



Port of Tyne Act 1989

CHAPTER I

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement.
2. Interpretation.
3. General duties in respect of Port.
4. Development, etc., of certain land.
5. Subsidiaries.
6. General directions.
7. Publication of general directions.
8. Special directions.
9. Failure to comply with directions.
10. Enforcement of special directions.
11. Further provision as to byelaws.
12. Penalties.
13. Road traffic offences on dock roads.
14. Lights detrimental to navigation.
15. Priority in relation to future borrowings.
16. Consequential amendments.
17. Saving for Trinity House.
18. Crown rights.
19. Saving for Health and Safety at Work etc. Act 1974.

ELIZABETH II



1989 CHAPTER i

An Act to confer new powers upon the Port of Tyne Authority; to revise certain penalties; to facilitate the regulation of motor vehicle traffic on dock roads; and for connected or other purposes. [7th February 1989]

WHEREAS—

(1) The Port of Tyne Authority ("the Authority") were constituted under the Port of Tyne Reorganisation Scheme 1967 ("the Reorganisation Scheme") 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) It is expedient that certain new powers be conferred upon the Authority in order to ensure that the Port is efficiently and safely managed and to secure its commercial future:

(4) It is expedient that the Authority be given powers to secure the best use of any land which is not for the time being needed for the purposes of the Port undertaking:

(5) It is expedient that certain penalties in the Reorganisation Scheme be increased and that new provision be made with respect to the penalties which may be imposed for breaches of byelaws made by the Authority:

1984 c. 27.,
1988 c. 52.

(6) It is expedient that certain provisions of the Road Traffic Regulation Act 1984 and the Road Traffic Act 1988 should be applied to dock roads:

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

(8) 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:—

Short title and
commencement.

1.—(1) This Act may be cited as the Port of Tyne Act 1989.

(2) Subject to subsection (3) below, this Act shall come into operation at the end of the period of two months beginning with the date on which it is passed.

(3) If the Road Traffic Act 1988 is not wholly in force at the end of the period mentioned in subsection (2) above, section 13 of this Act shall come into operation, in relation to any provision of the Road Traffic Act 1988 which is applied by that section to dock roads (within the meaning of that section), on the date on which that provision comes into operation.

Interpretation.

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

“the Authority”, “the dock estate”, “the harbour master” and “the Port” have the same meanings as in the Reorganisation Scheme;

“general direction” means a direction given under section 6 of this Act;

“the Port undertaking” means the undertaking of the Authority as for the time being authorised;

S.I. 1968/942.

“the Reorganisation Scheme” means the Port of Tyne Reorganisation Scheme 1967;

“special direction” means a direction given under section 8 of this Act;

1985 c. 6.

“subsidiary” and “wholly-owned subsidiary” have the same meanings as in the Companies Act 1985;

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

General duties
in respect
of Port.

3.—(1) Subject to the provisions of the Reorganisation Scheme and this Act, the Authority shall 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.

(2) For those purposes, and without prejudice to the generality of subsection (1) above, the Authority may—

(a) improve, maintain, regulate, manage, mark and light the Port and provide port facilities therein;

(b) construct, alter, demolish and reconstruct structures and works in the Port;

- (c) acquire any undertaking or part of an undertaking;
- (d) subscribe for or acquire shares or securities of any body corporate;
- (e) lend money to any person for the purposes of any undertaking carried on by him or, where that person is a body corporate, any undertaking carried on by a subsidiary of that body corporate; and
- (f) do all other things which in their opinion are necessary or expedient to facilitate the proper carrying on or development of the Port undertaking.

(3) The Authority may—

- (a) maintain such reserve funds as they think fit;
- (b) invest any sums not immediately required for the purposes of the Port undertaking; and
- (c) turn their resources to account so far as not required for those purposes.

(4) This section is without prejudice to any powers of the Authority under or by virtue of any other enactment (including any other provision of this Act).

(5) In exercising their powers under subsection (2) (b) above the Authority shall not interfere with, damage or injuriously affect any apparatus belonging to or maintained by British Gas plc.

