

ELIZABETH II



1972 CHAPTER xxiii

An Act to transfer the undertaking of the River Wear Commissioners to the mayor, aldermen and burgesses of the borough of Sunderland; and for other purposes.
[27th July 1972]

WHEREAS—

(1) The borough of Sunderland (in this Act called “the borough”) is a county borough under the government of the mayor, aldermen and burgesses of the borough (in this Act called “the Corporation”):

(2) By virtue of various Acts of Parliament the River Wear Commissioners (hereinafter referred to as “the commissioners”) are authorised to exercise certain powers for the improvement and conservancy of the river Wear and the port of Sunderland and are the owners of docks, quays, wharves, railways, works, lands and other property:

(3) The consolidated revenue of the commissioners, which before the year 1914 was more than sufficient to meet all the charges thereon and the ordinary current expenditure of the commissioners and the interest on mortgages granted by them and on their funded debt, subsequently became greatly diminished and therefore by the Wear Navigation and Sunderland Dock (Finance) Act 1920 the Corporation were authorised to make 1920 c. cxi. up deficiencies in the revenue of the commissioners and in addition

at any time to advance by way of loan to the commissioners such sums of money as the commissioners might for the time being be authorised to borrow and might be desirous of borrowing from the Corporation on such terms and conditions as might be agreed between the Corporation and the commissioners:

(4) By the said Act of 1920 the Corporation were further authorised to guarantee the repayment of and the payment of interest upon money borrowed or to be borrowed by the commissioners in such manner as might be agreed between the Corporation and the commissioners with the proviso that the Corporation should not advance any such money or give any such guarantee after the year 1929:

1927 c. xcvi.
1935 c. cxxv.
1943 c. iv.

(5) By the Sunderland Corporation Act 1927, the Sunderland Corporation Act 1935 and the Sunderland Corporation Act 1943, the period within which the said powers might be exercised was extended, and by the Sunderland Corporation Act 1963 the said proviso was repealed:

1963 c. vii.

(6) Accounts for the year ended 31st December, 1971, showed that the commissioners are directly indebted to the Corporation to the extent of £1,050,000 secured by second mortgages on the consolidated revenue of the commissioners. A further £1,645,270 has been advanced to the commissioners from other sources, which sum is guaranteed by the Corporation. The commissioners have £370,561 further debt not guaranteed by the Corporation, comprising 4½ per cent. Funded Debt, 3 per cent. Funded Debt and the Protecting Piers Loan Debt:

(7) The prosperity of the borough is largely dependent on the proper maintenance and operation of the port, harbour and dock works managed by the commissioners and it is expedient to provide for the transfer of the undertaking of the commissioners to the Corporation as in this Act provided and to enact the other provisions contained in this Act with regard thereto:

(8) Agreement has been reached between the Corporation and the commissioners for the transfer of the undertaking of the commissioners to the Corporation:

(9) It is expedient that the other provisions contained in this Act be enacted:

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

1933 c. 51.

(11) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

(12) A map marked "Map of the Port" was in the month of November, 1971, deposited in the office of the Clerk of the Parliaments, House of Lords, in the Private Bill Office of the House of Commons and in the office of the town clerk of the

borough and a copy of such map has been deposited in the office of the Secretary of State for Trade and Industry and such map is in this Act referred to as "the deposited map":

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

PART I
PRELIMINARY

1.—(1) This Act may be cited as the Sunderland Corporation Act 1972. Short title and commencement.

(2) (a) The following provisions of this Act shall come into operation on the passing of this Act:—

- (i) Part I (Preliminary);
- (ii) Section 6 (Management of undertaking of commissioners up to date of transfer); and
- (iii) Section 109 (Costs of Act).

(b) The provisions of this Act, other than those mentioned in the foregoing paragraph, shall come into operation on the date of transfer.

2. This Act is divided into Parts as follows:—

- Part I.—Preliminary.
- Part II.—Transfer of undertaking and dissolution of commissioners.
- Part III.—Duties and powers of Corporation as harbour undertakers.
- Part IV.—The quay line and meer stones.
- Part V.—Provisions relating to the docks.
- Part VI.—Officers of commissioners.
- Part VII.—Handling and warehousing of goods, etc.
- Part VIII.—Byelaws, etc.
- Part IX.—Charges.
- Part X.—Finance.
- Part XI.—Miscellaneous.
- Part XII.—Savings and protective provisions.
- Part XIII.—General.

Division of Act into Parts.

3.—(1) In this Act the several words and expressions to which meanings are assigned by section 343 of the Public Health Act 1936, have the same respective meanings unless there be something in the subject or context repugnant to such construction. Interpretation. 1936 c. 49.

PART I
—cont.

1847 c. 27.

(2) In this Act unless the subject or context otherwise requires—
“the Act of 1847” means the Harbours, Docks and Piers
Clauses Act 1847;

“apparatus” means—

(a) in relation to the electricity undertakers,
electricity works;

(b) in relation to the Post Office, subaqueous cables
belonging to, or used by the Post Office; and

(c) in relation to the water company, mains, pipes
and other apparatus belonging to, or maintained by,
the water company;

and includes any works constructed for the lodging
therein of apparatus;

“the borough” means the county borough of Sunderland;

“the commissioners” means the River Wear Commissioners;

“contravention” includes a failure to comply and “contra-
vene” shall be construed accordingly;

“the Corporation” means the mayor, aldermen and
burgesses of the borough;

“daily fine” means a fine for each day on which an offence
is committed after conviction thereof;

“the date of transfer” means the 1st October, 1972;

“the deposited map” means the map of the port referred
to in the preamble to this Act;

“the docks” means all the docks for the time being vested in
the Corporation, and includes tidal and other basins,
locks, entrances, piers, quays, wharves, warehouses,
offices, buildings, approaches, railways and other works,
lands and conveniences for the time being vested in the
Corporation as harbour undertakers;

1952 c. 44.

“duties of customs and excise” includes any tax, levy,
surcharge or other sum to the collection of which the
general provisions of the Customs and Excise Act 1952
have been applied by statute;

“the electricity undertakers” means the Central Electricity
Generating Board and the North Eastern Electricity
Board, or either of them, as the case may be;

“electricity work” means any electric line, apparatus,
building, structure or other work of any nature belonging
to or maintained by the electricity undertakers;

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

“the general rate fund” and “the general rate” mean respectively the general rate fund and the general rate of the borough;

PART I
—cont.

“goods” includes livestock, minerals, merchandise, articles and things of all descriptions;

“harbour master” means the harbour master of the Corporation and includes his authorised deputies and assistants and any person authorised by the Corporation to act in that capacity;

“level of high water” means the level of mean high-water springs;

“magistrates’ court” has the same meaning as in the Magistrates’ Courts Act 1952;

1952 c. 55.

“meer stones” means the meer stones set down and fixed by order of the surveyor nominated by the Admiralty, for the purpose of indicating the limits of the navigation of the river on the sides thereof;

the port” has the meaning assigned to it by section 13 (Limits of the port) of this Act;

“port facilities” means services and facilities for or in connection with the berthing, moving or dry-docking of vessels, the loading or unloading of goods or the embarking or disembarking of passengers in or from vessels, the lighterage, sorting, weighing, warehousing or handling of goods, and the movement of goods and passengers;

“the port undertaking” means the undertaking of the Corporation authorised by this Act;

“quay line” means the line or boundary on each side of the main channel of the river as marked at the date of the passing of this Act on the survey and map or chart made and deposited with the Corporation pursuant to the Act 59 George 3 chapter cvi or as altered under the powers of this Act or any previous enactment;

“the river” means so much of the river Wear as extends from an imaginary line (drawn across that river near South Biddick from National Grid reference point 430920553430 to National Grid reference point 430960553470) to the sea, including the tidal area enclosed by the Roker Pier and the New South Pier and an imaginary line between the extremities of those piers;

“tidal work” means so much of any work vested in the Corporation by this Act as is on, under or over tidal waters or tidal lands below the level of high water;

“town clerk” means the town clerk of the borough;

PART I
—cont.

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the undertaking of the commissioners” means the undertaking of the commissioners as existing on the date of transfer including—

(a) all lands, buildings, works, vessels, plant, apparatus, vehicles, stores and chattels;

(b) all investments, securities, book debts, deposits, bank balances and cash;

(c) the benefits of, and liabilities under, all agreements (other than contracts for the employment of officers) in force immediately before the date of transfer;

(d) all registers, books of account and vouchers relating thereto, maps, plans, specifications, engineering or other reports and other documents;

(e) all rights, powers, easements, interests and privileges; and

(f) all other real and personal property, assets and effects then vested in or belonging to the commissioners;

“vessel” has the meaning assigned thereto by subsection (3) of this section;

“the water company” means the Sunderland and South Shields Water Company.

(3) In this Act and the enactments incorporated therewith “vessel” means every description of vessel, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water and—

(a) without prejudice to the generality of the foregoing, includes a hovercraft (as defined in section 4 of the Hovercraft Act 1968) on, in or over the water; and

(b) except for the purpose of levying rates, includes a seaplane on or in the water.

(4) Except where the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any enactment including this Act.

1968 c. 59.

Incorporation
of Act of
1847.

4.—(1) Subject to the provisions of subsection (4) of this section, the provisions of the Act of 1847 (except sections 6 to 19, 23, 25 and 26, 28, 42, 48, 49, 50, 84 to 90, 95, 97 and 98 and 101), so far as the same are applicable for the purposes of, and are not inconsistent with the provisions of, this Act, are hereby incorporated with and form part of this Act.

(2) In construing the provisions so incorporated the expressions “the Promoters of the undertaking” and “the undertakers” shall mean the Corporation, and the expression “the harbour, dock or pier” shall mean the port.

PART I
—cont.

(3) The purposes for which the Corporation may purchase lands by agreement under the provisions of section 20 of the Act of 1847 shall include the erection of piers, quays, and jetties within the limits of the port and the enlargement of any of the docks.

(4) In their application to the port by virtue of this section, the sections of the Act of 1847 mentioned in Schedule 1 to this Act shall have effect as if the maximum fine which may be imposed on summary conviction of any offence specified in that section were a fine not exceeding the amount specified in column 4 of that schedule instead of a fine of, or not exceeding, the amount specified in column 3 of that schedule.

PART II

TRANSFER OF UNDERTAKING AND DISSOLUTION OF COMMISSIONERS

5. The undertaking of the commissioners shall by virtue of this Act and without any deed of conveyance or other assurance become and be vested in the Corporation subject to all debts, liabilities and obligations of the commissioners which shall be subsisting immediately before the date of transfer and accordingly as from that day any provision in any enactment shall, in so far as it relates to the port and with any necessary modifications, apply in relation to the Corporation as if for references therein to the commissioners there were substituted (except where the context prevents such a construction) references to the Corporation.

Transfer of
undertaking
of com-
missioners.

6. Until the date of transfer the undertaking of the commissioners shall be managed and carried on in the ordinary course of business.

Management
of under-
taking of
commissioners
up to date
of transfer.

