

ELIZABETH II



1970 CHAPTER xl

An Act to authorise the mayor, aldermen and burgesses of the county borough of Brighton to construct street works and other works and to acquire lands for those purposes; and for other purposes. [23rd July 1970]

**W**HEREAS the borough of Brighton (hereafter called "the borough") is a county borough under the government of the mayor, aldermen and burgesses of the borough (hereafter called "the Corporation"):

And whereas by the Brighton Marina Act 1968 Brighton 1968 c. ii. Marina Company Limited were authorised to construct a marina comprising harbour works, recreational and other facilities and certain road works on lands above and below the cliffs situate in the area known as Black Rock in the borough:

And whereas the volume of vehicular traffic in the borough has increased and may be expected further to increase to such an extent that the construction of new and improved roads to serve such increased traffic would be of public and local advantage and it is expedient that road works substantially replacing and supplementing those authorised by the said Act should be constructed to serve the said increased traffic in the borough and to provide satisfactory access to the said marina:

And whereas it is therefore expedient to empower the Corporation to make and maintain the works described in this Act and to confer on the Corporation for the several purposes mentioned in this Act powers relative to the purchase and use of lands and easements:

And whereas estimates have been prepared by the Corporation for the following purpose:—

The construction of the works authorised by this Act,  
£1,163,000:

And whereas the works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years:

And whereas it is expedient that the other provisions of this Act should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas plans and sections showing the lines or situations and levels of the works authorised by this Act, and the lands which may be taken or used compulsorily for the purposes thereof, and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands, and describing the same, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons, and with the town clerk of the borough, which plans, sections and book of reference are respectively referred to in this Act as the deposited plans, the deposited sections and the deposited book of reference:

1933 c. 15. And whereas 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:

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 and  
collective  
titles.

1.—(1) This Act may be cited as the Brighton Corporation Act 1970.

(2) The Brighton Corporation Acts 1931 to 1966 and this Act may be cited together as the Brighton Corporation Acts 1931 to 1970.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Works.

Part IV.—Protective provisions.

Part V.—Miscellaneous.

PART I  
—cont.

Division of  
Act into Parts.

3.—(1) Part I of the Compulsory Purchase Act 1965 (except section 4, section 24 (5), section 27 and paragraph 3 (3) of Schedule 3 thereof), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 applies and as if this Act were a compulsory purchase order under the said Act of 1946.

Application of  
Part I of  
Compulsory  
Purchase Act  
1965.

1965 c. 56.

1946 c. 49.

(2) (a) In section 11 (1) of the Compulsory Purchase Act 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) as so applied, for the words "fourteen days'" there shall be substituted the words "three months'".

(b) In section 11 (3) of the said Act (which permits the acquiring authority to enter land subject to compulsory purchase for the purpose of survey after giving not less than three nor more than fourteen days' notice) the words "of probing or boring to ascertain the nature of the soil" shall be omitted and for the words "not less than three nor more than fourteen days' notice" there shall be substituted the words "not less than seven days' notice in the case of the first entry and not less than twenty-four hours' notice in the case of a subsequent entry".

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

1845 c. 18.

4.—(1) In this Act, unless the subject or context otherwise requires—

"the borough" means the county borough of Brighton;

"the company" means the Brighton Marina Company Limited;

"the Corporation" means the mayor, aldermen and burgesses of the borough;

"enactment" includes an enactment in this Act or in any general or local Act or any order, byelaw, scheme or regulation for the time being in force in the borough;

Interpretation.

PART I  
—cont.

“ the limits of deviation ” means the limits of deviation shown on the deposited plans;

“ the Minister ” means the Minister of Housing and Local Government;

“ the sewers board ” means the Brighton Intercepting and Outfall Sewers Board;

“ street ” includes any highway and any road, lane, footpath, square, court, alley or passage, whether a thoroughfare or not, and includes any part of a street;

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

“ the tribunal ” means the Lands Tribunal;

“ the works ” means the works authorised by Part III (Works) of this Act.

(2) Where in this Act any distance or length is stated in the description of any work, the reference to that distance or length shall be construed as if the words “ or thereabouts ” were inserted after such distance or length.

(3) Any reference in this Act to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by any other enactment, including this Act.

## PART II

## LANDS

Power to  
acquire lands.

5.—(1) Subject to the provisions of this Act the Corporation may enter upon, take, use and appropriate such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purpose of the works or other the purposes authorised by this Act.

(2) The powers of the Corporation for the compulsory acquisition of lands under this section shall not be exercised after the 31st December, 1973.

(3) Subject to the provisions of this Act the Corporation may enter upon, take, use and appropriate so much of the subsoil and under-surface of any street maintainable at the public expense within the limits of deviation as shall be necessary for the purposes of the works without being required to purchase the same or any easement therein or thereunder or to make any payment therefor.

Correction of  
errors in  
deposited plans  
and book of  
reference.

6.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Corporation, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the borough for the correction thereof.

substituted a reference to the sum expressed in terms of the foreign currency (adjusted where necessary to produce an amount which the Corporation consider appropriate having regard to all the circumstances of the transaction).

6.—(1) In its application to the investment by the Corporation under subsection (3) of section 21 of the Local Government Superannuation Act, 1937, of any moneys forming part of, but not for the time being required to meet payments out of, the superannuation fund, the Act of 1961 shall have effect as if—

Extension of power to invest superannuation fund moneys. 1937 c. 68.

(a) the following paragraphs were included in Part III (Wider-Range Investments) of Schedule 1 to that Act:—

“ 4. In any securities issued in any of the scheduled territories within the meaning of section 1 of the Exchange Control Act, 1947, or in Canada, the United States of America, Japan, the Netherlands Antilles, or in any of the following countries, namely, Austria, Belgium, Denmark, France, Holland, Italy, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland and Western Germany being securities which at the time of making the investment are quoted on any stock exchange in any of the said scheduled territories or any of the territories mentioned in this paragraph. 1947 c. 14.

5. In the purchase, whether alone or jointly or in common with any other person, of immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands, or of any share or interest in such immovable property, including any interest in such immovable property comprised in a building agreement providing for the grant of a lease of such property contingent on the erection or completion of the building specified in such agreement.

6. In the advance of money upon the security of any legal estate or interest in immovable property comprised in a building agreement as specified in paragraph 5 of this Part and in any such case whether the security be taken by a separate and distinct mortgage or security made exclusively to the Corporation, or by a mortgage or security made jointly to the Corporation and any other person.”;

(b) in Part IV (Supplemental) of the said schedule—

(i) in paragraph 1 there were inserted after the word “ schedule ” the words “ other than those mentioned in paragraph 4 of the said Part III ”;

specified in the said Part III as so amended equals or exceeds three-quarters of the total value of the said superannuation fund; and

- (ii) no such moneys so invested in the manner specified in paragraphs 5 and 6 of the said Part III as so amended shall equal or exceed one-quarter of the total value of the said superannuation fund.

(b) For the purposes of this subsection, the value of any investment belonging to the superannuation fund shall be deemed to be the value of the investment at the time at which it was made.

(3) In this section—

“ the Act of 1961 ” means the Trustee Investments Act, 1961; 1961 c. 62.

“ the superannuation fund ” means the superannuation fund maintained by the Corporation under the Local Government Superannuation Acts, 1937 to 1953.