4.—(1) The Authority may form and promote, or join with any other person in forming and promoting, a company ("the company") for using or developing for any purpose, or carrying on any business on, any land within or formerly within the Port not being an activity which may be carried on by a company formed under section 5 of this Act.

Development,
etc., of certain
land.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of the company may include power to do any thing necessary or expedient for the purposes of the objects mentioned in subsection (1) above or for purposes incidental to those purposes, notwithstanding that the Authority would not themselves have the power to do that thing.

5.—(1) The Authority may form and promote a wholly-owned subsidiary for carrying on any activities which the Authority have power to carry on.

Subsidiaries.

(2) The Authority shall secure that any company formed in exercise of the powers conferred by subsection (1) above remains such a wholly-owned subsidiary.

(3) The Authority may enter into arrangements with a company formed in exercise of the powers conferred by subsection (1) above for the transfer to that company from the Authority or from any other company so formed, in such manner and on such terms (including payments by any of the parties to the arrangements to any of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of the Authority or of that other company which are relevant to the carrying on of the activities to be carried on by the first-mentioned company.

6.—(1) The Authority may, after consultation with the General Council of British Shipping and the Royal Yachting Association in the case of any exercise of the powers, give general directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the Port, and, without prejudice to the generality of the foregoing, for any of the following purposes:—

General
directions.

- (a) for designating areas, routes or channels in the Port which vessels are to use, or refrain from using, for movement or mooring;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) for requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for the purposes of this subsection.

(2) Directions given under subsection (1) above may apply—

- (a) to all vessels or to a class of vessels designated in the direction;
- (b) to the whole of the Port or to a part designated in the direction; and
- (c) at all times or at times designated in the direction;

and every general direction shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c) above.

(3) The Authority may, after such consultation as aforesaid, revoke or amend a general direction.

Publication
of general
directions.

7. Notice of a general direction shall as soon as practicable after it is given be published by the Authority once in a newspaper specialising in shipping news, and shall state a place at which copies of the direction may be inspected and bought, and the price thereof.

Special
directions.

8.—(1) The harbour master may give a special direction in respect of a vessel anywhere in the Port for any of the following purposes:—

- (a) regulating or requiring the movement, berthing, mooring or unmooring of the vessel;
- (b) specifying the precautions to be taken in respect of apparatus, machinery and equipment being used on or in connection with the vessel;
- (c) as to the use of the motive power of the vessel;
- (d) prohibiting or restricting the use of fires or lights;
- (e) regulating the loading, discharging, storing and safeguarding of cargo, fuel, water or stores, and the dispatch of the business of the vessel at the dock estate;
- (f) as to the use of ballast;
- (g) requiring the removal of the vessel to a specified part of the Port if—
 - (i) it is on fire;
 - (ii) it is in such condition as to be liable to become immobilised or waterlogged, to sink, or to constitute a danger to life or property;
 - (iii) it is making an unlawful use of the dock estate;
 - (iv) it is interfering with the use of the dock estate by other vessels, or otherwise interfering with the proper use of the dock estate or the dispatch of business thereat;
 - (v) its removal is necessary to enable maintenance or repair work to be carried out to the dock estate.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

Failure to
comply with
directions.

9.—(1) A person who fails to comply with a general direction or a special direction shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.

(2) It shall be a defence for a person charged with an offence under subsection (1) above that he was unaware of the direction or was unable to comply with it or that he had reasonable ground for supposing that compliance with it would be likely to imperil the vessel in question or that in the circumstances compliance was impracticable.

10.—(1) Without prejudice to any other remedy available to the Authority, if a special direction is not complied with within a reasonable time, the harbour master may put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

Enforcement
of special
directions.

(2) If there is no-one on board a vessel to attend to a special direction, the harbour master may proceed as if the direction had been given and not complied with:

Provided that the powers of this subsection shall not be exercised—

- (a) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or
- (b) in relation to a lighter unless it is obstructing or interfering with navigation.

