - (b) any gas work without the consent of the gas undertakers;
- or
- (c) any sewerage work without the consent of the sewerage board.
- (7) Not less than twenty-eight days before the exercise of any powers under a dredging licence within a distance of 50 yards of any subaqueous cable belonging to or used by the Post Office, the holder of the licence shall give notice in writing to the Post Office of such intended exercise.

39 Appeals in respect of works licence or dredging licence

- (1) Any applicant for a works licence or a dredging licence who is aggrieved by—
- (a) the refusal of the Authority to grant the licence;
 - (b) any terms or conditions upon which the licence is granted;
 - (c) any modifications required by the Authority in the plans, sections and particulars submitted by the applicant;
- may, within twenty-eight days from the date upon which the Authority notify the applicant of their decision or the date on which the Authority are under subsection (3) of section 37 (Licensing of works) of this Act or subsection (3) of section 38 (Licence to dredge) of this Act deemed to have refused the application, appeal to the appropriate Minister whose decision shall be binding upon the parties.
- (2) A person who appeals to the appropriate Minister under this section shall give to the Authority notice of his appeal accompanied by a copy of his statement of appeal and the Authority shall within twenty-eight days from the receipt of such notice be entitled to furnish the appropriate Minister with their observations on the appeal.
- (3) (a) On an appeal under this section the appropriate Minister may—
- (i) dismiss the appeal; or
 - (ii) require the Authority to grant the licence upon such terms and conditions as the appropriate Minister may determine; or
 - (iii) require the Authority to approve the plans, sections and particulars without modification or subject to such modifications as the appropriate Minister may determine.
- (b) The Authority shall give effect to any requirement made by the appropriate Minister under paragraph (a) of this subsection.
- (4) In this section " the appropriate Minister " means—
- (a) in the case of an appeal by the applicant for a works licence, the Secretary of State;
 - (b) in the case of an appeal by the applicant for a dredging licence, the Secretary of State for the Environment.

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40 Restriction on construction of works and dredging

- (1) No person shall—
- (a) construct, alter, renew or extend any works on, under or over tidal waters or tidal lands below the level of high water in the port unless he is licensed so to do by a works licence and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with the plans, sections and particulars approved in pursuance of section 37 (Licensing of works) or section 39 (Appeals in respect of works licence or dredging licence) of this Act;
 - (b) dredge, dig or raise any gravel, sand, clay or other substance in the bed and foreshore of the waters of the port unless he is licensed so to do by a dredging licence and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with the plans, sections and particulars approved in pursuance of section 38 (Licence to dredge) or section 39 (Appeals in respect of works licence or dredging licence) of this Act:

Provided that this subsection shall not apply to the construction, alteration, renewal or extension of any works or any dredging specifically authorised by any enactment.

- (2) Any person offending against the provisions of this section or who contravenes or who fails to comply with any term or condition upon which a works licence or a dredging licence, as the case may be, is granted by the Authority shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.
- (3) A works licence shall not be required for the carrying out, construction, placing, alteration, renewal, maintenance or retention of any work by the river authority or any drainage authority in the exercise of their functions under any enactment and a dredging licence shall not be required by the river authority or any drainage authority in the exercise of their functions under any enactment.
- (4) Nothing in this section shall affect the powers of the Post Office under the Telegraph Acts, 1863 to 1916.

41 Crown property

Without prejudice to the provisions of section 86 (Crown rights) of this Act, a person licensed by the Authority under section 37 (Licensing of works) or section 38 (Licence to dredge) of this Act to carry out any work or to dredge in, upon or from any part of the bed of the port belonging to Her Majesty shall, in addition to the licence of the Authority, require the consent of the Crown Estate Commissioners on behalf of Her Majesty to carry out the work or to dredge.

42 Provision against danger to navigation

- (1) In case of injury to or destruction or decay of a tidal work or any part thereof the Authority shall forthwith notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.
- (2) If the Authority fail to notify Trinity House as required by this section or to comply in any respect with a direction given under this section they shall be liable on

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summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

43 Abatement of works abandoned or decayed

- (1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Authority at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.
- (2) Where a work consisting partly of a tidal work and partly of works of the Authority on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.
- (3) If, on the expiration of thirty days from the date when a notice under this section is served upon the Authority, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Authority as a simple contract debt.