7.—(1) The Corporation may, if requested so to do by any person—

(a) who is the owner or intended owner or lessee or intended lessee of any land in the borough; or

(b) who has purchased or leased or intends to purchase or take on lease from the Corporation any land (whether within or outside the borough);

being in either case land upon which an industrial building is built or is intended to be built, extended or improved, carry out any work required in relation to the preparation or improvement of the site for that building or for the provision or improvement of services or facilities on which any trade or business carried on or intended to be carried on in such building depends, and may make grants or loans towards the cost of such works or of the provision or improvement of such services or facilities or both:

Provided that nothing in this section shall authorise the Corporation to carry out works for the provision or improvement of services which it is the function of statutory undertakers to provide or improve.

(2) Section 14 (Loans for erection &c. of buildings) of the Bolton Corporation Act, 1949, shall have effect as if the following subsection were substituted for subsection (1) thereof:—

“ (1) The Corporation may advance money to—

(a) any person for the purpose of enabling or assisting him to purchase or lease any land in the borough; or

(b) the owner, purchaser or lessee of—

(i) any land in the borough; or

(ii) any land (whether within or outside the borough) acquired from or leased by the Corporation;

**15.**—(1) As from the date on which the Corporation, under the powers conferred by this Act and the enactments applied thereto, enter on and take possession of any part of the burial ground of Friends Trusts Limited fronting Riflebutt Road in the borough (in this section called “the burial ground”)—

(a) the burial ground shall be freed and discharged from all rights and interests of any person who is a personal representative or relative of any deceased person whose remains are interred in the burial ground and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing of this Act attached thereto by reason of the burial ground or any part thereof being a burial ground or otherwise;

(b) notwithstanding anything contained in any enactment but subject to the provisions of this Act, it shall be lawful to use, deal with or dispose of the burial ground for the purposes of or in connection with the works or for the erection of any building or for any other purpose in like manner as if no part thereof had ever been used or set apart for the purpose of the burial of human remains.

(2) Before the Corporation carry out under the powers of this Act any work on the burial ground they shall remove or cause to be removed the remains of all deceased persons interred therein.

(3) The Corporation shall, before proceeding to remove any remains, monuments or tombstones from the burial ground in pursuance of the powers of this section—

(a) publish at least once in each of two successive weeks in a newspaper circulating in the borough, with an interval between publications of not less than six days, a notice stating their intention to do so;

(b) display a like notice in a conspicuous place at the burial ground.

(4) Any notice so published and displayed shall have embodied in it the substance of subsections (5) to (8), (10), (11), (13) and (14) of this section and a concise summary of the provisions of section 31 (For protection of Religious Society of Friends) of this Act.

(5) At any time within two months after the first publication of such notice any person who is a personal representative or relative of any deceased person whose remains are interred in the burial ground may give notice in writing to the Corporation of his intention to undertake the removal of such remains and, if he so desires, the removal of any monument or tombstone commemorating the deceased, and thereupon—

(a) he shall be at liberty to cause such remains to be removed and reinterred in any burial ground or cemetery in which

PART II  
—cont.

- burials may legally take place or cremated in any crematorium and forthwith after such reinterment or cremation shall provide to the Corporation a certificate for the purpose of enabling the Corporation to comply with the provisions of subsection (9) of this section; and
- (b) if the notice relates to the removal of a monument or tombstone, he shall be at liberty, subject to and in accordance with the provisions of subsections (10) and (11) of this section, to remove and re-erect the same and forthwith after such re-erection shall provide to the Corporation the information necessary to enable the Corporation to make the record referred to in paragraph (e) of subsection (10) of this section.

(6) If any person giving such notice as aforesaid fails to satisfy the Corporation that he is such personal representative or relative as he claims to be, the question shall be determined on the application of either party in a summary manner by the county court and the court shall have power to make an order specifying who shall remove the remains, and any monument or tombstone, and as to the payment of the costs of the application.

(7) The expense of a removal and reinterment or cremation (not exceeding in respect of remains removed from any one grave the sum of seventy-five pounds) shall be defrayed by the Corporation, such sum to be apportioned, if necessary, equally according to the number of deceased persons whose remains are removed from the grave.

(8) If—

- (a) within the aforesaid period of two months no such notice as aforesaid shall have been given to the Corporation in respect of the remains in any grave; or
- (b) within two months after such notice has been given no application has been made under subsection (6) of this section and the person who gave the notice fails to remove the remains; or
- (c) within two months after any order is made by the county court under the said subsection the person, not being the Corporation, specified in the order fails to remove the remains;

the Corporation shall cause the remains of the deceased person to be removed and reinterred in accordance with the provisions of section 31 (For protection of Religious Society of Friends) of this Act.

(9) Upon the reinterment or cremation of any remains under this section a certificate of reinterment or cremation shall be sent to the Registrar General by the Corporation giving the date of reinterment or cremation and identifying the place from which the remains were removed and, in the case of reinterment, the place in which they were reinterred.



(10) (a) Subject to the provisions of this subsection, any monument or tombstone relating to the remains of any deceased person removed and reinterred under this section shall at the expense of the Corporation be removed and re-erected at the place of reinterment of such remains or at such other place as the county court may direct on the application either of such personal representative or relative as aforesaid or of the Corporation.

(b) Subject to the provisions of this subsection, any monument or tombstone relating to the remains of any deceased person removed and cremated under this section shall, at the request of such personal representative or relative as aforesaid or, if no such request is made, may at the discretion, and in either case at the expense, of the Corporation be removed and re-erected at such place as may be agreed between such personal representative or relative and the Corporation or, in default of such agreement, at such place as the county court may direct on the application either of such personal representative or relative or of the Corporation.

(c) Where the Corporation consider that by reason of its illegible or ruinous condition any monument or tombstone removed under this subsection is unsuitable for re-erection it may be disposed of in such manner as the Corporation think fit.

(d) The amount required to be paid by the Corporation in respect of the cost of removal and re-erection or disposal of any monument or tombstone under this subsection by or at the request of the said personal representative or relative or at the direction of the county court shall not exceed the sum of fifteen pounds.

(e) The Corporation shall cause a record to be made of each monument or tombstone removed under this subsection containing—

(i) a copy of the inscription thereon; and

(ii) if it is intended to preserve the monument or tombstone a statement of the place, if any, where it has been re-erected;

and shall deposit a copy of the record with the Registrar General.

(f) In this subsection references to re-erection include placing a monument or tombstone in any position in which any words inscribed thereon are visible.

(11) If—

(a) within the period of two months referred to in subsection (5) of this section no notice under that subsection shall have been given to the Corporation in respect of any monument or tombstone; or

PART II  
—cont.

- (b) within two months after such notice has been given no application has been made under subsection (10) of this section and the person who gives the notice fails to remove the monument or tombstone; or
- (c) within two months after any order is made by the county court under the said subsection the person who gave the notice fails to remove the monument or tombstone;

the Corporation shall be at liberty to deal with the monument or tombstone as if no such notice had been served in relation thereto.

(12) Any jurisdiction or power conferred on the county court by this section may be exercised by the registrar of the court.

(13) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions that may be given by the Secretary of State.

(14) Section 42 (As to burial ground) of the Brighton Marina Act 1968 is hereby repealed.

1968 c. ii.

## PART III

## WORKS

Power to  
construct  
works.

16.—(1) Subject to the provisions of this Act the Corporation may within the borough, in the lines or situations and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith:—

Work No. 1 A road forming the west, south and east sides of a gyratory system (to be constructed mainly below the existing road levels) commencing by a junction with the south side of Roedean Road at a point 47 yards south and 35 yards west measured from the south-east corner of the building known as the John Howard Convalescent Home, proceeding in a southerly and south-south-westerly direction to the southern boundary of the South Eastern Gas Board's site, thence curving to an easterly direction, thence curving again to a north-north-easterly direction, continuing as a variation of Riflebutt Road and terminating by a junction with the south side of Roedean Road at a point 22 yards north and 25 yards west measured from the north-west corner of the building known as Roedean Fire Station.