7. Stamp duty shall not be chargeable under section 12 of the Finance Act 1895 (which relates to stamp duty in connection with certain statutory conveyances), on any copy of this Act or on any instrument relating to the vesting of the undertaking of the commissioners in the Corporation by virtue of section 5 (Transfer of undertaking of commissioners) of this Act.

Exemption
from stamp
duty.
1895 c. 16.

8. The commissioners are hereby dissolved.

Dissolution
of com-
missioners.

9. All charges and moneys which immediately before the date of transfer were due or payable to the commissioners in respect of the undertaking of the commissioners may be levied, collected,

Recovery of
charges due
to under-
taking of
commissioners.

PART II
—cont.

As to
authorisations
under
section 9
of Harbours
Act 1964.
1964 c. 40.

National
Ports Council
levy.
S.I. 1965/2196.

Amendment
of accounts
regulations.
S.I. 1969/1295.

sued for and recovered by the Corporation in the same manner as they might have been levied, collected, sued for and recovered by the commissioners if this Act had not been passed.

10. As from the date of transfer any authorisation under section 9 of the Harbours Act 1964 granted by the Secretary of State to the commissioners shall have effect as if it had been granted to the Corporation.

11. As from the date of transfer the liability of the commissioners under the provisions of the National Ports Council Provision of Funds Scheme 1965 to pay any sum for which a demand has been issued to them under article 3 of that scheme shall be transferred to, and become the liability of, the Corporation.

12. The Statutory Harbour Undertakings (Form of Accounts etc.) (General) Regulations 1969 are hereby amended by the deletion, from Schedule 1 to those regulations, of the reference to the commissioners.

PART III

DUTIES AND POWERS OF CORPORATION AS
HARBOUR UNDERTAKERS

Limits of
the port.

13.—(1) The port and haven of Sunderland shall be deemed to include—

(a) an area bounded to the north by an imaginary line extending from the promontory or point described on the 1.25000 ordnance map of Sunderland (Provisional Edition, sheet NZ 36) as Souter Point in the direction of $80^{\circ} 00'$ (from T.N.) into the sea for a distance of 1,600 feet from the line of high water shown on that map and bounded to the south by an imaginary line extending from the point marked "B.P." immediately to the south of the mouth of Ryhope Dene on the said ordnance map of Sunderland (Provisional Edition, sheet NZ 35) in the direction of $81^{\circ} 55'$ (from T.N.) into the sea for a distance of 3,650 feet from the line of high water shown on that map and bounded to the east by an imaginary line between the eastern extremities of the lines described above; and

(b) the docks; and

(c) the river;

which together are in this Act referred to as "the port".

(2) For the purpose of better identification the seaward limits of the port described in paragraph (a) of subsection (1) of this section are delineated on the deposited map and the waters included within the port are shown thereon coloured blue:

Provided that in case of difference between the foregoing description and the limits of the port as delineated on the deposited map, the latter shall prevail.

PART III
—cont.

14. The Corporation are hereby constituted the harbour undertakers and they and the harbour master shall exercise jurisdiction within the port.

Constitution and jurisdiction of Corporation as harbour undertakers.

15.—(1) It shall be the duty of the Corporation—

General duties and powers.

- (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 and improvement of the port.

(2) The Corporation as harbour undertakers shall have power either themselves or by arrangement between themselves and another person to take such action as the Corporation 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 port 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 port undertaking.

(3) Particular powers conferred or particular duties laid upon the Corporation by this Act shall not be construed as derogating from each other or from the generality of subsections (1) and (2) of this section.

16.—(1) Subject to the provisions of section 106 (Crown rights) of this Act and to the other provisions of this Act, the Corporation may—

Power to dredge.

- (a) deepen, dredge, scour and improve the bed and foreshore of the waters of the port, or in or near any approach to the port, and blast any rock in the bed and foreshore of the waters of the port or in or near any approach to the port;
- (b) alter, deepen, restrict, enlarge, widen, diminish, lengthen, shorten, straighten and improve the bed and channel of the river;

PART III
—cont.

(c) shorten any bend or remove any angle in the course of the river and for such purpose enter into agreements with the owners of land adjoining or in or near to the river for the purchase of land or otherwise to enable them to effect the same.

(2) The Corporation may purchase, contract for or hire and may maintain and use vessels, plant and equipment for the purpose of exercising the powers conferred by this section and may sell or dispose of any such vessel, plant or equipment.

Removal of
obstructions,
repair of
quays, etc.

17.—(1) It shall be the duty of the owner and occupier of every wharf, staith, quay, wall, embankment or other work within the limits of the port to keep such wharf, staith, quay, wall, embankment or other work in good repair and in proper order and condition.

(2) No person shall cause or permit any nuisance in the port or any obstruction to navigation therein.

(3) The Corporation may by notice in writing addressed to the person causing or permitting any nuisance in or obstruction to the river or to the owner or occupier of any such wharf, staith, quay, wall, embankment or other work which is out of repair or in dangerous or defective order or condition require such person, owner or occupier to abate such nuisance or to remove such obstruction or to repair or put into proper order or condition such wharf, staith, quay, wall, embankment or other work (as the case may be) and if any person shall refuse or neglect to comply with any such requirement within the period specified in the notice and to the reasonable satisfaction of the Corporation he shall be liable to a fine not exceeding two hundred pounds and to a daily fine not exceeding twenty pounds.

(4) Where the commission by any person of an offence under this section is due to the act, omission or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence under this section whether or not proceedings are taken against the first-mentioned person.

(5) The owner of any wharf, staith, quay, wall, embankment or other work which is leased to or in the occupation of any other person and the agents, servants and workmen of such owner may enter and continue upon such wharf, staith, quay, wall, embankment or other work for the purpose of complying with any requirement of the Corporation under the provisions of this section without being guilty of trespass.

(6) Nothing in this section shall relieve any person acting on the requirement of the Corporation from liability for damage caused by him to any electricity work or any apparatus of the water company.

18. The Corporation 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 under this Act.

PART III
—cont.
Works in the
port.

19.—(1) All rock, stone, shingle, sand, mud and other materials excavated, dredged up or removed for the purposes of this Act shall be the property of the Corporation and they may sell or otherwise dispose of or remove or deposit the same as they may think fit:

Disposal of
excavated and
dredged
materials.

Provided that no rock, stone, shingle, sand, mud or other materials shall be laid down or deposited in any place below the level of high water otherwise than in such position and under such restrictions as may be fixed by the Secretary of State for Trade and Industry.

(2) All money arising from any sale or other application of any rock, stone, shingle, sand, mud or other materials under this Act shall be applied as part of the revenues of the port.

20. Whenever the navigation of the port is obstructed by any tree, bush, shrub or projection the Corporation may by notice require the owner or occupier of the land on which such tree, bush, shrub or projection grows or is fixed to cut, prune or lop such tree, bush or shrub or to remove such projection so that the navigation of the port be not obstructed thereby.

As to cutting
trees
obstructing
navigation.

21.—(1) In their application to the Corporation as harbour authority, sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the Corporation with respect to and with respect to anything in or on any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to navigation in the port or in or near any approach thereto) shall have effect—

Powers with
respect to
disposal of
wrecks.
1894 c. 60.

- (a) subject to the provisions of section 22 (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 making of this Act.

(2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting their liability, the Corporation 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.

PART III
—cont.

(3) Except in a case which is in the opinion of the Corporation 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 Corporation 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 the Corporation 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 22 he shall be at liberty to do so, and the Corporation 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 Corporation.

(4) Notice under subsection (3) of this section to the owner of any vessel may be served by the Corporation either by delivering it to him or by sending it to him by 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 Corporation or is not in the United Kingdom, by displaying the notice at the offices of the town clerk for the period of its duration.

(5) 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.

Protection of
Crown
interests in
wrecks.
1894 c. 60.
1906 c. 48.

22.—(1) Without prejudice to section 741 of the Merchant Shipping Act 1894, as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906, the powers conferred on the Corporation 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 Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—

PART III
—cont.

(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 Corporation 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 Corporation to exercise, in relation to any vessel referred to in paragraph (b) of the foregoing subsection, 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 Corporation 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 Corporation 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 Corporation 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 paragraph (a) of subsection (1) of the last foregoing section:

Provided that—

(i) the Corporation 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 the foregoing subsection, 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 paragraph (b) of subsection (1) of the last foregoing section to have been duly served under paragraph (b) of this subsection;

PART III
—cont.

(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 power of sale conferred on the Corporation by the said section 530, the Corporation 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 Corporation 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 Corporation under that section.

(4) Any limitation on the powers of the Corporation 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.

Licensing of
works.

23.—(1) The Corporation may upon such terms and conditions as they think fit grant to any person a licence (in this Act referred to as a “works licence”) to construct, alter, renew, extend, maintain, remove or demolish 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 so constructed, altered, renewed, extended or maintained.

(2) Application for a works licence shall be made in writing to the Corporation and shall be accompanied by plans, sections and particulars of the works to which the application relates, and in granting any such licence the Corporation 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 Corporation do not grant a works licence in accordance with the application they shall be deemed to have refused the application.

1878 c 76.

(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) So much of any works constructed, altered, renewed or extended under a works licence as is not in any local authority

area shall be deemed for all purposes to be within the local authority area to which it is nearest.

PART III
—cont.

(6) In the exercise of the powers conferred by a works licence, the holder of the licence shall not interfere with, damage or injuriously affect any apparatus without the consent of the electricity undertakers, the Post Office or the water company, as the case may be.

24.—(1) The Corporation may upon such terms and conditions as they think fit grant to any person a licence (in this Act referred to as a “dredging licence”) to dredge in any part of the bed and foreshore of the waters of the port. Licence to dredge.

(2) Application for a dredging licence shall be made in writing to the Corporation and shall be accompanied by plans, sections and particulars defining the nature and 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 Corporation 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 Corporation do not grant a dredging licence in accordance with the application, they shall be deemed to have refused the application.

(4) 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 any place below the level of high water except in such position as may be approved by the Corporation and subject to such conditions or restrictions as may be imposed by the Corporation;
- (b) if it appears to the holder of the licence that the Corporation have unreasonably withheld their approval under paragraph (a) of this proviso or that any condition or restriction imposed by the Corporation under that paragraph is unreasonable, he may appeal to the Secretary of State for Trade and Industry whose decision shall be binding upon the parties.

(5) In the exercise of the powers conferred by a dredging licence, the holder of the licence shall not interfere with, damage or injuriously affect any apparatus, without the consent of the electricity undertakers, the Post Office or the water company, as the case may be.

PART III

—cont.

Appeals in
respect of
works licence
or dredging
licence.

25.—(1) Any applicant for a works licence or a dredging licence who is aggrieved by—

- (a) the refusal of the Corporation to grant the licence;
- (b) any terms or conditions upon which the licence is granted;
- (c) any modifications required by the Corporation in the plans, sections and particulars submitted by the applicant;

may, within twenty-eight days from the date upon which the Corporation notify the applicant of their decision or the date on which the Corporation are under subsection (3) of section 23 (Licensing of works) of this Act or subsection (3) of section 24 (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 Corporation notice of his appeal accompanied by a copy of his statement of appeal and the Corporation 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 Corporation to grant the licence upon such terms and conditions as he may determine; or
- (iii) require the Corporation to approve the plans, sections and particulars without modification or subject to such modifications as he may determine.