44 Survey of tidal works

The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work or of the site upon which the Authority propose to construct a tidal work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Authority as a simple contract debt.

45 Permanent lights on tidal works

- (1) The Authority shall exhibit on each tidal work every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House shall from time to time direct.
- (2) If the Authority fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

46 Powers with respect to disposal of wrecks

- (1) In their application to the Authority, sections 530 and 532 of the Merchant Shipping Act, 1894, shall have effect—
 - (a) subject to the provisions of section 47 (Protection of Crown interests in wrecks) of this Act; and
 - (b) in relation to a vessel sunk, stranded or abandoned before as well as after the passing of this Act.

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- (2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting his liability, the Authority may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under the said section 530 or the said section 532 any expenses reasonably incurred by them under those sections in relation to that vessel which are not reimbursed out of the proceeds of sale (if any) within the meaning of those sections.
- (3) Except in a case which is in the opinion of the Authority a case of emergency, subsection (2) of this section shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530, other than the power of lighting and buoying, the Authority have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so; and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under paragraph (b) of subsection (2) of the said section 47 he shall be at liberty to do so, and the Authority shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Authority.
- (4) Notice under subsection (3) of this section to the owner of any vessel may be served by the Authority either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom, or, if the owner or any such place of business or abode is not known to the Authority or is not in the United Kingdom, by displaying the notice at the principal office of the Authority for the period of its duration.
- (5) Except in a case which is, in the opinion of the Authority, a case of emergency, the Authority shall, before raising, removing or destroying under the powers conferred upon them by the said section 530 any vessel sunk, stranded or (abandoned in the port or in or near any approach thereto and within a distance of 200 yards of any subaqueous cable belonging to or used by the Post Office, give to the Post Office in writing as long notice as is practicable of their intention to do so.
- (6) In this section the expression " owner " in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof.

47 Protection of Crown interests in wrecks

- (1) Without prejudice to section 741 of the Merchant Shipping Act, 1894, the powers conferred on the Authority by sections 530 and 532 of the said Act of 1894 shall not be exercisable—
 - (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
 - (b) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in paragraph (b) of subsection (2) of this section, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to

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Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—

- (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
- (ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The Authority shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Trade and Industry of any decision of the Authority to exercise in relation to any vessel referred to in paragraph (b) of subsection (1) of this section any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of the Authority a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State for Defence and the Secretary of State for Trade and Industry before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Authority a direction by the Secretary of State for Defence or the Secretary of State for Trade and Industry that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where, in any such case as aforesaid, the Authority proceed to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if, before the expiration of the period aforesaid, such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of section 46 (Powers with respect to disposal of wrecks) of this Act:

Provided that—

- (i) the Authority shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of subsection (1) of this section, but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the said section 46 to have been duly served under paragraph (b) of this subsection;
- (ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Secretary of State for Trade and Industry for the purposes of this proviso.

(3) Without prejudice to the powers of sale conferred on the Authority by the said section 530, the Authority shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section, in accordance with such directions (if any) as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property the Authority shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Authority under that section.

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- (4) Any limitation on the powers of the Authority in relation to any vessel arising by virtue of subsection (1) or subsection (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on Trinity House by section 531 of the said Act of 1894.

48 Power to appropriate lands and works for particular trades, etc.

- (1) The Authority may for the purposes of or in connection with the management of the port from time to time set apart and appropriate any lands, docks, quays, wharves, jetties, piers, berths, floats, slipways, yards, warehouses, buildings, sheds, landing stages, tips, staiths, cranes, pipeways, machinery, equipment, works and conveniences in the port belonging to them for the exclusive, partial or preferential use and accommodation of any particular trade, authority, body, company, person, vessel or class of vessels or goods subject to the payment of such rents and subject to such terms, conditions and regulations as the Authority may think fit.
- (2) No authority, body, company, person or vessel shall make use of any lands, docks, quays, wharves, jetties, piers, berths, floats, slipways, yards, warehouses, buildings, sheds, landing stages, tips, staiths, cranes, pipeways, machinery, equipment, works and conveniences so set apart or appropriated without the consent of the harbour master, and the harbour master may order any person or vessel making use thereof without such consent to leave or be removed, and the provisions of section 58 of the Harbours Clauses Act, 1847, shall extend and apply mutatis mutandis to and in relation to any such vessel.