Work No. 2 A slip road commencing by a junction with the south side of Roedean Road at a point 57 yards south and 8 yards east measured from the south-east corner of the building known as the John Howard Convalescent

Home and terminating by a junction with Work No. 1 at a point 37 yards from the commencement of that work measured along its centre line.

Work No. 3 A slip road (to be constructed partly below the existing road levels) commencing by a junction with Work No. 1 at a point 162 yards from the commencement of that work measured along its centre line and terminating by a junction with the north side of Marine Drive at a point 53 yards south and 24 yards east measured from the north-east corner of the building known as the French Convalescent Home.

Work No. 4 A slip road (to be constructed partly below the existing road levels) commencing by a junction with Work No. 1 at a point 114 yards from the termination of that work measured along its centre line and terminating by a junction with the north side of Marine Drive at a point 15 yards south and 12 yards west measured from the south-west corner of the building known as Marine Gate.

Work No. 5 A slip road commencing by a junction with Work No. 1 at a point 18 yards from the termination of that work measured along its centre line and terminating by a junction with the south side of Roedean Road at a point 29 yards north and 48 yards west measured from the north-west corner of the building known as Roedean Fire Station.

Work No. 6 A footpath (incorporating a bridge over Work No. 1) commencing by a junction with the north side of Marine Drive at a point 21 yards south and 76 yards west measured from the south-west corner of the building known as Marine Gate and terminating adjacent to the South Eastern Gas Board's site at a point 25 yards north and 118 yards west measured from the south-west corner of the building known as Marine Gate.

Work No. 7 A slip road (to be constructed mainly below but partly above the existing road levels and incorporating a tunnel below Marine Drive) commencing by a junction with Work No. 1 at a point 96 yards west and 12 yards south measured from the south-west corner of the building known as Marine Gate and terminating by a junction with the south side of Marine Parade at a point 87 yards south and 69 yards west measured from the north-east corner of the building known as the French Convalescent Home.

Work No. 8 A slip road (to be constructed mainly below the existing road levels and incorporating a tunnel below Marine Drive) commencing by a junction with

PART III  
—cont.

- Work No. 1 at a point 38 yards west and 4 yards south measured from the south-west corner of the building known as Marine Gate and terminating by a junction with the south side of Marine Drive at a point 95 yards south and 290 yards east measured from the south-west corner of the building known as Marine Gate.
- Work No. 9 A temporary road (to be constructed below the existing road levels) forming a link between Work No. 15, Work No. 1 and Work No. 7 commencing by a junction with Work No. 15 at a point 16 yards from the commencement of that work measured along its centre line and terminating by a junction with Work No. 7 at a point 8 yards from the commencement of that work measured along its centre line.
- Work No. 10 A footpath commencing by a junction with the south side of Marine Parade at a point 74 yards south and 114 yards west measured from the north-east corner of the building known as the French Convalescent Home, running parallel with (but constructed mainly below the level of) Work No. 7 in an easterly direction for 84 yards and thence in a westerly direction and terminating at a point 90 yards south and 89 yards west measured from the north-east corner of the building known as the French Convalescent Home.
- Work No. 11 A footpath (forming in part a diversion of the existing footpath along the north side of the building known as the Black Rock Bathing Pool and in part a lowering of Undercliff Walk) commencing at a point 58 yards north and 56 yards west measured from the south-east corner of the Black Rock Bathing Pool and terminating at a point on Undercliff Walk 54 yards north and 150 yards east measured from the south-east corner of the Black Rock Bathing Pool.
- Work No. 12 A footpath forming a continuation of the existing footpath down the cliff face commencing at a point 53 yards north and 99 yards east measured from the south-east corner of the Black Rock Bathing Pool and terminating by a junction with Work No. 11 at a point 21 yards from the termination of that work measured along its centre line.
- Work No. 13 A footpath forming a diversion of the upper portion of the existing footpath down the cliff face commencing at a point 68 yards south and 126 yards west measured from the south-west corner of the building known as Marine Gate proceeding in an easterly direction for 31 yards and thence in a westerly direction and terminating at a point 64 yards south and 129 yards west measured from the south-west corner of the building known as Marine Gate.

Work No. 14 A footway (running mainly parallel with but constructed mainly above the level of Work No. 8 and forming a diversion of the southern footway of Marine Drive) commencing by a junction with the south side of Marine Drive at a point 36 yards south and 36 yards west measured from the south-west corner of the building known as Marine Gate and terminating by a junction with the south side of Marine Drive at a point 113 yards south and 364 yards east measured from the south-west corner of the building known as Marine Gate.

Work No. 15 A road forming the exit road from Brighton Marina (to be constructed below the existing road levels and incorporating a tunnel below Marine Drive and Work No. 7 and a viaduct partly over Work No. 11) commencing by a junction with Work No. 1 at a point 55 yards east and 10 yards north measured from the north-east corner of the building known as the French Convalescent Home and terminating at a point 75 yards east and 25 yards south measured from the south-east corner of the Black Rock Bathing Pool.

Work No. 16 A road forming the entrance road to Brighton Marina (to be constructed below the existing road levels and incorporating a viaduct partly over Work No. 11) commencing by a junction with Work No. 7 at a point 78 yards south and 49 yards east measured from the north-east corner of the building known as the French Convalescent Home and terminating at a point 163 yards east and 44 yards south measured from the south-east corner of the Black Rock Bathing Pool.

(2) Where in any case the works involve the construction of a bridge or viaduct, the Corporation shall erect on each side of such bridge or viaduct a good and sufficient fence and (save in the case of Work No. 6) a vehicle safety barrier.

17. In executing the works the Corporation may deviate laterally from the lines or situations thereof to any extent within the limits of deviation relating thereto and vertically from the levels thereof defined on the deposited sections to any extent downwards and to any extent not exceeding 10 feet upwards or to such further extent upwards as may be found necessary or convenient and as may be sanctioned by the Minister of Transport.

18.—(1) The Corporation may in connection with and for the purposes of this Act, and as part of the works, execute and do any of the following works or things within the limits of deviation:—

(a) make and maintain all such approaches, subways, roundabouts, flyovers, underpasses, overpasses, lifts,

Subsidiary works.

PART III  
—cont.

- stairs, escalators, ramps, passages, gantries, means of ingress or egress, shafts, stagings, buildings, apparatus, plant and machinery as may be necessary or convenient;
- (b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing or proposed streets intersected, crossed or interfered with by or contiguous to any of the works and divert, widen or alter the line or alter the level of any existing street for the purpose of connecting the same with the works, or any of them, or with any existing or proposed street, or of crossing under or over the same;
  - (c) construct and provide carriageways, footways, reserved areas, vaults, cellars, arches, sewers, drains, sunken or ornamental gardens and other works and conveniences;
  - (d) construct and provide all such bridges, arches, piers, viaducts, embankments, aprons, tunnels, abutments, retaining walls, wing walls, boundary walls, culverts and other works as may be necessary or convenient for the works or for carrying the same over or under any stream or watercourse, any street or any land;
  - (e) stop up and appropriate the site and soil of so much of any streets as they may consider unnecessary to retain or to throw into the works;
  - (f) raise, sink or otherwise alter the position of any of the steps, areas, cellars, cellar flaps, pavement lights, gratings, boundary walls, railings, fencings, windows, sewers, drains, watercourses, pipes, spouts or wires belonging to any house or building and remove all other obstructions;
  - (g) execute any works for the protection of any adjoining land or buildings;
  - (h) execute any works and do anything necessary for the strengthening and supporting of any walls or adjoining buildings;
  - (i) remove, alter, divert or stop up any drain, sewer, channel or watercourse the Corporation providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any channel or watercourse, and
  - (j) alter or remove any monument, drinking trough, lamp-post, refuge, railings or other structure erected upon any street or land and plant trees, shrubs or other vegetation;
- together with all necessary or convenient subsidiary or incidental works.