(b) The Corporation 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 for Trade and Industry;
- (b) in the case of an appeal by the applicant for a dredging licence, the Secretary of State for the Environment.

26.—(1) No person shall—

- (a) construct, alter, renew, extend, maintain, remove or demolish 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

Restriction
on con-
struction of
works and
dredging.

section 23 (Licensing of works) or section 25 (Appeals in respect of works licence or dredging licence) of this Act;

PART III
—cont:

- (b) dredge in any part of 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 24 (Licence to dredge) or section 25 (Appeals in respect of works licence or dredging licence) of this Act:

Provided that this subsection shall not apply to the construction, alteration, renewal, extension, maintenance, removal or demolition of any works, or to the carrying out of any dredging by the Northumbrian River Authority, or any dredging, specifically authorised by any enactment.

(2) Any person offending against the provisions of this section or who contravenes any term or condition upon which a works licence or a dredging licence, as the case may be, is granted by the Corporation shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

27. A person licensed by the Corporation under section 23 (Licensing of works) or section 24 (Licence to dredge) of this Act to carry out works or dredging and raising of gravel, sand, ballast and other substances in, upon or from any part of the shore or bed of the river belonging to Her Majesty or a government department shall, in addition to the licence of the Corporation, require the consent in writing of the Crown Estate Commissioners on behalf of Her Majesty or of the relevant government department, as the case may be, to carry out works or to dredge and raise gravel, sand, ballast and other substances. Crown property.

28. The Corporation may supply, or contract with statutory water undertakers for the supply of, water to vessels entering and using the port, and for use on the docks. Power to supply water.

29. The Corporation may from time to time purchase, contract for or hire and may maintain and use tugs and may sell or dispose of any such tugs. Power to undertake towage services.

30.—(1) Subject to obtaining any licence necessary under Part V of the Transport Act 1968, the Corporation may operate road transport vehicles for the purpose of conveying goods to and from any part of the docks. Power to operate transport. 1968 c. 73.

(2) The Corporation may operate railways for the purpose of conveying goods within the docks.

PART III
—cont.

Power to
hire out
plant.

31. The Corporation may for the purposes of the port undertaking 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.

Power to
provide
parking
places and
to make
charges.

32.—(1) The Corporation may, for the purposes of the port undertaking and 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:

1967 c. 76.

Provided that nothing in this subsection shall apply to a road within the meaning of the Road Traffic Regulation Act 1967.

(2) (a) A vehicle shall not be left—

- (i) without the permission of the Corporation in a parking place provided under subsection (1) of this section for a longer period than twenty-four hours;
- (ii) 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 in pursuance of his powers contained in sections 54 and 55 of the Road Traffic Regulation Act 1967;
- (iii) in any place within the docks where it is likely to cause an obstruction to traffic using the docks;

and where the owner or driver or person in control or in charge of a vehicle fails to remove the vehicle within the time allowed by sub-paragraph (i) of paragraph (a) of this subsection or leaves the vehicle in contravention of sub-paragraph (ii) or sub-paragraph (iii) of paragraph (a) of this subsection (as the case may be) the Corporation may remove the vehicle or use the services of any other person to remove the vehicle to a place of safe custody.

(b) Any such traffic sign as is referred to in sub-paragraph (ii) of paragraph (a) of this subsection shall be conspicuously posted in or in proximity to the place to which it relates.

(3) When the Corporation in exercise of the powers of subsection (2) of this section remove a vehicle, or use the services of any other person to remove a vehicle, the expenses of and incidental to the removal and affording safe custody shall be recoverable by the Corporation from the owner of the vehicle as a simple contract debt in any court of competent jurisdiction.

(4) If the Corporation remove a vehicle under the powers of this section they shall, if and as soon as it is reasonably practicable so to do, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1955, at his last known

S.I. 1955/1664

address, his registered address or at the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this section and of the place to which the vehicle has been removed.

(5) A traffic sign conforming to such design as the Secretary of State may authorise for the purpose, stating the general effect of paragraph (a) of subsection (2) of this section, shall be displayed in a prominent position at each entrance to any parking place provided by the Corporation under this section.

33.—(1) The Corporation may, for the purposes of the port undertaking, lay, place and maintain along and across the quays, bridges, lands and approaches belonging to the Corporation rails and turntables or other like conveniences for facilitating the carriage and removal of goods along the said quays and for the removal and deposit of sand, ballast, gravel and other materials or matters and may cause any rails to be carried over or across any street. Power to lay down rails.

(2) The Corporation may, for the purposes of the port undertaking, as they shall think fit remove all or any of such rails or turntables or alter and vary the same.

(3) Where any such rails shall cross any public highway on a level therewith the edges or flanges of such rails for the purpose of guiding the wheels of the carriages thereupon shall not rise above nor sink below the level of such highway more than 1 inch.

(4) The Corporation may, for the purposes of the port undertaking, permit any such rails and turntables as aforesaid to be used on such terms and under such regulations as they from time to time deem reasonable.

(5) (a) Before any such rails are laid across any public highway on the level the Corporation shall obtain the approval of the Secretary of State, but the Secretary of State shall not withhold his approval if he is satisfied that the use of the railway or works in question will not be attended with avoidable danger to the public

(b) The Secretary of State may, as a condition of his approval, require the provision of gates or barriers across the highway or the railway or other protective measures in order to ensure that there is adequate protection for the public.

(c) The Secretary of State may direct any such inspection to be made as he considers necessary for enabling him to decide whether his approval ought to be given in any case arising under this section, and sections 3 and 4 of the Regulation of Railways Act 1871 (which sections relate to the appointment and powers of inspectors of railways) shall apply to any such inspection. 1871 c. 78.

34. Subject and without prejudice to the provisions of this Act the Corporation may, for the purposes of the port undertaking, enter into arrangements with any person for the construction upon lands of the Corporation by the Corporation and Arrangements for the provision of warehouses and other facilities.

PART III
—cont.

any such person jointly or severally of warehouses, sheds, lines of rail sidings, turntables, cranes and machinery and all such conveniences, connections and appliances as may be necessary or suitable for the transit, passage or interchange of traffic upon, to and from the lands of the Corporation or for the use and maintenance by or appropriation to any such person or company of any such works and also arrangements with such person respecting the loading and unloading and transmission of their goods and minerals upon, to or from any such lands and works and the employment of officers and servants for any such purposes, and as to the payment by any such person of tolls, rents, rates, duties and charges in respect of any of the matters aforesaid to which such arrangements relate.

For
preventing
obstructions
to rails.

35.—(1) No goods shall be allowed or permitted to remain upon nor shall any obstruction be caused to any of the rails or turntables of the Corporation as harbour undertakers. If any obstruction shall be caused to such rails or turntables or any of them it shall be lawful for the Corporation or any of their servants to remove the goods or other matters causing such obstruction and to detain the same until the charges of removal and detention shall be paid by the owner or person having charge of such goods or other matters and if such charges be not paid by such owner or persons as aforesaid within three days after demand made or if no such owner or person can be found such goods may be sold by the Corporation and the charges and expenses of such removal, detention and sale may be deducted out of the proceeds of such sale.

(2) Any demand made under the foregoing subsection for the payment of charges shall contain notice of the power of sale conferred by this section.

(3) The provisions of this section shall not apply to any rails or turntables laid down or placed on any public highway.

Power to fix
buoy at
Hendon Rock.

36. The Corporation may fix and maintain or remove a beacon or buoy upon Hendon Rock.

Lights
detrimental
to navigation.

37.—(1) The Corporation may by notice require a person placing or using in or near the port a light which is, in their opinion, likely to mislead persons navigating in or near the port or to interfere with the safe navigation of vessels, to screen, alter, extinguish or remove the light within a reasonable time specified in the notice.

(2) A person who—

(a) fails to comply with a notice given under this section; or

(b) after complying replaces or again uses the light or places or uses in lieu thereof another light in respect of which the Corporation would be entitled to give a notice under this section;

PART III
—cont.

shall be guilty of an offence and liable to a fine not exceeding fifty pounds and to a daily fine not exceeding five pounds.

PART IV

THE QUAY LINE AND MEER STONES

38. The survey and map or chart showing the quay line made pursuant to the Act 59 George 3 chapter cvi shall be placed and remain in the custody of the town clerk and shall be kept and preserved by him and the same shall be deemed public documents to which all persons desirous of inspecting the same shall have free access at all proper and reasonable times by application at the office of the town clerk.

Plan showing
quay line.

39. The Corporation may from time to time alter the quay line and may direct if they think fit a new map or chart to be made and a quay line to be laid down thereon and the new map or chart shall be deposited with the town clerk and the quay line on any such new map or chart shall be deemed for all purposes to be substituted for the quay line as previously laid down and the provisions of this Act relating to the quay line shall extend and apply to the quay line from time to time adopted by the Corporation and to any alteration in the quay line in as full and ample a manner as they apply to the quay line as laid down at the date of the passing of this Act:

As to
alteration of
quay line.

Provided that—

- (i) every such new or altered quay line shall be first approved by the Secretary of State for Trade and Industry; and
- (ii) the alteration of the quay line shall not prejudice or affect or authorise the Corporation otherwise than by agreement to interfere with any dock, basin, quay, wharf, staith, jetty or other erection or embankment whatsoever or other work made or in course of construction in accordance with this Act previous to the adoption of the new or altered quay line.

40. If any person shall cover up, remove or displace any of the meer stones or any of the posts set down and fixed to denote the quay line such person shall in every such case be liable on summary conviction to a fine not exceeding one hundred pounds.

Penalty for
removing
posts or
meer stones.

41. It shall not be lawful for any company, body or person to make or construct any embankment, enclosure or other works so as to obstruct the free course or navigation of the river nor except with the consent of the Corporation in each case to erect,

Restriction
on rights of
landowners to
construct
docks, etc

PART IV
—cont.

build or make within the port any dock, basin, quay, wharf, staith, jetty or other like erection whatsoever:

Provided that between the quay line and the meer stones it shall be lawful for the owner or occupier of any land adjoining the river subject to such restrictions and regulations as are in this Act contained to make, construct or erect any embankment, enclosure, dock, basin, quay, wharf, staith, jetty or other erection or works.

As to
construction of
works between
quay line and
meer stones.

42.—(1) Where the owner or occupier of any land adjoining the river proposes to make or erect any dock, basin, quay, wharf, staith, jetty or other erection, embankment, enclosure or other works between the quay line and the meer stones he shall give at least two months' previous notice in writing thereof to the Corporation and shall deliver to them with the notice proper and sufficient plans, sections and specifications of the proposed works and if the plans, sections and specifications so delivered are in the opinion of the Corporation insufficient or improper shall amend the same accordingly.

