

ELIZABETH II**1990 CHAPTER xxxi**

An Act to make fresh provision for the controlling of works within the Port of Tyne; and for connected or other purposes. [1st November 1990]

WHEREAS—

(1) The Port of Tyne Authority (“the Authority”) were constituted under the Port of Tyne Reorganisation Scheme 1967 as the body responsible for the conservancy, maintenance and improvement of (inter alia) the former harbour undertakings of the Tyne Improvement Commissioners and the Corporations of Newcastle, Gateshead and Tynemouth: S.I. 1968/942.

(2) The Authority were reconstituted by the Port of Tyne Authority (Constitution) Revision Order 1974: S.I. 1974/923.

(3) Section 3 of the Port of Tyne Act 1989 imposes a general duty upon the Authority to take such steps from time to time as they consider necessary or expedient for the improvement, maintenance and management of the Port and the accommodation and facilities afforded therein or in connection therewith: 1989 c. i.

(4) It is expedient that the Authority be given powers in modern form to regulate the construction by third parties of works below the level of high water within the Port:

(5) It is expedient that the other provisions of this Act be enacted:

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

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

PART I

PRELIMINARY

Short title and commencement.

1.—(1) This Act may be cited as the Port of Tyne Act 1990.

(2) This Act shall come into force at the end of the period of two months beginning with the date on which it is passed.

Interpretation.

2. In this Act, unless the context otherwise requires—

S.I. 1968/942.

“the Authority” and “the Port” have the same meanings as in the Port of Tyne Reorganisation Scheme 1967;

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

1984 c. 12.

“operator” and “telecommunications code system” have the same meanings as in Schedule 4 to the Telecommunications Act 1984;

“statutory undertaker” means—

1990 c. 8.

(a) any person who is a statutory undertaker for the purposes of the Town and Country Planning Act 1990;

1976 c. 70.

(b) any other person who exercises functions under the Land Drainage Act 1976;

1949 c. 74.

(c) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949; and

(d) any operator of a telecommunications code system;

“works licence” means a licence under section 5 of this Act.

PART II

CONTROL OF WORKS

Restriction on carrying out works.

3.—(1) Subject to subsection (3) below, no person other than the Authority shall construct, alter, renew or extend any works in the Port on, under or over tidal waters or tidal land below the level of high water unless he is licensed to do so by a works licence, nor except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 5 of this Act.

(2) The Authority may by notice in writing require a person who contravenes this section to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates, and to restore the site thereof to its former condition; and if that person fails to comply with the notice, the Authority may carry out the work so required and recover from him all reasonable costs incurred by them in so doing.

(3) Nothing in this section shall apply to—

(a) any works specifically authorised by any enactment; or

(b) any works of a statutory undertaker.

(4) Any person who without reasonable excuse contravenes this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART II
—cont.

4.—(1) This section applies to any works in the Port of a statutory undertaker on, under or over tidal waters or tidal land below the level of high water, not being works which are specifically authorised by any enactment.

Control of
certain works
of statutory
undertakers.

(2) Subject to subsection (3) below, a statutory undertaker shall not carry out any works to which this section applies unless it has given notice of its intention to do so to the Authority and has supplied the Authority with such particulars as they may reasonably require.

(3) Where, in an emergency, it would be unreasonable to require notice to be given under subsection (2) above, the statutory undertaker concerned shall inform the Authority of the works as soon as reasonably possible.

(4) Any works to which this section applies shall be carried out subject to any directions which may be from time to time given by the Authority to the person or body concerned, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of such works.

(5) Any person who without reasonable excuse contravenes this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

5.—(1) The Authority may, upon such terms and conditions as they think fit, grant to any person, subject to the following provisions of this Act, a licence to construct, alter, renew or extend works in the Port under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, altered, renewed or extended.

Works licences.

(2) Application for a works licence shall be made in writing to the Authority and shall—

(a) be accompanied by such plans, sections and particulars of the works to which the application relates as the Authority may reasonably require; and

(b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken or proposed to be taken to enable him to obtain such rights if the licence is granted;

and, in granting a licence, the Authority may require modifications in the plans, sections and particulars so submitted.

(3) Where the Authority refuses to grant a works licence which has been duly applied for they shall give reasons (in writing) for their refusal.

(4) Where the Authority grant a works licence upon terms or conditions, or require any modifications in the plans, sections and particulars, they shall give reasons (in writing) for the terms and conditions imposed or the modifications required.

(5) The Authority may require applicants for works licences, on making their applications, to pay reasonable fees in respect of the administrative expenses of dealing with the applications; and different fees may be specified in relation to different cases or classes of case.

PART II
—cont.

(6) The Authority shall notify the National Rivers Authority of an application for a works licence not less than 14 days prior to the date of the determination of the application and shall, in determining the application, take into account any representation received from the National Rivers Authority.

(7) If within three months from the receipt of the application under subsection (2) above the Authority do not grant a works licence, they shall be deemed to have refused the application.

(8) In the carrying out of operations in pursuance of a works licence, the holder of the licence shall not —

- (a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or
- (b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus;

without the consent of the statutory undertaker concerned.

Appeals in
respect of works
licences.

6.—(1) An applicant for a works licence who is aggrieved by —

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

may within 28 days from the date on which the Authority notify the applicant of their decision, or the date on which the Authority are, under section 5 (7) of this Act, deemed to have refused the application, appeal to the Secretary of State.

(2) An appeal under subsection (1) above shall be made by notice in writing stating the grounds of appeal.

(3) A person who appeals under subsection (1) above shall give to the Authority notice of his appeal, accompanied by a copy of his statement of appeal; and the Authority shall, within 28 days from the receipt of the notice, be entitled to furnish to the Secretary of State their observations on the appeal.

(4) On an appeal under subsection (1) above, the Secretary of State may —

- (a) dismiss the appeal; or
- (b) require the Authority to grant the licence or, as the case may be, to give their approval upon such terms or conditions and with such modifications (if any) of plans, sections or particulars as the Secretary of State may specify.

(5) The Authority shall give effect to any decision or requirement given or made by the Secretary of State under subsection (4) above.

Protection of
Crown interests.

7.—(1) The holder of a works licence shall not do anything under that licence which is in any way likely to affect prejudicially any interest which —

- (a) belongs to Her Majesty in right of the Crown; or
- (b) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department;

unless he has obtained the appropriate authority's consent in writing.

(2) In giving any such consent the authority concerned may impose such terms and conditions as it considers appropriate.

PART II
—cont.

(3) In subsection (1) above —

“the appropriate authority” means —

(a) in relation to an interest belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;

(b) in relation to any interest belonging to Her Majesty in right of the Crown but not forming part of the Crown Estate, the government department having the management of that interest;

(c) in relation to an interest belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, that department; and

“interest” means any estate, interest or right in or over land.

8. Nothing in this Act shall prejudice or derogate from any of the powers, rights, duties or privileges of the Corporation of Trinity House of Deptford Strond.

Saving for
Trinity House.

9. In consequence of the preceding provisions of this Act section 24 of the Tyne Improvement Act 1929 (powers as to structures in river) is hereby repealed.

Repeal of
section 24
of Tyne
Improvement
Act 1929.
1929 c. xlix.



Port of Tyne Act 1990

CHAPTER xxxi

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement.
2. Interpretation.

PART II

CONTROL OF WORKS

3. Restriction on carrying out works.
4. Control of certain works of statutory undertakers.
5. Works licences.
6. Appeals in respect of works licences.
7. Protection of Crown interests.
8. Saving for Trinity House.
9. Repeal of section 24 of Tyne Improvement Act 1929.



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