(2) The Corporation may on any lands abutting on the works and outside the limits of deviation execute and do by agreement

with the owners and occupiers of the said lands any of the works or things referred to in paragraphs (f), (g) and (h) of subsection (1) of this section, and any works necessary or convenient for the purpose of providing or facilitating access to or from the said lands or for preserving the amenities thereof.

(3) Any paving, metalling or materials in, on or under any street stopped up, altered or diverted by the Corporation under the powers of this Part of this Act and any sewers, drains and works rendered unnecessary by the substitution therefor of other sewers, drains and works shall vest in the Corporation, and the substituted sewers, drains and works shall be under the same jurisdiction, care, management and direction as the existing sewers, drains and works for which they may be so substituted.

(4) In the exercise of the powers conferred by this section the Corporation shall cause as little detriment and inconvenience as circumstances admit to any person, and shall make reasonable compensation for any damage caused by the exercise of such powers.

(5) Any question of disputed compensation payable under the foregoing provisions of this section shall be determined under and in accordance with the Land Compensation Act 1961.

1961 c. 33.

19.—(1) Subject to the provisions of this Act, the Corporation may stop up the whole or such portion or portions as they think fit of so much of the streets or portions thereof mentioned in Schedule 1 to this Act as is within the limits of deviation, and thereupon all rights of way over the said streets or portions thereof shall be extinguished and the Corporation may appropriate and use the site thereof.

Power to  
Corporation  
to stop up,  
etc., streets.

(2) No portion of any street shall be stopped up under the powers of this section until the Corporation are in possession of all lands on both sides (or, in the case of Boundary Road, the lands on the eastern side) of such portion except so far as the owners, lessees and occupiers of those lands may otherwise agree.

(3) Any person who suffers loss by—

(a) the appropriation of any site of which he is the owner;  
or

(b) the extinguishment of any private right;

under this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute under and in accordance with the Land Compensation Act 1961.

20.—(1) The Corporation during and for the purpose of the execution of the works may temporarily stop up and divert and interfere with any street, and may for any reasonable time divert the traffic therefrom and prevent all persons, other than those bona fide going to or from any land, house or building abutting on the street, from passing along and using the same.

Temporary  
stoppage of  
streets.

PART III  
—cont.

(2) The Corporation shall provide reasonable access for foot-passengers bona fide going to or from any such land, house or building.

(3) The Corporation shall not exercise the powers of this section with respect to any street upon which a service of stage carriages is operated unless not less than forty-eight hours' previous notice is given to the traffic commissioners and to the holders of the road service licence under which that service is authorised.

Power to prevent access to or from certain streets.

**21.—**(1) For the purpose of facilitating the movement of vehicular traffic or for securing the safety of the public in any street in the borough the Corporation may at or near the points where it is shown on the deposited plans that access is to be stopped up, erect walls, barriers or kerbs for the prevention, prohibition or limitation of access by vehicular or pedestrian traffic to and from any street; and exhibit notices prohibiting or limiting such access.

(2) The Corporation may from time to time remove any such wall, barrier or kerb but any other person removing or interfering with any such wall, barrier or kerb or removing, defacing or failing to comply with any such notice shall be liable on summary conviction to a fine not exceeding ten pounds.

Power to make trial borings.

**22.—**(1) The Corporation may make trial borings at such places in the lands within the limits of deviation as they may think fit for the purpose of ascertaining the nature of the soil:

Provided that in the case of land owned or occupied by a person other than the Corporation, the Corporation shall not enter upon the land for the purpose of making trial borings under this section unless, not less than seven days before the first entry, and not less than twenty-four hours before any subsequent entry, they have given notice to the owner and occupier of the land.

(2) Where land is damaged in the exercise of the powers conferred by subsection (1) of this section, any person interested in the land may recover from the Corporation compensation for the damage to be determined in case of dispute by the tribunal, and, so far as compensation is properly to be calculated by reference to the depreciation of the value of his interest in the land, rules 2 to 4 of the rules set out in section 5 of the Land Compensation Act 1961 shall apply.

1961 c. 33.

Underpinning of houses near works.

**23.** The Corporation at their own cost and charges may, subject as hereinafter provided, underpin or otherwise strengthen any house within 100 feet of any of the works, and the following provisions shall have effect:—

(1) At least twenty-eight days' notice shall (except in case of emergency) be given to the owners, lessees and occupiers of the house intended to be so underpinned or otherwise strengthened:



- (2) Each such notice shall be served in manner prescribed by section 30 of the Compulsory Purchase Act 1965:
- (3) If any owner or lessee or occupier of any such house shall, within fourteen days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration:
- (4) The Corporation shall be liable to compensate the owners, lessees and occupiers of every such house for any loss or damage which may result to them by reason of the exercise of the powers granted by this section, provided that the claim for compensation in respect of such loss or damage is made within six months from the date upon which any such owner, lessee or occupier either first discovered the loss or damage or by which he ought reasonably to have discovered it (whichever is the earlier):
- (5) In any case in which any house shall have been underpinned or otherwise strengthened under the powers of this section the Corporation may, from time to time after the completion of such underpinning or other strengthening, and during the execution of the work in connection with which such underpinning or other strengthening was done, or within five years after the opening for traffic of that work, enter upon and survey such house and do such further underpinning or other strengthening thereof as they may deem necessary or expedient or, in case of dispute between the Corporation on the one hand and the owner, lessee or occupier of the house on the other hand, as shall be settled by arbitration:
- (6) If any underpinning or strengthening done by the Corporation pursuant to this section shall at any time within five years from the last underpinning or other strengthening of that house or from the opening for traffic of the work in connection with which such underpinning or other strengthening was done, whichever is the later, prove inadequate for the support or protection of the house against further injury arising from the execution of such work, the Corporation shall make compensation to the owner, lessee and occupier of the house for such injury, provided that the claim for compensation in respect thereof be made within six months from the discovery thereof:
- (7) In relation to any works carried out by the Corporation for the underpinning or strengthening of any house

PART III  
—cont.

1965 c. 56.

## PART III

—cont.

1950 c. 39.

under this section, being works to which, apart from this paragraph, the provisions of Part II of, and Schedule 4 to, the Public Utilities Street Works Act 1950 (which regulate the relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) would not apply, the said provisions shall apply as if—

(a) the works were executed for road purposes by an authority mentioned in subsection (1) of section 21 of that Act and were included in the works mentioned in paragraph (a) of that subsection; and

(b) where the apparatus affected is not in a street or in controlled land abutting on a street, that apparatus were in a street:

(8) Nothing in this section contained, nor any dealing with any property in pursuance of this section, shall relieve the Corporation from the liability to compensate under any other enactment:

(9) Every case of compensation to be ascertained under this section shall be determined in case of dispute by the tribunal, and, so far as the compensation is properly to be calculated by reference to the depreciation of the value of the interest of the owner or occupier of the house, rules 2 to 4 of the rules set out in section 5 of the Land Compensation Act 1961 shall apply:

(10) Unless otherwise provided, any difference arising under this section (other than a difference as to the construction of this section) shall be referred to and settled by arbitration:

(11) In this section “house” includes any building or structure.