(2) Where sufficient plans, sections and specifications of the proposed works are delivered to the Corporation they shall take the matter into consideration and if they are satisfied that the proposed works would be between the quay line and the meer stones and would not be injurious or likely to be injurious to the navigation of the river or to the port they may grant permission for the making or erecting, maintaining and using of the proposed works:

Provided that—

- (a) the Corporation if they think fit may withhold the permission or may grant the permission with respect to part only of the proposed works and may grant the permission on any terms or conditions which they think fit; and
- (b) the permission if granted shall be in writing under the hand of the town clerk and shall be delivered to the owner or occupier desirous of making or erecting the proposed works on his request for the same.

(3) Where the owner or occupier feels himself aggrieved by any determination of the Corporation with respect to the proposed works he may appeal against the same to the Secretary of State for Trade and Industry and the said Secretary of State may make such inquiries and call for and consider such evidence and such reports thereon as he may think proper and may make such order on the appeal and as to the costs occasioned thereby and the payment thereof as he may think fit and every such order shall be binding on the owner or occupier and the Corporation respectively and shall be performed and observed accordingly.

(4) Where the making, erecting or maintaining of the proposed works would lessen the water space between the quay line and the meer stones the making or erecting of the proposed works shall not in any case be permitted unless in the judgment of the Corporation or as the case may be of the said Secretary of State due provision be made for securing at all times a proper and sufficient equivalent water space elsewhere within the quay line.

PART IV
—cont.

(5) Where on an application by an owner or occupier under this section the Corporation withhold permission for the proposed works and the applicant does not appeal against their determination or on appeal fails to obtain permission for the proposed works then if the proposed works or any of them are made or erected by any person such person shall be liable on summary conviction to a fine not exceeding two hundred pounds and to a daily fine not exceeding fifty pounds:

Provided that the Corporation may if they think fit either in lieu of or in addition to instituting proceedings for a penalty under the provisions of this section themselves remove such works and make good the site thereof and may recover from the person making or erecting such works the expenses incurred by them in effecting such removal and making good.

(6) If any person makes or erects any such works as aforesaid between the quay line and the meer stones without having made application to the Corporation in accordance with the foregoing provisions of this section he shall be liable on summary conviction to the like fines as are referred to in subsection (5) of this section and the proviso to that subsection shall apply for the purposes of this subsection.

PART V

PROVISIONS RELATING TO THE DOCKS

43. The Corporation shall at all times maintain the bridges constructed over the northern entrances to the Hudson Dock for use free of toll as a means of passage between the west and east sides of Hudson Dock by all such persons as are not precluded from access to the docks under the provisions of section 44 (Power to close entrances to docks) of this Act.

Corporation
to maintain
bridges over
entrances to
Hudson Dock.

44. The Corporation may erect and maintain gates for closing the landward entrances to the docks and may keep the said gates closed whenever and for so long as they think fit and may prevent access to the docks by persons who are not—

Power to
close
entrances
to docks.

- (i) engaged in or in business connected with the docks; or
- (ii) engaged in or in business connected with the premises of any tenant of the Corporation in the docks; or

PART V
—cont.

(iii) employed on or engaged in or bona fide seeking business in connection with any vessel in the docks.

Power to appoint meters and weighers.

45. The Corporation shall have the appointment of meters and weighers in the docks.

Power to take water from river.

46.—(1) Subject to the provisions of this Act it shall be lawful for the Corporation to cause the waters of the river to flow and proceed to or be diverted into and to supply the docks and for the purposes of or in furtherance of the powers and provisions of this Act when and as the Corporation shall deem it expedient so to do to deepen the beach and bed of the river and to do all such acts and erect and maintain all such works and apparatus as shall be necessary for preserving the depth of water which shall be required by deepening the river but not by means of passing a continuous stream of water direct from the river through the docks into the sea.

1963 c. 38.

(2) Nothing in this section shall exempt the Corporation from the provisions of the Water Resources Act 1963.

Additional power to harbour master to regulate the position of vessels.

47. In addition to the powers conferred by the Act of 1847 on the harbour master he may, if the docks are so full or crowded with vessels lying up as to prevent, impede or render inconvenient the export or import trade of the docks or the vessels entering or leaving the same, require the master or owner of any such vessel so lying up as aforesaid to remove it into any other more convenient part of the docks or into the river for such time as he may see fit and if the master or owner is unable or unwilling to do so, or if it is impracticable to communicate with the master or owner of the vessel, it shall be lawful for the harbour master so to remove that vessel:

Provided that such vessels so removed shall not be liable by reason of such removal into the river or back again into the docks to the charges payable on vessels entering or leaving the docks.

Appropriation of berths.

48.—(1) Notwithstanding the provisions of section 33 of the Act of 1847, the Corporation may appropriate a particular berth or berths in the docks for the use of vessels of a particular owner or engaged in particular trades and where either—

(a) a charge for the appropriation is made pursuant to subsection (2) of this section; or

(b) the appropriation relates only to a berth or berths at a dock or wharf which the Corporation in exercise of the powers conferred on them by section 84 (Power to lease, etc.) of this Act have leased or licensed to the owner of the vessels;

any vessel covered by the appropriation shall, to such extent as the Corporation may determine, have priority in the use of the berth or berths as against other vessels.

(2) The Corporation may make a reasonable charge against the owner of a vessel for the appropriation of a particular berth or berths.

49. If any goods, which are required by the laws for the time being relating to customs and excise to be entered and which shall be brought into the docks on board vessels, shall not be duly entered with an officer of Her Majesty's Customs and Excise within seven days next after the vessel importing the said goods shall have been reported to the Customs House in Sunderland, then, and in every such case, it shall be lawful for the officer of the Corporation appointed for that purpose on the next ensuing day (not being a Sunday, Christmas Day, Good Friday, the Queen's birthday or a bank holiday) to cause such goods to be forthwith entered, landed and warehoused (if they be such goods as by the laws relating to customs and excise for the time being are permitted to be warehoused) in the presence of an officer of Her Majesty's Customs and Excise who is hereby authorised and directed to take a true and particular account of the quantity, quality and species thereof and in case such goods shall not be duly exported or the duties on such goods shall not be paid and discharged within one month next after such report as aforesaid it shall be lawful for the Commissioners of Customs and Excise and they are hereby authorised and empowered to sell and dispose of such goods or any part thereof to answer and satisfy the duties thereon rendering the overplus (if any) of the moneys arising by such sale after payment of the freight and of any rates, charges or expenses which may be due to the Corporation, to the owner of such goods on demand:

Corporation
may land
goods not
duly entered
after the
expiration of
seven days.

Provided that if a price cannot be obtained for such goods equal to the full amount of the duties of customs or excise payable thereon and the charges of the sale thereof and freight rates, charges or expenses as aforesaid then and in such case all such goods shall be effectually destroyed or otherwise be sold and disposed of in such manner and for such purposes and under such rules, regulations and restrictions as the Commissioners of Customs and Excise may direct.

50. Whenever the dispatch of business shall be obstructed by the neglect or delay of the master or owner of any vessel or the owner or consignee of any cargo in making or passing due entries for such cargo or some part or parts thereof it shall be lawful for an officer of the Corporation to cause a warehousing entry or entries to be made for the inward cargo or any part or parts of such inward

Corporation
empowered to
enter goods
if not entered
by the owners
thereof.

PART V
—cont.

cargo (as to such parts thereof as are by the laws relating to customs and excise for the time being permitted to be warehoused) of any vessel lying within the docks for which an entry shall not have been made by the owner thereof and for which the customs order for delivery shall not have been lodged with the officer of Her Majesty's Customs and Excise within the docks within forty-eight hours from the day on which the cargo of such vessel shall have been reported at the Customs House in Sunderland, such entry to be made according to the marks, numbers, package or packages, qualities, quantities or contents of such cargo or part or parts thereof as shall be described in the report of the cargo of any such vessel (such goods being such as by law may be warehoused) and forthwith to land and warehouse (both or either as the case may be) such goods and retain the same as a security for the payment of the duties to which they may be subject and of the rates and sums payable thereon to the Corporation together with the rent and freight due thereupon.

Such goods not liable to seizure for inaccuracy in entry.

51. No goods entered by the Corporation or their officer as aforesaid shall be liable to seizure or forfeiture by reason of any inaccuracy in the entry thereof unless it shall appear to the Commissioners of Customs and Excise that such inaccuracy was intentional or occasioned by wilful or culpable negligence and it shall be lawful for the Corporation to detain any goods being in the possession of the Corporation so entered as aforesaid until the person applying for the delivery or transfer thereof shall have lodged with the Corporation a counterpart of the bill of lading which shall have been signed for the same at the port of loading.

As to jurisdiction of borough justices.

52. For all purposes of or in connection with the jurisdiction of the justices of the borough the docks shall be deemed to be within the borough.

Officers of Customs and Excise and Department of Trade and Industry to have access to docks without payment of toll.

53. All officers of Her Majesty's Customs and Excise or of the Department of Trade and Industry in the execution of their duty shall have free ingress and egress into and out of the docks and through the gates and entrances of the same and may freely pass with their vessels through the locks and water communications of the docks at all times (provided the state of the tide and water communications of the docks will admit of such passing) without payment of any toll or sum for so doing.

PART VI

OFFICERS OF COMMISSIONERS

Transfer of officers.

54.—(1) As from the date of transfer the Corporation shall take over and employ every officer who immediately before that

day was employed whole-time by the commissioners in so far as such persons are then willing to enter the service of the Corporation.

(2) Every officer transferred by the foregoing subsection to the employment of the Corporation shall, so long as he continues in that employment by virtue of the transfer and until he is served with a statement in writing of new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before the date of transfer. The said new terms and conditions shall be such that—

(a) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before the date of transfer, the scale of his salary or remuneration; and

(b) the other terms and conditions of his employment;

are not less favourable than those he enjoyed immediately before the date of transfer, and any question whether duties are reasonably comparable as aforesaid shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964. 1964 c. 16. The statement of new terms and conditions shall contain information that any question shall be so determined and as to the person and address to whom any question should be referred.

In this subsection “terms and conditions of employment” includes any restriction arising under any Act or any instrument made under any Act on the termination of the employment of any officer.

(3) A written statement given in accordance with subsection (1) of section 4 of the Contracts of Employment Act 1963 shall not be regarded as a statement of new terms and conditions of employment for the purpose of the last foregoing subsection unless the statement so indicates. 1963 c. 49.

55.—(1) Any officer of the commissioners who suffers any loss of employment or loss or diminution of emoluments or pension rights in consequence of any of the provisions of this Act shall be entitled to make a claim for compensation to be determined in accordance with the Harbour Reorganisation (Compensation to Employees) Regulations 1967 or such other regulations made under subsection (1) of section 19 of the Harbours Act 1964 as are for the time being in force in the same manner as if this Act were a harbour reorganisation scheme within the meaning of section 18 of the said Act of 1964. Compensation for loss of office, etc. S.I. 1967/1889. 1964 c. 40.

PART VI
cont.