1961 c. 33.

Power to pump water and use sewers for removing water.

**24.** The Corporation may pump any water found by them in the execution of the works and may use for the discharge of any such water any sewer or drain, and for that purpose may, within the limits of deviation shown on the deposited plans, lay down, take up and alter conduits, pipes and other works and make any convenient connection with any such sewer or drain:

Provided that the Corporation shall not exercise the powers of this section in relation to any sewer or drain vested in the sewers board or the company without the consent of that board or the company (as the case may be) but the consent of the company shall not be unreasonably withheld and any question or difference as to whether such consent is so withheld shall be determined by arbitration.

25. As from the passing of this Act the powers conferred upon the company by section 5 (Power to construct works) of the Brighton Marina Act 1968, so far as they relate to Works Nos. 11, 12 and 13 in that section described, shall cease to be exercisable, section 15 (Power to prevent access to or from the works), section 16 (Power to pump water and use sewers for removing water), section 17 (Vesting and maintenance of road works), section 18 (Completion of road works) and section 43 (Power to use subsoil of streets) of the said Act shall cease to have effect, and the provisions of the said Act which are mentioned in Schedule 2 to this Act shall have effect subject to the amendments specified in that schedule, being amendments consequential on the provisions of this section.

PART III  
—cont.  
Cesser of powers conferred by Brighton Marina Act 1968 in relation to Riflebutt Road.  
1968 c. ii.

#### PART IV

##### PROTECTIVE PROVISIONS

26. Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act 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 without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose.

Crown rights.

27. The following provisions shall unless otherwise agreed in writing between the Corporation and the sewers board apply and have effect:—

For protection of the sewers board.

(1) In this section—

“ apparatus ” means any drain, sewer or other apparatus or work of the sewers board and includes any structure for the lodging therein of apparatus;

“ authorised work ” means any work (other than a work of maintenance), and any act or thing executed or done by the Corporation in exercise of the powers conferred by section 18 (Subsidiary works) of this Act, which in any way affects any apparatus;

“ plans ” means plans, elevations, sections, drawings, particulars (distinguishing between permanent and temporary works) and specifications as may be appropriate to the authorised work concerned:

(2) (a) Before commencing any authorised work the Corporation shall furnish to the sewers board plans thereof for their reasonable approval;

(b) The Corporation shall not commence any authorised work unless the plans so required to be submitted to the

PART IV  
—cont.

sewers board have been approved in writing by that board or, if the board shall disapprove the plans or approve them subject to any condition that is unacceptable to the Corporation until the plans have been settled by arbitration:

- (3) If the sewers board do not within twenty-eight days of the submission to them of any plans pursuant to paragraph (2) of this section intimate to the Corporation their approval (either with or without conditions) or disapproval thereof they shall be deemed to have approved of the same unconditionally:
- (4) Upon signifying their approval or disapproval of the plans relating to any authorised work the sewers board may specify any temporary or permanent protective works which in their reasonable opinion should be carried out before the commencement of the authorised work to ensure the stability of any apparatus or to protect it from injury and such temporary or permanent protective works shall be constructed by the Corporation with all reasonable dispatch; and the Corporation shall not commence the construction of the authorised work to which the plans relate until such temporary or permanent protective works have been completed to the reasonable satisfaction of the sewers board:
- (5) An authorised work shall not be constructed otherwise than in accordance with such plans (with or without conditions) as may be approved or deemed to be approved by the sewers board who shall be given reasonable notice of the date and time on and at which the work is to be commenced:
- (6) (a) If within twenty-one days after the plans relating to an authorised work have been furnished to them the sewers board give notice to the Corporation that, in consequence of the nature of the authorised work, it is reasonably necessary that the sewers board should themselves execute any part of the authorised work, that part of such authorised work, in lieu of being executed by the Corporation, shall be executed by the sewers board on behalf of the Corporation with all reasonable dispatch in accordance with the plans approved, deemed to be approved or settled as aforesaid;  
(b) The reasonable expenses incurred by the sewers board in or in connection with the execution of such an authorised work shall be a debt due from the Corporation to the sewers board and shall be recoverable by the sewers board as a simple contract debt:
- (7) The fact that any work or thing has been executed or done in accordance with a plan approved or not objected to

by the sewers board or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Corporation from any liability under the provisions of this section:

- (8) The exercise by the Corporation of the powers conferred by section 20 (Temporary stoppage of streets) of this Act in relation to any highway shall not prejudice or affect the right of the sewers board to maintain, inspect, repair, renew or remove any apparatus or their right for that purpose to enter upon or break open a highway:
- (9) The Corporation shall be responsible for and make good to the sewers board all costs, charges, damages and expenses which may be occasioned to the sewers board by—
- (a) the construction, or any failure, of any work;
  - (b) any subsidence caused by the construction of any work; or
  - (c) any act or omission of the Corporation, their contractors, agents, workmen or servants whilst engaged upon the works;

and the Corporation shall effectually indemnify the sewers board against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the sewers board by reason of such construction, failure, subsidence, act or omission as is referred to in subparagraphs (a), (b) and (c) of this paragraph:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Corporation with respect to any costs, charges, damages and expenses which may be attributable to the act, neglect or default of the sewers board or their contractors or workmen;

(ii) the sewers board shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Corporation:

- (10) Any difference which may arise between the Corporation and the sewers board under this section (other than a difference as to the construction of this section) shall be referred to and determined by arbitration.

28.—(1) As soon as practicable after the whole or part of a street has been permanently diverted or stopped up by the Corporation under the powers conferred by this Act, the Corporation shall send by post to the Post Office a notice informing it of such diversion or stopping up. For protection of Post Office.

PART IV  
—cont.

(2) Where in pursuance of paragraphs (b) and (e) of subsection (1) of section 18 (Subsidiary works) or section 19 (Power to Corporation to stop up, etc., streets) of this Act the Corporation divert or stop up the whole or any portion of a street the following provisions of this subsection shall, unless otherwise agreed in writing between the Corporation and the Post Office, have effect in relation to so much of any telegraphic line belonging to or used by the Post Office as is under, in, upon, over, along or across the land which by reason of the diversion or stopping up ceases to be a street (in this subsection referred to as "the affected line") that is to say:—

- (a) The power of the Post Office to remove the affected line shall be exercisable notwithstanding the diversion or stopping up so however that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of three months from the date of the sending of the notice referred to in subsection (1) of this section unless before the expiration of that period the Post Office has given notice to the Corporation of its intention to remove the affected line or that part thereof, as the case may be, within such reasonable period as may be specified in the said notice given to the Corporation:
- (b) The Post Office may by notice in that behalf to the Corporation abandon the affected line or any part thereof and shall be deemed as respects the affected line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period the Post Office has removed it or given notice of its intention to remove it:
- (c) The Post Office shall be entitled to recover from the Corporation the expense of providing in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line a telegraphic line in such other place as it may reasonably require:
- (d) Where under paragraph (b) of this subsection the Post Office has abandoned the whole or any part of the affected line it shall vest in the Corporation and the provisions of the Telegraph Acts 1863 to 1916 shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(3) The exercise by the Corporation of the powers conferred by section 20 (Temporary stoppage of streets) of this Act in

relation to a street shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that street for any of those purposes.

PART IV  
—cont.

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

1878 c. 76.

29. For the protection of the undertakers the provisions of this section shall, unless otherwise agreed in writing between the Corporation and the undertakers, apply and have effect:—

For  
protection of  
electricity and  
gas  
undertakers.

(1) In this section, unless the subject or context otherwise requires—

“adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

“apparatus” means—

(a) in relation to the South Eastern Electricity Board any electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by that board; and

(b) in relation to the South Eastern Gas Board any mains, pipes or other apparatus belonging to or maintained by that board;

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

“specified work” means any work carried out or thing done under the powers of section 16 (Power to construct works), section 18 (Subsidiary works) and section 23 (Underpinning of houses near works) of this Act;

“in” in a context referring to apparatus includes under, over, across, along or upon;

“position” includes depth;

“the undertakers” means the South Eastern Electricity Board and the South Eastern Gas Board or either of them:

(2) Notwithstanding anything in this Act or shown on the deposited plans the Corporation shall not acquire any apparatus under the powers of this Act otherwise than by agreement:

PART IV  
—cont.

- (3) Notwithstanding anything in this Act no apparatus shall be removed from any land or street in which it is situated, nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land or street be extinguished, until any necessary adequate alternative apparatus has been provided and is in operation to the reasonable satisfaction of the undertakers:
- (4) (a) If the Corporation, for the purpose of or in connection with the construction of any specified work require the removal of any apparatus, they shall give to the undertakers written notice of such requirement together with a plan and section of the work proposed and of the proposed position of the alternative apparatus (if any) to be provided;
- (b) If the Corporation require the undertakers to remove any apparatus permanently from any land or street, or if, in consequence of the exercise of the powers of this Act, the undertakers shall reasonably require the permanent removal of any apparatus, the Corporation shall, if practicable, afford to the undertakers the necessary facilities and rights for the laying down or erection of adequate alternative apparatus in other lands of the Corporation and thereafter for the maintenance, repair, renewal and inspection of such apparatus:
- Provided that if the alternative apparatus or any part thereof is to be constructed elsewhere than in other lands of the Corporation and the Corporation are unable to afford such facilities and rights as aforesaid the undertakers shall, on receipt of a written notice to that effect from the Corporation, forthwith use their best endeavours to obtain the necessary facilities and rights:
- (5) (a) Any alternative apparatus to be constructed in lands of the Corporation in pursuance of paragraph (4) of this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Corporation or, in default of agreement, settled by arbitration;
- (b) The undertakers shall, after the manner of construction and the line and situation of any alternative apparatus have been agreed, or settled by arbitration, as aforesaid, and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (4) of this section, proceed with all reasonable dispatch to construct and bring into operation any such alternative



apparatus and to remove any apparatus required by the Corporation to be removed under the provisions of this section and, in default, the Corporation may remove the apparatus:

- (6) (a) Not less than twenty-eight days before commencing to execute any specified work which is near to or is likely to affect any apparatus the removal of which has not been required by the Corporation under paragraph (4) of this section, the Corporation shall submit to the undertakers a plan, section and description of the work to be executed;
- (b) Such work shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the undertakers shall be entitled by their officer to watch and inspect the execution of such work:

Provided that—

- (i) if the undertakers within fourteen days after the submission to them of any such plan, section and description shall, in consequence of the work proposed by the Corporation, reasonably require the removal of any apparatus and give written notice to the Corporation of such requirement the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Corporation under paragraph (4) thereof; and
- (ii) nothing in this sub-paragraph shall preclude the Corporation from submitting at any time, or from time to time, but in no case less than twenty-eight days before commencing the execution of any such work, a new plan, section and description in lieu of the plan, section and description previously submitted and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;
- (c) The Corporation shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but, in such a case, they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the work as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:

PART IV  
—cont.

- (7) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the Corporation shall provide an alternative means of access to such apparatus:
- (8) If by reason or in consequence of the execution of any of the specified works or any subsidence resulting from any of those works any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the undertakers or any interruption in the supply of gas or electricity by the undertakers shall be caused, the Corporation shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply, and shall—

(a) make reasonable compensation to the undertakers for any loss sustained by them; and

(b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

by reason or in consequence of any such damage or interruption:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Corporation with respect to any damage or interruption which may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;

(ii) the undertakers shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior written consent of the Corporation:

- (9) Where in consequence of this Act any highway or part of a highway in which any apparatus is situate is stopped up or diverted, other than temporarily stopped up or diverted under the powers of section 20 (Temporary stoppage of streets) of this Act, the undertakers shall, notwithstanding such stopping up or diversion, have the same powers and rights in respect of any apparatus remaining in the highway so stopped up or diverted as if the same had remained a highway, and no such powers or rights shall be extinguished by virtue of section 19

(Power to Corporation to stop up, etc., streets) of this Act and no interest in such apparatus shall vest in the Corporation by virtue of section 18 (Subsidiary works) of this Act except under paragraph (11) of this section but the undertakers may and, if reasonably required by the Corporation, shall—

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—cont.

(a) remove the apparatus and relay or replace it in the highway, if any, substituted for the highway so stopped up or diverted or in such other position as the undertakers may reasonably determine; or

(b) provide and lay or place in the highway, if any, so substituted, or in such other position as aforesaid, other apparatus in place of the existing apparatus:

(10) The Corporation shall repay to the undertakers the reasonable expenses incurred by the undertakers in or in connection with—

(a) the removal and relaying or replacing of any apparatus and the provision, laying down, erection or placing of any new apparatus under the provisions of paragraph (4) of this section or of that paragraph as applied by sub-paragraph (i) of the proviso to sub-paragraph (b) of paragraph (6) of this section, or under the provisions of paragraph (5) or (9) of this section, less the value of any apparatus removed in pursuance of the provisions of this section (such value being calculated after removal);

(b) the cutting off of any apparatus from any other apparatus;

(c) the superintendence, or watching and inspection under the provisions of paragraph (6) of this section, of any works executed by the Corporation; and

(d) any other work or thing rendered reasonably necessary in consequence of the operations referred to in this paragraph:

Provided that—

(i) if the undertakers provide, lay down, erect or place apparatus of better type or of greater capacity or (otherwise than at the request of the Corporation or in accordance with the award of an arbitrator) at a greater depth than the existing apparatus, the undertakers shall bear such proportion of the cost of such provision, laying down, erection or placing as represents the amount by which such cost exceeds

PART IV  
—cont.

the cost which would have been incurred if the type or capacity or depth of the apparatus so provided, laid down, erected or placed had been the same as that of the existing apparatus;

(ii) any amount payable by the Corporation to the undertakers under this paragraph in respect of the provision, laying down, erection or placing of new apparatus in substitution for apparatus provided, laid down, erected or placed more than seven and a half years earlier, shall be reduced by the amount of any financial benefit which may be derived by the undertakers from the deferment of the time for the renewal of the apparatus in the ordinary course:

- (11) Where by reason or in consequence of the stopping up of any street under the powers of this Act any apparatus is rendered derelict, useless or unnecessary the Corporation shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Corporation) and the reasonable cost of, and incidental to, the execution or doing of any works or things rendered necessary or expedient by reason or in consequence of such apparatus being so rendered derelict, useless or unnecessary:

Provided that the Corporation shall not under the provisions of this paragraph be required to pay the undertakers the value of any apparatus rendered derelict, useless or unnecessary if to the reasonable satisfaction of the undertakers other apparatus shall at the expense of the Corporation have been provided and laid and made ready for use in substitution for the apparatus so rendered derelict, useless or unnecessary:

- (12) The Corporation shall so far as is reasonably practicable exercise the powers of section 22 (Power to make trial borings) of this Act so as not to obstruct or render less convenient the access to any apparatus:
- (13) (a) Any difference which may arise between the Corporation and the undertakers under this section shall be determined by an arbitrator;
- (b) In settling any difference under this section the arbitrator may, if he thinks fit, require the Corporation to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

30. For the protection of the company the following provisions shall, unless otherwise agreed in writing between the company and the Corporation, apply and have effect:—

PART IV  
—cont.