(2) For the purposes of the said regulations of 1967 the compensating authority shall be the Corporation and the material date shall be—

- (i) in the case of regulation 3, the date of the passing of this Act; and
- (ii) in the case of any other of the regulations, the date of transfer.

Preservation
of gratuities.

56. Any gratuity by way of periodical payments being paid immediately before the date of transfer by the commissioners to a person previously employed by them or the spouse or dependants of such a person shall on and after the date of transfer continue to be paid by the Corporation instead of the commissioners in accordance with the terms and arrangements relating to such gratuity in operation immediately before the date of transfer and, following the death of any such person, the Corporation shall make such payments to his spouse or dependants as, in accordance with the terms and arrangements in operation immediately before the date of transfer, the commissioners would have made if this Act had not been passed.

PART VII

HANDLING AND WAREHOUSING OF GOODS, ETC.

Licensing
of foy
boatmen.

57.—(1) The Corporation may—

- (a) license on such conditions (not being conditions as to the charges to be made) as they may determine such foy boatmen as they think proper for the purposes of running lines and assisting in the mooring and unmooring of vessels; and
- (b) require a person so licensed to give such security for the proper discharge of his duties as the Corporation consider satisfactory.

(2) Any person who acts as a foy boatman in the port except under and in accordance with a licence issued by the Corporation under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

Appeals.

58.—(1) Any applicant for a licence under section 57 (Licensing of foy boatmen) of this Act who is aggrieved by—

- (a) the withholding of a licence by the Corporation under the said section; or
- (b) any conditions upon which the licence is granted;

may, within twenty-eight days from the date upon which the Corporation notify the applicant of their decision, appeal to the Secretary of State whose decision shall be final.

(2) Any appeal under this section shall be made by notice in writing to the Secretary of State and copies of such notice shall be served on the Corporation and such other persons as the Secretary of State may direct.

(3) On any appeal under this section the Secretary of State shall, if either the person aggrieved or the Corporation so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) On the determination of an appeal under subsection (1) of this section the Secretary of State may confirm the decision of the Corporation or give directions to the Corporation for giving effect to his determination and the Corporation shall comply with such directions.

(5) Where any decision of the Corporation against which a right of appeal is conferred by the foregoing provisions of this section makes it unlawful for any person to carry on a business he was lawfully carrying on up to the time of the decision, that person may continue to carry on that business for a period of three months after the expiration of the time for appealing or, if an appeal is made, after the appeal is determined or withdrawn.

59.—(1) Except in case of emergency, the owner or master of a vessel carrying any dangerous goods shall, when that vessel enters the port, give notice to the harbour master of the nature and quantity of dangerous goods carried in the vessel and, if such notice is not given, the owner or master of the vessel shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds.

(2) Where the owner or master of a vessel is charged with an offence under subsection (1) of this section it shall be a defence to prove that he did not know and could not, with reasonable diligence, have ascertained the nature of the goods in respect of which the proceedings are taken.

60. The Corporation shall not be responsible for the safety of any goods deposited in any part of the docks not specifically set apart by them for the purposes of warehousing.

Liability
for safety
of goods.

PART VII
—cont.

Power to
remove
goods.

61. The Corporation may remove, or cause to be removed, any goods remaining on or in any part of the docks after the expiry of any periods prescribed by the Corporation to their own or any other public warehouse or store, and such removal shall be carried out at the expense and risk of the owner:

Provided always that—

- (a) notwithstanding such removal or placing in store, such goods shall be liable to a general lien for the cost of removal, and for any charges payable to the Corporation by the owner; and
- (b) the power of the Corporation for preventing the removal of goods until the cost of removal, and the charges, have been paid, shall extend and apply to any goods removed or placed in store under the provisions of this section.

Power to give
directions as
to loading or
unloading
of certain
goods.

62.—(1) The Corporation may designate any dock, wharf or other work, or any portion thereof, for the loading and unloading of any goods to which this section applies.

(2) Where pursuant to subsection (1) of this section, the Corporation have designated a place for the loading or unloading of goods of any description the harbour master may direct that goods of that description intended to be loaded on board or unloaded from a vessel shall not be deposited or received elsewhere than at the place so designated and may direct the time at which and manner in which such loading or unloading may take place and in the event of any person disobeying any such direction the Corporation may remove the goods to the place so designated, and any expense incurred by them in so doing may be recovered by them from that person as a simple contract debt in any court of competent jurisdiction.

(3) The goods to which this section applies are goods in bulk and goods the nature or character of which is such as, in the opinion of the Corporation, to give rise to special risk of contamination, taint, stain, injury or danger to other goods or to persons, or to necessitate the provision of special facilities for, or special precautions in relation to, the handling thereof or for the safety, protection, welfare or accommodation of persons employed in or in connection with such handling.

PART VIII

BYELAWS, ETC.

Power to
make general
byelaws.

63.—(1) Subject to the provisions of this Act the Corporation may make byelaws for all or any of the following purposes:—

- (a) for the purposes specified in section 83 of the Act of 1847;

- (b) for regulating the navigation, berthing and mooring of vessels within the port including their speed and manner of navigation, and the use of tugs within the port and the duties and conduct of the masters and crews of such tugs;
- (c) for regulating the launching of vessels within the port;
- (d) for regulating the use of ferries within the port;
- (e) for regulating the use of yachts, sailing boats, rowing boats, pleasure craft and other small craft and the holding of regattas within the port;
- (f) for prohibiting the use of motor boats (which expression for the purposes of this paragraph means a small craft propelled by mechanical power other than steam) without a licence from the Corporation and for regulating the grant, suspension, and revocation of and the charge to be made for such licences;
- (g) for regulating the use of pontoons, dry docks, slipways and cargo handling appliances within the port;
- (h) for regulating the shipping, transshipping and unshipping, warehousing, stowing, depositing and removing of timber within the docks and the placing of the same in timber ponds or depots and regulating the manner and limiting the period of use of such ponds or depots and of entering or leaving the same;
- (i) for regulating the use of the coal staiths of the Corporation;
- (j) for regulating generally the use of the docks, berths, wharves, quays, piers, jetties, staiths, warehouses, sheds, landing places and other works and conveniences provided by the Corporation and the conduct of persons on board any vessel lying thereat;
- (k) for prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) into the port;
- (l) for preventing and removing obstructions or impediments within the port;
- (m) for regulating traffic on railways within the docks and the use of locomotives thereon;
- (n) for regulating the movement, speed and parking of vehicles within the docks;
- (o) for regulating the admittance of persons to the docks;
- (p) for regulating the movement of goods into, in and out of the docks;

PART VIII
—cont.

(*q*) for prohibiting all persons working or employed in or entering the docks or any part thereof from smoking therein;

(*r*) for regulating the duties and conduct of foy boatmen, licensed in pursuance of this Act.

(2) Any person aggrieved by the withholding, suspension or revocation of a licence under the provisions of byelaws made by virtue of paragraph (*f*) of subsection (1) of this section may appeal to a magistrates' court within twenty-one days after such withholding, suspension or revocation.

(3) In this section "vessel" includes any floating manufactured article.

Power to
make byelaws
as to lights
and signals.

64.—(1) Subject to the provisions of this Act, the Corporation may make byelaws for all or any of the following purposes:—

(*a*) for prescribing the lights and signals to be carried, exhibited or made by vessels while being used, navigated or moored within the port;

(*b*) for prescribing the lights and signals to be exhibited or made by vessels aground within the port;

(*c*) for prescribing the lights and signals to be exhibited or made by wreck-marking vessels or by other devices used for marking obstructions within the port;

(*d*) for prescribing steering and sailing rules for the regulation of vessels used or navigated within or entering or leaving the port;

(*e*) for prescribing the lights and signals to be exhibited or made at the entrance to any dock or at any wharf, pier or other work for assisting the navigation of vessels within the port.

(2) In this section "signals" includes sound signals and "vessel" includes any floating manufactured article.

(3) Different byelaws may be made under this section in relation to different classes of vessel.

Byelaws
relating to
certain
dangerous
goods.
1875 c. 17.
1928 c. 32.

65.—(1) The Corporation may make byelaws as to the loading and discharging by vessels within the port of dangerous goods (which expression in this section and in section 59 (Notice on entry of dangerous goods) of this Act does not include dangerous goods to which byelaws made by the Corporation under the Explosives Act 1875, or the Petroleum (Consolidation) Act 1928,

for the time being apply), and as to the bringing, handling, transport or storage of such goods within the port, and generally as to the precautions to be observed with respect to such goods while within the port, and such byelaws may in particular provide—

- (a) for regulating the places at which vessels are to load or discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;
- (b) for regulating the places at which vessels carrying dangerous goods are to be moored; and
- (c) for the due enforcement of the byelaws.

(2) Where a person is charged with an offence against a byelaw in force under this section it shall be a defence for that person to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and, if that person is charged as the owner or master of a vessel, that in addition all reasonable means were taken by the master to prevent the commission of the offence.

(3) Byelaws made under subsection (1) of this section may contain provisions for the imposing on persons offending against any of the byelaws, on summary conviction, of a fine not exceeding one hundred pounds, and, on conviction on indictment, of a fine not exceeding one thousand pounds.

66. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Local Government Act 1933 shall be the Secretary of State.

Confirming
authority
for byelaws.
1933 c. 51.

67. All byelaws, rules and regulations made by the commissioners in pursuance of any enactment, whether or not repealed by this Act, and in force immediately before the date of transfer shall until amended or revoked by the Corporation continue in full force and effect within the area to which they apply immediately before the date of transfer and such byelaws, rules and regulations may be enforced and all fines incurred thereunder may be recovered in the same manner and to the same effect as byelaws made by the Corporation may be enforced and fines incurred thereunder recovered.

Existing
byelaws
to remain
in force.

PART IX

CHARGES

68. In addition to their power to demand, take and recover ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Corporation may demand, take and recover in

Charges on
certain
floating
articles.
1964 c. 40.

PART IX

—cont.

1964 c. 40.

respect of any floating manufactured article (not being a ship within the meaning of the Harbours Act 1964) entering, using or leaving the port such dues as they think fit; and the provisions of sections 30, 31, 32 and 34 of the Harbours Act 1964 (which require lists of charges to be available for inspection and sale; give a right of objection to ship, passenger and goods dues; empower the Secretary of State to revise such dues; and make supplementary provision in relation to those matters) shall, with any necessary modifications, apply to the dues authorised by this section as they apply to ship, passenger and goods dues.

Charges for
port facilities.

69. The Corporation may demand, take and recover such reasonable charges for port facilities provided by them as they may from time to time determine.

Charges for
admission to
Roker Pier.

70. The Corporation may demand, receive and recover such reasonable sums as they may think fit and direct for the admission of members of the public to Roker Pier.

Conditions
relating to
payment of
charges.

71. Charges shall be payable subject to such conditions as the Corporation may from time to time specify in their published list of charges.

As to
payment of
charges.

72.—(1) The several charges which the Corporation are for the time being authorised to demand, take and recover in respect of vessels and goods under any enactment shall be payable before the removal from the port of any vessel or goods in respect of which they are payable and may be demanded, taken and recovered by such persons, at such places, at such times and under such regulations as the Corporation may appoint.

(2) An officer of Her Majesty's Customs and Excise may refuse clearance of any vessel if he is satisfied that any charges payable to the Corporation in respect of that vessel or any goods therein have not been paid.

(3) Charges payable to the Corporation shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(4) Where charges payable to the Corporation may be recovered by them from more than one person, the said persons shall be jointly and severally liable.

As to
compounded
charges.

73. Nothing in section 30 of the Harbours Act 1964 shall require the Corporation to include, in the list of ship, passenger and goods dues to be kept as required by subsection (1) of that section, any charge reduced by virtue of a compounding arrangement in respect of, or any rebate allowed on, a due included in the said list.

PART IX
—cont.

74. If the owner of any vessel or goods or any other person at any time eludes or evades or attempts to elude or evade payment of, or refuses or without lawful excuse fails to pay, any charges payable by such owner or person to the Corporation at the time when the same become due and payable, he shall be liable to pay to the Corporation a sum equal to three times the amount of such charges, which sum shall be a debt due to the Corporation and shall be recoverable by the Corporation in any court of competent jurisdiction.

Penalty for evading payment of charges.

75. Any person claiming the return of the whole or any part of any charges paid to the Corporation shall make his claim, and produce all documents and give all information required by the Corporation in proof thereof, within three years from the time of payment; and in default thereof the claim shall cease to be enforceable.

Claims for repayment of charges.

76. The owner or person having the charge of any goods warehoused, placed, stored or yarded in a warehouse, transit shed or area, store or yard of the Corporation shall, before the removal of those goods from the warehouse, transit shed or area, store or yard and at such date or dates as shall be fixed by the Corporation, pay such charges as shall be then due and payable on those goods.

Payment of charges on warehoused goods.

77. The Corporation may, if they think fit, require any person liable, or who will become liable, to pay charges to the Corporation to deposit with them or to guarantee such sum as, in the opinion of the Corporation, is reasonable having regard to the probable amount of the charges.

Deposit for charges.

78. In addition to any other remedy given by this Act and by the Act of 1847, as incorporated with this Act, and whether the demand required by section 44 of that Act has been made or not, the Corporation may recover any charges payable to them as a debt in any court of competent jurisdiction.

Recovery of charges.

79.—(1) Except in so far as may be agreed between the Corporation and the government department concerned or as may be specifically laid down by statute, nothing in any enactment authorising the Corporation to charge rates shall extend to authorise the Corporation to levy charges on or regulate or subject to control—

Exemptions from charges.

(a) a vessel—

(i) belonging to or in the service of Her Majesty or any member of the royal family; or

PART IX
—cont.

(ii) in the service of the Commissioners of Customs and Excise, not being a vessel carrying goods for reward; or

(iii) in the service of Trinity House and not carrying goods for reward;

(b) the Commissioners of Customs and Excise in respect of a vessel or goods under customs seizure;

(c) troops landed at the docks or a person employed by the Secretary of State for Defence while in the execution of his duty;

(d) goods or stores belonging to the Secretary of State for Defence.

(2) A person who takes the benefit of an exemption under this section but is not entitled thereto shall be guilty of an offence and liable to a fine not exceeding twenty pounds.

PART X

FINANCE

Power to borrow.

80.—(1) The Corporation may borrow—

(a) such sums as may be necessary for any of the purposes of this Act;

(b) without the consent of any sanctioning authority, such sums as may be necessary for the payment of the costs, charges and expenses of this Act;

1933 c. 51.

and, subject to the provisions of this section, Part IX of the Local Government Act 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

(2) The Corporation shall repay sums borrowed under paragraph (b) of the foregoing subsection within ten years from the date of borrowing.

1946 c. 58.

(3) It shall not be lawful to exercise the powers of borrowing conferred by paragraph (a) of subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Port reserve fund.

81.—(1) The Corporation may establish a fund to be called “the port reserve fund” to which they may apply—

(a) any sums of money transferred to the Corporation by section 5 (Transfer of undertaking of commissioners) of this Act;

(b) from the accounts of the port undertaking any sum not exceeding in any period of twelve months ending on 31st March three times the equivalent of a rate of one new penny in the pound as determined under rules made pursuant to section 113 of the General Rate Act 1967;

PART X
—cont.

1967 c. 9.

(c) the excess in any year of income from the port undertaking over the expenditure of the port undertaking;

and the maximum amount standing to the credit of the port reserve fund shall be determined by resolution of the council of the borough.

(2) (a) Pending the application of the moneys in the port reserve fund to any of the purposes authorised by subsection (3) of this section, such moneys shall (unless applied in any other manner authorised by any enactment) be invested in any securities in which trustees are for the time being authorised to invest trust moneys.

(b) Any income arising from the investment of any moneys in the port reserve fund in the manner provided by the foregoing paragraph, and any income arising from the application of that fund to the purposes authorised, shall be carried to the port reserve fund.

(3) The port reserve fund shall be applicable to—

(a) meeting any extraordinary claim or demand including providing money for the repayment of loans at any time arising against the Corporation in respect of the port undertaking; or

(b) towards the payment of the cost of renewing, improving, maintaining or extending any works, buildings, machinery, plant or conveniences forming part of the port undertaking, or otherwise for the benefit thereof; or

(c) making good any deficiency at any time happening in the income of the Corporation from the port undertaking;

and so that if at any time that fund be reduced it may thereafter be again restored to the maximum sum determined by the Corporation and so from time to time as often as such reduction happens, but nothing in this section shall prejudice or affect the right of the Corporation to apply any moneys forming part of the general rate fund for any of the purposes mentioned in this subsection or to levy a rate for any of those purposes.

(4) Resort may be had to the port reserve fund under the foregoing provisions of this section although the port reserve fund may not at the time have reached, or may have been reduced below, the maximum sum determined by the Corporation.

PART X
—cont.As to Commissioners
Funded Debt
Annuities.

82.—(1) Notwithstanding the provisions of this Act the River Wear Commissioners Funded Debt Annuities bearing interest at the rate of 3 per centum per annum and the River Wear Commissioners Funded Debt Annuities bearing interest at the rate of $4\frac{1}{2}$ per centum per annum shall from the date of transfer be known as “Sunderland Corporation (River Wear Commissioners) 3% Funded Debt Annuities” and “Sunderland Corporation (River Wear Commissioners) $4\frac{1}{2}$ % Funded Debt Annuities” respectively and shall be regarded on and after the date of transfer as the same security as immediately before that day.

(2) Subject to the provisions of this Act as from the date of transfer the holders of the annuities referred to in the foregoing subsection shall enjoy no less rights, and be subject to the same liabilities and incidents against and in relation to the Corporation as they would have enjoyed and been subject to against and in relation to the commissioners if this Act had not been passed.

PART XI

MISCELLANEOUS

Harbour
master's
powers.

83.—(1) Section 52 of the Act of 1847, as incorporated with this Act, in its application to the Corporation and to the harbour master—

- (a) shall, notwithstanding the provisions of section 33 of the Act of 1847, as also so incorporated, extend so as to empower the harbour master to impose terms and conditions upon which a pleasure craft or hydrofoil vessel may enter the port or any part thereof;
- (b) shall extend to empower the harbour master to give directions prohibiting the mooring of vessels in any particular part or parts of the port; and
- (c) shall not be construed to require the harbour master in emergency to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section, but in pursuance of that section for all or any of the purposes thereof the harbour master shall be entitled in emergency to give general directions applicable to all vessels or to particular classes of vessels.

(2) Section 53 of the Act of 1847 as incorporated with this Act, in its application to the Corporation and the harbour master, shall

not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel, and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

84. Notwithstanding anything in any enactment, the Corporation may for the purposes of or in connection with the management of the port lease or grant the use or occupation of or any easement or other right or interest in, over or under any lands, docks, quays, wharves, jetties, piers, berths, floats, slipways, yards, warehouses, buildings, sheds, landing stages, tips, staiths, cranes, pipeways, machinery, equipment or other works and conveniences of the Corporation for such period or periods, at such rents and considerations and on such terms and conditions as shall be agreed between the Corporation and the person taking the same. Power to lease, etc.

85. If the master or other person having the command of any vessel shall moor or fasten such vessel to any beacon or buoy not intended for mooring purposes fixed or placed or to be fixed or placed in the port every such master or other person shall be liable on summary conviction to a fine not exceeding twenty pounds for every such offence. Penalty on fastening vessels to buoys or chains.

86.—(1) If any person having the command of any vessel shall moor, anchor or place the same in any part of the port so as to obstruct the navigation of the river or the passage of any other vessel or the carrying on of any of the works to be done under the authority of this Act and shall not as soon as reasonably practicable after notice to remove the same given by any duly authorised officer or agent of the Corporation remove the vessel of which he shall have the command, every person so offending shall for every such offence be liable on summary conviction to a fine not exceeding fifty pounds for every hour during which such vessel shall continue to obstruct the navigation of the river or the passage of any other vessel or the carrying on of any of the said works after such notice to remove the same as aforesaid. Penalty for obstructing navigation.

(2) It shall be lawful for any such authorised officer or agent of the Corporation as aforesaid—

- (a)** if the person having command of a vessel fails or refuses to remove that vessel as soon as reasonably practicable after the receipt of a notice such as is referred to in subsection (1) of this section; or
- (b)** (if the circumstances are such that it is not reasonably practicable to give a notice such as is referred to in subsection (1) of this section) in lieu of giving any such notice;

PART XI
—*cont.*

to remove or cause to be removed any such vessel so as to obviate or prevent any obstruction in the said navigation or the passage of vessels or in the carrying on of the said works and to detain the vessel so removed and the cargo and tackle thereof or any part thereof until the charges of such removal shall be paid and satisfied.

**Penalty on
obstructing
works.**

87. If any person shall hinder, obstruct or assault any officer or servant of the Corporation engaged or employed in or in connection with the lighting of the port or the navigation of vessels within the port or any work or duty of which any interruption would involve danger or obstruction to navigation, such person shall be liable on summary conviction to a fine not exceeding fifty pounds for the first offence and not exceeding one hundred pounds for every subsequent offence.

**Penalty on
persons
casting
ballast, etc.,
into port.**

88. If any person under any pretence whatever shall without the consent in writing of the Corporation cast or unload any soil, ballast, sand, stones, rubbish, wreck, filth, gravel, coal, ashes, object, material or other substance (except upon some quay or staith situated above the level of high water) into the port or into the sea within a distance of one mile from any part of the limits of the port or cast or deposit any object in the port without lawful excuse or dig and remove from and out of one part of the port and cast into another part thereof any soil, ballast, sand, stones, rubbish, wreck, filth, gravel, coal, ashes, object, material or other substance (except upon some quay or staith situated above the level of high water) the person committing any such act as aforesaid shall in every such case be liable to a fine not exceeding four hundred pounds:

Provided that nothing in the foregoing provisions of this section shall abridge, lessen, defeat, prevent, obstruct, interfere with or prejudice any work authorised to be executed or any power, right or privilege given to the Corporation by this Act.