For protection  
of Brighton  
Marina  
Company  
Limited.

(1) In this section, unless the context otherwise requires—

“ authorised works ” means so much of Works Nos. 15 and 16 authorised by this Act as is seaward of any part of Undercliff Walk and any act or thing executed or done by the Corporation seaward of any part of Undercliff Walk for the purposes of the said works in exercise of the powers conferred by section 18 (Subsidiary works) of this Act;

“ plans ” means plans, elevations, sections, drawings, particulars (distinguishing between permanent and temporary works) and specifications, as may be appropriate to the authorised work concerned;

“ the engineer ” means an engineer to be appointed by the company and, if for the time being no such appointment has been notified to the Corporation, includes the company:

(2) The Corporation shall, before commencing the authorised works, furnish to the company plans thereof for the reasonable approval of the engineer and shall not commence the authorised works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that if within twenty-eight days after such plans have been furnished to the company the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:

(3) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works whether temporary or permanent which in his opinion should be carried out before the commencement of the authorised works to ensure the safety or stability of the company's property and such protective works as may be reasonably necessary for those purposes shall be constructed by the Corporation with all reasonable dispatch and the Corporation shall not commence the construction of the authorised works until the engineer shall have notified the Corporation that the protective works have been completed:

(4) The Corporation shall give to the engineer not less than twenty-eight days' notice of their intention to commence the construction of any of the authorised works and also,

PART IV  
—cont.

except in emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the authorised works in so far as such works of repair or maintenance affect or interfere with the company's property:

- (5) The authorised works and any works for the repair or maintenance thereof shall when commenced be carried out with all reasonable dispatch in accordance with the approved plans and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to the company's property as may be and as little interference as may be with the operations of the company in the vicinity of the authorised works:
- (6) The Corporation shall at all times afford reasonable facilities to the engineer for access to the authorised works during their construction and shall supply him with all such information as he may reasonably require with regard to the authorised works or the method of construction thereof:
- (7) The Corporation shall not exercise the powers conferred by section 22 (Power to make trial borings) of this Act on any property of the company without first obtaining the consent of the company, but such consent shall not be unreasonably withheld and the company may attach thereto such reasonable terms and conditions as they think fit:
- (8) Any difference arising between the Corporation and the company under this section (other than a difference as to the meaning or construction of this section) shall be settled by arbitration.

For protection  
of Religious  
Society of  
Friends.

31. For the protection of the Religious Society of Friends (in this section called "the society") the provisions of this section shall, unless otherwise agreed in writing between the Corporation and the society with the approval of the Secretary of State, apply and have effect:—

- (1) In this section unless the context otherwise requires—

"the burial ground" means the burial ground of Friends Trusts Limited fronting Riflebutt Road in the borough;

"remains" means the remains of deceased persons interred in the burial ground other than remains to which this section does not apply by virtue of paragraph (2) thereof;

“ the signed plan ” means the plan of which copies have been signed in quadruplicate by Mr. Harry Gourlay, the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred, of which plan copies have been deposited in—

PART IV  
—cont.

(a) the office of the Clerk of the Parliaments, House of Lords;

(b) the Private Bill Office of the House of Commons;

(c) the office of the town clerk;

(d) the registered office of Friends Trusts Limited situate at Friends House, 173/177 Euston Road, London, N.W.1, which copy shall be kept on deposit at the registered office for the time being of that company;

“ the substituted area ” means that part of the Lawn Memorial Park in the borough which is shown coloured pink on the signed plan:

- (2) This section shall not apply to the removal or reinterment of any remains or the removal of any monument or tombstone in respect of which a notice is given to the Corporation pursuant to subsection (5) of section 15 (As to burial ground) of this Act, except in accordance with the provisions of subsection (8) or subsection (11), as the case may be, of that section:
- (3) (a) If so required by the society before the expiration of two months from the first publication of the notice referred to in subsection (3) of the said section 15 the Corporation shall grant to Friends Trusts Limited, as trustees for the society, exclusive rights of burial for a period of seventy-five years from the expiration of the said two months in two hundred and fifty-two grave spaces within the substituted area, and no consideration money shall be payable by the society or Friends Trusts Limited in respect of the said grant;
- (b) Notwithstanding any enactment or rule of law to the contrary, Friends Trusts Limited may not later than twelve months before the expiration of the grant referred to in sub-paragraph (a) of this paragraph, by notice in writing to the Corporation, require the Corporation to extend that grant for a further period of seventy-five years from the date upon which it would otherwise have expired, and forthwith after service of such notice the Corporation shall make such further grant upon payment of consideration money assessed by reference to the standard scale or rate then payable in respect of a

**PART IV**  
—cont.

similar grant in other parts of the Lawn Memorial Park or, if there is no such standard scale or rate, such reasonable consideration money as may be agreed between the Corporation and the society or in default of agreement determined by an independent expert; and for the purposes of this sub-paragraph the independent expert shall be appointed (in default of agreement between the Corporation and the society) on the application of either party by the President of the Royal Institution of Chartered Surveyors:

- (4) Before commencing the removal of any remains the Corporation shall notify the clerk to the Brighton preparative meeting of the society and the Corporation shall permit any person authorised in writing by the society to be present during the process of removal and reinterment:
- (5) The remains shall be reinterred in graves within the substituted area and the Corporation shall so carry out the removal of remains as to secure that all remains, and any caskets or urns containing cremated remains, interred in any one grave in the burial ground shall be reinterred in a single grave in the substituted area, and the reinterment shall, unless otherwise agreed between the Corporation and the society in any particular case, be carried out in as nearly as may be the same order as that in which such remains, caskets and urns were first interred in the burial ground:
- (6) (a) The Corporation shall, at their expense, provide and lay in the substituted area two tablets, the materials, size, design and siting of which shall be such as may, after consultation with the society, be approved by the Corporation;  
(b) One of such tablets shall record that the substituted area is the continuing burial place of the society to which remains have been transferred from the burial ground, and the other shall commemorate those former members of the society who had been cremated and who are commemorated by tablets displayed in the burial ground:
- (7) The headstone from any grave in the burial ground containing remains shall at the expense of the Corporation be removed, reduced in size to any extent necessary to comply with the regulations for the time being governing the Lawn Memorial Park, and laid on the grave in the substituted area in which those remains are reinterred, any headstone broken or damaged during removal, cutting or relaying being replaced at the expense of the Corporation:



Provided that this paragraph shall not apply to any headstone which by reason of its illegible or ruinous condition is unsuitable for removal and laying in the substituted area; in the event of a disagreement between the Corporation and the society as to whether this proviso applies to a headstone the Corporation shall not be bound to comply with the provisions of this paragraph in relation thereto but the society may remove, reduce in size (if necessary) and lay the headstone, or may provide and lay a new headstone, and the Corporation shall repay to the society the reasonable cost incurred by them in so doing, not exceeding in respect of any one headstone the sum of fifteen pounds:

PART IV  
—cont.

- (8) At any time within two months after the first publication of the notice referred to in subsection (3) of section 15 (As to burial ground) of this Act, the society may give the Corporation notice in writing requiring that the remains should be reinterred in some place (other than the substituted area) being a burial ground or cemetery in which burials may legally take place, and in such event the provisions of paragraph (3) of this section shall cease to have effect and the provisions of paragraphs (4), (5), (6) and (7) of this section shall, with any necessary modifications, apply to the removal to and reinterment of remains in, and the removal to and erection or laying of headstones in, such other place:

Provided that the Corporation shall not be liable to incur or pay any expenditure exceeding that for which they would have been liable in respect of reinterment in, and the laying of headstones in, the substituted area, the amount of which expenditure shall in the event of dispute be determined by the county court, whose jurisdiction under this paragraph may be exercised by the registrar of the court:

- (9) Any headstone not re-erected or laid in accordance with the provisions of this section shall be broken and defaced by the Corporation before being disposed of in such manner as the Corporation think fit:
- (10) (a) Upon the reinterment of any remains under this section a certificate of reinterment shall be sent to the Registrar General by the Corporation giving the date of reinterment and identifying the place from which the remains were removed and the place in which they were reinterred;

PART IV  
—cont.

- (b) The Corporation shall cause a record to be made of each headstone removed under this section containing—
- (i) a copy of any inscription thereon; and
  - (ii) if it is intended to preserve the headstone, a statement of the place where it has been re-erected or laid;

and shall deposit a copy of the record with the Registrar General:

- (11) If the remains are reinterred in the substituted area the Corporation shall forthwith after completion of the process of reinterment provide to the society a plan identifying the deceased persons whose remains have been reinterred in each substituted grave.

## PART V

## MISCELLANEOUS

Power to borrow.

32.—(1) The Corporation may borrow without the consent of any sanctioning authority for any of the purposes specified in column (1) of the following table the sum specified in relation thereto in column (2) of that table:—

(1)	(2)	(3)
Purpose for which money may be borrowed	Amount	Maximum period for repayment of loan
(a) The purchase of lands, easements and rights under the powers of this Act	The sum requisite	Sixty years.
(b) The construction of the works authorised by this Act	£1,163,000	Forty years.
(c) The provision of housing accommodation for rehousing persons displaced.	The sum requisite	Sixty years.
(d) The payment of the costs, charges and expenses of this Act	The sum requisite	Five years.

(2) Every sum borrowed under subsection (1) of this section shall be repaid within such period from the date of borrowing as the Corporation without the consent of any sanctioning authority may determine not exceeding the period specified in relation thereto in column (3) of the foregoing table.

(3) The Corporation may also, with the sanction of the Minister, borrow such further moneys as may be necessary for any of the purposes aforesaid and any moneys borrowed under the powers of this subsection shall be repaid within such periods not exceeding sixty years as may be prescribed by the Minister.

PART V  
—cont.

1933 c. 51.

1946 c. 58.

Local  
inquiries.

1946 c. 31.

Arbitration.

1965 c. 56.

Protection of  
members and  
officers of  
Corporation  
from personal  
liability.  
1875 c. 55.Saving for  
town and  
country  
planning.

1962 c. 38.

(4) 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.

(5) It shall not be lawful to exercise the powers of borrowing conferred by this section, other than the power of borrowing to pay the costs, charges and expenses of this Act, except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

33.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act.

(2) Subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply in relation to any such inquiries, and for that purpose the definition of “ department ” in subsection (8) of that section shall include any Minister of the Crown having functions under this Act.

(3) In this section “ Minister of the Crown ” has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act 1946.

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

35. 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.

36.—(1) The provisions of the Town and Country Planning Acts 1962 to 1968 and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is, or may be, authorised or regulated by or under this Act.

(2) No provision of any general development order made under section 14 of the Town and Country Planning Act 1962 which grants planning permission for development of land authorised by a local or private Act of Parliament shall apply to the works if the construction of the works is not commenced before the expiry of a period of five years from the passing of this Act.

PART V  
—cont.

1962 c. 38.

(3) Such of the works authorised by section 18 (Subsidiary works) of this Act as are not commenced within twelve months of the completion of the works authorised by section 16 (Power to construct works) of this Act shall not be deemed for the purposes of any development order made under section 14 of the Town and Country Planning Act 1962 to be development authorised by any local or private Act of Parliament which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out.

Costs of Act.

37. The costs, charges and expenses of and incidental to preparing, applying for and obtaining this Act, as taxed by the taxing officer of one of the Houses of Parliament, shall be paid by the Corporation out of the general rate fund or out of moneys to be borrowed under this Act.

## SCHEDULES

## SCHEDULE 1

Section 19.

## STREETS TO BE STOPPED UP WHOLLY OR IN PART

Arundel Street.  
 Boundary Road.  
 Madeira Drive.  
 Marine Drive.  
 Marine Parade.  
 Riflebutt Road.  
 Roedean Road.  
 Unnamed road running from Arundel Road to Riflebutt Road.  
 Footpath running along north side of Black Rock Bathing Pool.  
 Footpath down the cliff face south of the building known as  
 Mansfields' Garage.

## SCHEDULE 2

Section 25.

AMENDMENTS OF BRIGHTON MARINA ACT 1968 CONSEQUENTIAL ON 1968 c. ii.  
 CESSER OF POWERS TO CONSTRUCT WORKS NOS. 11, 12 AND 13 BY THAT  
 ACT AUTHORISED

Section (1)	Amendment (2)
10 (As to Undercliff Walk) ...	<p>In subsection (2) the words "and of so much of Work No. 11 as will or may interfere with Undercliff Walk" shall be omitted.</p> <p>In subsection (4) the words "and of so much of Work No. 11 as will or may interfere with Undercliff Walk or the western access paths to Undercliff Walk", and the words "and of the said paths" in both places where those words occur, shall be omitted.</p>
12 (Laying out and repair of carriageways and footways)	<p>In subsection (1) for the words "Works Nos. 10, 11, 12 and 13 and any land acquired by them for the purposes of those works" there shall be substituted the words "Work No. 10 and any land acquired by them for the purposes of that work", and for the words "said works" in both places where those words occur there shall be substituted the words "said work".</p> <p>In subsection (2) for the words "vesting of Works Nos. 11, 12 and 13 in the corporation pursuant to section 17 (Vesting and maintenance of road works) of this Act" there shall be substituted the words "date upon which Works Nos. 15 and 16 authorised by the Brighton Corporation Act 1970 first become available for use by vehicular traffic".</p>

SCH. 2  
—cont.

Section (1)	Amendment (2)
13 (Lighting of works) ... ..	For the words “ Works Nos. 10, 11, 12 and 13 ” there shall be substituted the words “ Work No. 10 ” and the words “ or any of them ” shall be omitted.
19 (Special provisions as to Works Nos. 10 and 14)	In subsection (1) after the word “ works ” there shall be inserted the words “ authorised by the Brighton Corporation Act 1970 ”; and in subsection (2) for the words “ Work No. 11 ” in both places where those words occur there shall be substituted the words “ Work No. 15 or Work No. 16 authorised by the Brighton Corporation Act 1970 (whichever of those Works is first completed) ”.
21 (Power to deviate) ... ..	The proviso shall be omitted.

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# Brighton Corporation Act 1970

## CHAPTER xl

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## Section

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