**Penalty on
placing
ballast too
near edge
of quays.**

89. If any occupier or tenant of a quay adjoining the river shall permit any gravel, sand, stone, ballast, rubbish, wreck, filth, material or other substance which shall have been cast or placed thereon to be or remain nearer to the edge or front of the said quay than 3 feet after the same shall have been so cast or placed thereon or shall cause or suffer any such gravel, sand, stone, ballast, rubbish, wreck, filth, material or other substance to be cast or placed in or so near to any runner or watercourse upon or adjoining the said quay that the same may be washed into the river every person so offending shall in every such case be liable to a fine not exceeding twenty pounds.

**To prevent
ballast hills
being placed
too near
river.**

90. If any occupier of any quay adjoining the river shall lay or place any heap of gravel, sand, stone, ballast, rubbish, wreck, filth, material or other substance nearer to the front of the said

quay than 20 yards or if any occupier of any land adjoining the river shall lay or place any such heap of gravel, sand, stone, ballast, rubbish, wreck, filth, material or other substance upon his land nearer than 20 yards from the level of high water every such person shall in every such case be liable to a fine not exceeding fifty pounds.

91. The Corporation may remove all such gravel, sand, stone, ballast, rubbish, wreck, filth, material or other substance as shall be cast, placed or laid on any quay or on any land adjoining the river in any manner for which a fine is provided by sections 89 (Penalty on placing ballast too near edge of quays) and 90 (To prevent ballast hills being placed too near river) of this Act in case the occupier or tenant of such quay or land shall refuse or neglect to remove the same within the space of three days next after the same shall be so cast, placed or laid and the charges of removing the same shall be paid by such respective occupiers or tenants and shall be recoverable summarily as a civil debt.

Power to remove ballast, etc.

92.—(1) After the completion of a tidal work the Corporation shall at the outer extremity thereof exhibit 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.

Permanent lights on tidal works.

(2) If the Corporation 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.

93.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Corporation 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.

Provision against danger to navigation.

(2) If the Corporation 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 summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

94.—(1) Where a tidal work is abandoned or suffered to fall into decay, the Secretary of State for Trade and Industry may by notice in writing require the Corporation 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 said Secretary of State thinks proper.

Abatement of works abandoned or decayed.

(2) Where a work consisting partly of a tidal work and partly of works 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

PART XI
—*cont.*

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 said 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 Corporation they have failed to comply with the requirements of the notice the said 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 Corporation as a simple contract debt.

Survey of
tidal works.

95. The Secretary of State for Trade and Industry may at any time if he deems it expedient order a survey and examination of a tidal work and any expenditure incurred by the said Secretary of State in any such survey and examination shall be recoverable from the Corporation as a simple contract debt.

Saving for
Coast
Protection
Act 1949.
1949 c. 74.

96. Nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Board of Trade or the Secretary of State for Trade and Industry to certain operations and contain other provisions for the safety of navigation).

Traffic
offences on
dock roads.

97.—(1) The sections of the Acts of 1967 and 1972 mentioned in Schedule 2 to this Act shall have effect as if—

- (a) the expression “road” and the expression “highway” included a dock road;
- (b) references therein to “highway authority” were construed, in relation to dock roads, as references to the Corporation; and
- (c) in the sections thereof mentioned in Part II of Schedule 2 to this Act the expression “constable” included an officer of the Corporation authorised in that behalf;

and any person who commits an offence under any of those sections, as extended by this section, shall be liable to be dealt with in all respects as if the offence had been committed under those provisions on a road as defined by section 196 of the Act of 1972, and, subject to the provisions of this section, all the provisions of the said Acts, so far as applicable (including, without prejudice to the generality of the foregoing, sections 12, 144, 164, 167, 168, 179, 188 and 196 of the said Act of 1972 and section 79 of the Act of 1967), shall apply accordingly.

1971 c. 10.

(2) If no duty is chargeable under the Vehicles (Excise) Act 1971 in respect of a motor vehicle—

- (a) by virtue of the provisions of subsection (1) of section 7 of that Act; or

(b) by reason only that the vehicle is used exclusively on roads which are not public roads within the meaning of that Act;

PART XI
—cont.

sections 4, 84, 99, 143, 161 and 166 of the Act of 1972 shall not apply in respect of that vehicle while it is being driven, or to any person while driving it, on a dock road.

(3) Regulations or orders made under section 20 of the Act of 1967 or under section 40 or 66 of the Act of 1972, and from time to time in force, shall extend and apply to dock roads as they apply to roads as defined by section 104 of the Act of 1967 or section 196 of the Act of 1972, and section 87 of the Act of 1967, subsection (5) of section 40 and section 177 of the Act of 1972 shall apply accordingly:

Provided that, if no duty is chargeable under the Vehicles (Excise) Act 1971 in respect of a motor vehicle—

1971 c. 10.

(a) by virtue of the provisions of subsection (1) of section 7 of that Act; or

(b) by reason only that the vehicle is used exclusively on roads which are not public roads within the meaning of that Act;

the said regulations shall not apply in respect of that vehicle while it is being driven, or to any person while driving it, on a dock road.

(4) In this section—

“ the Act of 1972 ” means the Road Traffic Act 1972; 1972 c. 20.

“ the Act of 1967 ” means the Road Traffic Regulation Act 1967; 1967 c. 76.

“ dock road ” means any road, pier, wharf, quay, bridge or other work which, or any land which, is vested in or the property of the Corporation as harbour undertakers and is accessible to motor vehicles, not being a road to which the Act of 1972 applies.

98.—(1) On and after the date of transfer the enactments which are mentioned in Schedule 3 to this Act shall have effect as if the Corporation were therein referred to instead of the commissioners: Application and repeal of enactments.

Provided that Schedule 6 of the Wear Navigation and Sunderland Dock (Consolidation and Amendment) Act 1922 shall have effect as modified by a Deed of Release made between the British Transport Commission and the commissioners on the 6th September, 1960. 1922 c. lxxxiv.

(2) The enactments set out in Schedule 4 to this Act shall be repealed on the date of transfer.

PART XI
—cont.
Savings.

99. Notwithstanding the provisions of section 98 (Application and repeal of enactments) of this Act and notwithstanding the transfer to the Corporation of the undertaking of the commissioners the following provisions shall have effect, that is to say:—

- (1) If on the date of transfer any action, arbitration or proceeding or any cause of action, arbitration or proceeding is pending or existing against or in favour of the commissioners, the same shall not abate or be discontinued or in anywise be prejudicially affected by reason of such transfer, but the same may be continued, prosecuted and enforced by, against or in favour of the Corporation as and when it might have been continued, prosecuted and enforced by, against or in favour of the commissioners if this Act had not been passed:
- (2) All sums of money, rates and assessments in connection with the undertaking of the commissioners which have been lawfully made, charged or imposed, and which immediately before the date of transfer are due to the commissioners, shall continue to be due and payable and may be levied, collected, recovered or enforced by the Corporation as and when the same might have been payable to and levied, collected, recovered or enforced by the commissioners if this Act had not been passed:
- (3) All agreements, conveyances, contracts, deeds, licences and other instruments entered into, granted or made with or by the commissioners and in force on the date of transfer shall be as binding and of as full force and effect in every respect against or in favour of the Corporation and may be enforced as fully and effectually as if, instead of the commissioners, the Corporation had been a party thereto and any reference in any such agreement, conveyance, contract, deed or other instrument to a specified officer of the commissioners shall be construed as a reference to the appropriate officer of the Corporation:
- (4) All books and documents which, if the transfer had not been made, would have been evidence in respect of any matter for or against the commissioners shall be admitted in evidence in respect of the same or the like matter for or against the Corporation:
- (5) All persons who at the date of transfer have in their possession or under their control any books, documents, papers, money or effects, forming part of the undertaking of the commissioners or relating exclusively thereto or to which the commissioners would, but for the transfer of the undertaking of the commissioners to the Corporation, have been entitled shall be liable to

account for and deliver them up to the Corporation or to such person as the Corporation may appoint to receive them, and shall be subject to the same consequences on refusal or neglect as if they had been appointed by and become possessed thereof for the Corporation.

PART XI
—cont.

PART XII

SAVINGS AND PROTECTIVE PROVISIONS

100. All works for and in connection with the diversion of Hendon Burn executed by the commissioners under the authority of the Wear Navigation and Sunderland Dock Act 1863 under or in anywise affecting the railway works or property of the British Railways Board shall be at all times maintained by and at the expense of the Corporation and to the satisfaction of the British Railways Board and so as not in anywise either permanently or temporarily to damage, injure or interfere with the said railway or works or to impede or obstruct the free and uninterrupted use thereof.

For protection
of British
Railways
Board.
1863 c. xlix.

101. Nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from any of the rights, duties or privileges of Trinity House.

Saving for
Trinity
House.

102.—(1) Nothing in section 26 (Restriction on construction of works and dredging) of this Act shall alter, prejudice or affect any of the rights and powers of the Post Office under the provisions of the Telegraph Acts 1863 to 1916.

For protection
of Post Office.

(2) Any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by this Act shall be so constructed, erected or laid down and so maintained, worked and used that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction or otherwise) with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line.

(3) In this section “ telegraphic line ” has the same meaning as in the Telegraph Act 1878.

1878 c. 76.

103. Nothing in this Act shall alter or affect the rights and powers as existing at the date of the passing of this Act of the electricity undertakers, the Northern Gas Board and the water company or any of them:

For protection
of electricity
undertakers,
gas board
and water
company.

PART XII
—cont.

Provided that in any case in which in consequence of the foregoing reservation of rights and powers the exercise by the Corporation of any of their powers under this Act would be prevented or rendered more difficult or costly by their inability to remove or alter the position of any pipes or apparatus of any of the said undertakers, the undertaker owning such pipes or apparatus shall on receipt of notice in writing from the Corporation requiring them so to do alter the level or position of such pipes or apparatus to such extent as the Corporation may reasonably require and the Corporation shall repay to the undertaker making any such alteration the amount of the cost reasonably incurred by that undertaker in so doing.

For further protection of electricity undertakers, Post Office and water company.

104.—The following provisions of this section shall, unless otherwise agreed in writing between the Corporation or the commissioners of the first part and the electricity undertakers, the Post Office or the water company, as the case may be (each of which is hereinafter referred to as “the undertaker”), of the second part, apply and have effect:—

- (1) In the exercise of the powers conferred by section 16 (Power to dredge) of this Act the Corporation shall not interfere with, damage or injuriously affect any apparatus in the port or in or near any approach to the port:
- (2) In the exercise of the powers of section 18 (Works in the port) of this Act the Corporation shall not interfere with, damage or injuriously affect any apparatus in the port and the said powers shall be so exercised as not to obstruct or render less convenient the access to any such apparatus:
- (3) In the exercise of the powers of section 33 (Power to lay down rails) of this Act the Corporation shall not interfere with, damage or injuriously affect any apparatus and the said powers shall be so exercised as not to obstruct or render less convenient the access to any apparatus:
- (4) In the exercise of the powers conferred by section 19 (Disposal of excavated and dredged materials) of this Act the Corporation shall not lay down or deposit anything in such a place or manner as to cover any apparatus or in any way obstruct or impede the inspection, maintenance, removal or renewal of any apparatus:
- (5) (a) Before granting to any person a licence under the powers of this Act to carry out works or dredging which would be within 50 yards of any apparatus in the port, or where blasting operations are involved within 200 yards of any apparatus of the Post Office in the port or 150 yards of any other apparatus in the port, or in any

case where reasonably so requested by the undertaker concerned, the Corporation shall send to the undertaker concerned particulars of the proposed works or dredging (as the case may be), and furnish them with such further particulars as they may reasonably require;

- (b) Any licence to which paragraph (a) applies shall, if granted, be granted subject to such conditions as may be reasonably necessary and be required by the undertaker to safeguard apparatus including, without prejudice to the generality of the foregoing, conditions empowering the undertaker concerned to inspect the works or dredging to which the licence relates and to take any steps necessary to prevent damage to apparatus or to ensure that apparatus can operate efficiently and to recover from the holder of the licence the reasonable cost of any works carried out by the undertaker for those purposes;
- (c) Upon the grant of any licence to which paragraph (a) applies, the Corporation shall supply to the undertaker concerned a copy of the licence and of any conditions subject to which it is granted:
- (6) (a) Nothing in section 26 (Restriction on construction of works and dredging) of this Act shall apply to the making, erection, construction, alteration, renewal, extension, maintenance, removal or demolition by an undertaker of any apparatus in the port from time to time authorised under or by virtue of any enactment (whether coming into operation before or after the commencement of this Act) or make unlawful the carrying out by an undertaker in an emergency of any works not authorised by section 23 (Licensing of works) or section 24 (Licence to dredge) of this Act necessary for the protection of, or to ensure the efficient operation of, any apparatus, subject to any direction necessary for the protection of navigation from time to time given by the Corporation to the undertaker;
- (b) If in an emergency an undertaker carries out any work or dredging in the port they shall without delay inform the Corporation:
- (7) Except in a case which is in the opinion of the Corporation a case of emergency the Corporation shall, before—
- (a) raising, removing or destroying any vessel sunk, stranded or abandoned; or
- (b) blasting any rock;
- in the port or in or near any approach thereto and within a distance of 200 yards of any apparatus of the

PART XII
—cont.

Post Office or 150 yards of any other apparatus give to the undertaker concerned as long notice in writing as is practicable of their intention to do so:

- (8) Any difference which may arise under this section between the Corporation, or an applicant for a licence or the holder of a licence under this Act, and an undertaker, other than a difference as to the meaning thereof, shall be referred to and determined by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party, after notice to the other, by the President of the Institution of Civil Engineers.

Consultations
between
Corporation
and
Northumbrian
River
Authority.

105. Before in any case commencing any operation for the construction, alteration, renewal or extension of works in the port or for the carrying out of dredging (other than maintenance dredging) therein, the Corporation or the Northumbrian River Authority (as the case may be) shall, unless otherwise agreed in writing between them as respects any particular operation or any class of such operations, give not less than seven days' notice in writing of such their intention to the other of them, and shall take into consideration any representations in writing which such other party may make with respect to that operation before the expiration of such notice.:

Provided that this section shall not apply to any such works or dredging to be carried out by the Corporation in an emergency, and in such a case they shall inform the Northumbrian River Authority without delay.

Crown
rights.

106. Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, and, in particular, nothing herein contained shall authorise the Corporation to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners or belonging to a government department or held in trust for Her Majesty for the purpose of a government department without the consent in writing of such commissioners on behalf of Her Majesty or, as the case may be, the consent in writing of that government department first had and obtained for that purpose.

PART XIII

GENERAL

Application
of general
provisions of
Public Health
Act 1936.
1936 c. 49.

107. The sections of the Public Health Act 1936 mentioned in Schedule 5 to this Act shall have effect as if references therein to that Act included references to this Act:

Provided that any sum exceeding fifty pounds shall not be recovered summarily as a civil debt under the powers of section 293 of the Public Health Act 1936 as applied by this section.

PART XIII
—cont.
1936 c. 49.

108. Section 265 of the Public Health Act 1875 shall apply to the Corporation as if any reference in that section to the said Act of 1875 included a reference to this Act and as if any reference in that section to a member of a local authority included a reference to a member of a committee of a local authority.

Protection of
members and
officers of
Corporation
from
personal
liability.
1875 c. 55.

109. All the costs, charges and expenses preliminary to and incidental to the preparing, applying for, obtaining and passing of this Act shall be paid by the Corporation.

Costs of Act

SCHEDULES

SCHEDULE 1

INCREASE OF FINES

Section 4.

Section of Act of 1847 (1)	Description of offence (2)	Old fine or maximum fine (3)	New maximum fine (4)
35	Failing to report arrival of vessel	£10	£50
36	Failing to produce on demand certificate	£20	£100
53	Failing to comply with directions of harbour master	£20	£100
54	Misbehaviour of harbour master	£5	£20
55	Offering or taking bribes	£20	£100
59	Failing to dismantle vessel as directed	£10	£50
60	Navigating a vessel under sail into or in dock	£10	£50
62	Wilfully cutting moorings ...	£5	£20
63	Placing vessels near entrance of dock without permission	£5 and 20/- per hour	£20 and £1 per hour
64	Failing to remove vessel as directed	£10	£50
66	Failing to remove vessel as directed	£10	£50
67	Wharfinger giving undue preference	£5	£20
69	Failing to move combustible material after direction	40/- per hour	£20
71	Committing any offence mentioned in section	£10	£50
72	Obstructing the harbour master in his search for fire	£10	£50
73	Throwing ballast, etc., into dock	£5	£20
82	Weighing or measuring goods without a licence	£5	£20

SCHEDULE 2

Section 97.

PROVISIONS APPLIED TO DOCK ROADS

PART I

PROVISIONS IN RESPECT OF WHICH CERTAIN OFFICERS OF THE CORPORATION
DO NOT HAVE THE POWERS OF A CONSTABLE

Sections of Road Traffic Act 1972—

1972 c. 20.

- Section 1 (Causing death by reckless or dangerous driving);
- Section 2 (Reckless, and dangerous, driving generally);
- Section 3 (Careless, and inconsiderate, driving);
- Section 4 (Driving under age);
- Section 5 (Driving, or being in charge, when under influence of drink or drugs);
- Section 6 (Driving or being in charge with blood-alcohol concentration above the prescribed limit);
- Section 8 (Breath tests);
- Section 17 (Reckless, and dangerous, cycling);
- Section 18 (Careless, and inconsiderate, cycling);
- Section 19 (Cycling when under influence of drink or drugs);
- Section 21 (Restriction on carriage of persons on bicycles);
- Section 24 (Leaving vehicles in dangerous positions);
- Section 25 (Duty to stop, and furnish particulars, in case of accident);
- Section 29 (Penalisation of tampering with motor vehicles);
- Section 30 (Penalisation of holding or getting on to vehicle in order to be towed or carried);
- Section 84 (Drivers of motor vehicles to have driving licences);
- Section 99 (Offence of applying for or obtaining licence, or driving, while disqualified);
- Section 143 (Users of motor vehicles to be insured or secured against third-party risks);
- Section 161 (Power of constables to require production of driving licences and in certain cases statement of date of birth);
- Section 162 (Power of constables to obtain names and addresses of drivers, and others, and to require production of evidence of insurance or security and test certificates);
- Section 166 (Duty of driver, in case of accident involving injury to another, to produce evidence of insurance or security or to report accident).

Sections of Road Traffic Regulation Act 1967—

1967 c. 76.

- Section 54 (Traffic signs);
- Section 55 (Powers and duties of highway authorities as to placing of traffic signs);
- Section 61 (Removal of traffic signs, etc.).

SCH. 2
—cont.

PART II

PROVISIONS IN RESPECT OF WHICH CERTAIN OFFICERS OF THE CORPORATION
HAVE THE POWERS OF A CONSTABLE

- 1972 c. 20. Sections of Road Traffic Act 1972—
 Section 22 (Drivers to comply with traffic directions);
 Section 159 (Power of police to stop vehicles).
- 1967 c. 76. Section of Road Traffic Regulation Act 1967—
 Section 58 (Emergency traffic signs).

Section 98 (1).

SCHEDULE 3

SECTIONS OF THE ACTS APPLIED TO THE CORPORATION

	Enactment	Extent of application
1922 c. lxxxiv.	Wear Navigation and Sunderland Dock (Consolidation and Amendment) Act 1922	Part IV (Closing of South Outlet), sections 156, 159 and 160 and Schedule 6.
1938 c. lxxxiv.	Wear Navigation and Sunderland Dock Act 1938	Part III (Reclamation of South Outlet).
1954 c. vi.	Wear Navigation and Sunderland Dock Act 1954	Sections 3 and 4.

SCHEDULE 4

Section 98 (2).

ENACTMENTS REPEALED ON THE DATE OF TRANSFER EXCEPT SO FAR AS THEY ARE REQUIRED FOR THE PURPOSE OF PARAGRAPH (2) OF SECTION 99 (SAVINGS) OF THIS ACT

Enactment	Extent of repeal	
Wear Navigation and Sunderland Dock (Finance) Act 1920	The whole Act.	1920 c. cxl.
Wear Navigation and Sunderland Dock (Consolidation and Amendment) Act 1922	The whole Act except Part IV, sections 156, 159 and 160 and Schedule 6.	1922 c. lxxxiv.
Sunderland Corporation Act 1927	Sections 114, 115, 116, 117 and 131.	1927 c. xcvi.
Sunderland Corporation Act 1935	Section 265.	1935 c. cxxv.
Wear Navigation and Sunderland Dock Act 1938	The whole Act except Part III.	1938 c. lxxxiv.
Wear Navigation and Sunderland Dock Act 1939	The whole Act.	1939 c. xix.
Sunderland Corporation Act 1943	Section 3.	1943 c. iv.
Wear Navigation and Sunderland Dock Act 1947	The whole Act.	1947 c. xii.
Coal Industry Nationalisation (Harbour Commissioners) Order 1947	Article 6 and the Fifth Schedule.	S.I. 1947/1770.
Wear Navigation and Sunderland Dock Act 1950	The whole Act.	1950 c. xi.
Sunderland Corporation Act 1951	Section 83.	1951 c. xxxvi.
Wear Navigation and Sunderland Dock Act 1954	The whole Act except sections 3 and 4.	1954 c. vi.
Sunderland Corporation Act 1963	The whole Act.	1963 c. vii.

Section 107.

SCHEDULE 5

1936 c. 49.

SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED

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PRINTED IN ENGLAND BY OYEZ PRESS LTD.

FOR C. H. BAYLIS, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

Sunderland Corporation Act 1972

CHAPTER xxiii

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