(3) Expenses incurred by the Authority in the exercise of the powers conferred by subsection (1) above shall be recoverable by them as if they were a charge of the Authority in respect of the vessel.

11.—(1) The power of the Secretary of State to confirm byelaws made by the Authority shall include power to confirm them with such modifications as he sees fit.

Further
provision as
to byelaws.

(2) Where the Secretary of State proposes to make any such modification which appears to him to be substantial, he shall inform the Authority and require them to take such steps as he considers necessary for informing persons likely to be concerned with the modification.

(3) Where the Secretary of State has informed the Authority of his intention to make a modification which appears to him to be substantial, he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for the Authority, and for others who have been informed of his proposal, to consider and comment on it.

12.—(1) In article 39 of the Reorganisation Scheme (obstruction of harbour master and others) for “fifty pounds” there shall be substituted “level 3 on the standard scale”.

Penalties.

(2) In article 43 of that scheme (powers of interrogation, removal and search), in paragraph (1) for “ten pounds” there shall be substituted “level 1 on the standard scale”.

(3) In article 75 of that scheme (general byelaws) in paragraph (1) after subparagraph (r) there shall be inserted—

“(s) for imposing upon any person contravening or failing to comply with any byelaw under this article a fine not exceeding level 4 on the standard scale, recoverable on summary conviction.”.

(4) In article 78 of that scheme (confirmation of byelaws and fines), in paragraph (3) after “concerned” there shall be inserted “or by those byelaws” and for “one hundred pounds” there shall be substituted “level 3 on the standard scale”.

Road traffic
offences on
dock roads.

13.—(1) In this section—

“dock road” means any road, pier, wharf, quay, bridge, cargo handling area or other work or any land which is—

- (a) vested in, or the property of, the Authority; and
- (b) situated within the Port; and
- (c) accessible to motor vehicles;

“motor vehicle” has the same meaning as in the Road Traffic Acts;

“the Road Traffic Acts” and “the Traffic Acts” have the same meanings as in the Road Traffic Act 1988.

1988 c. 52.

(2) (a) The provisions of the Traffic Acts hereinafter mentioned, and all related provisions of those Acts, shall have effect in relation to anything done or omitted on any dock road as though any such road were a road for the purposes of those Acts.

(b) Where any such provision confers power to make regulations the reference to that provision includes a reference to any regulations thereunder from time to time in force.

(3) The provisions referred to in subsection (2) above are—

1984 c. 27.

The Road Traffic Regulation Act 1984—

- Section 64 (General provisions as to traffic signs);
- Section 65 (Powers and duties of highway authorities as to placing of traffic signs);
- Section 67 (Emergencies and temporary obstructions):

The Road Traffic Act 1988—

- Section 1 (Causing death by reckless driving);
- Section 2 (Reckless driving);
- Section 3 (Careless, and inconsiderate driving);
- Section 4 (Driving, or being in charge, when under influence of drink or drugs);
- Section 5 (Driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit);
- Section 6 (Breath tests);
- Section 14 (Seat belts: adults);
- Section 15 (Restriction on carrying children not wearing seat belts (1) and (2) in motor vehicles);
- Section 16 (Wearing of protective headgear);
- Section 22 (Leaving vehicles in dangerous positions);
- Section 24 (Restriction of carriage of persons on bicycles);
- Section 25 (Tampering with motor vehicles);
- Section 26 (Holding or getting on to vehicle in order to be towed or carried);
- Section 28 (Reckless cycling);
- Section 29 (Careless, and inconsiderate cycling);
- Section 30 (Cycling when under influence of drink or drugs);
- Section 35 (Drivers to comply with traffic directions);
- Section 36 (Drivers to comply with traffic signs);
- Section 37 (Directions to pedestrians);
- Section 41 (Regulation of construction, weight, equipment and use of vehicles);
- Section 42 (Offence where regulations are contravened, etc.);
- Section 47 (Obligatory test certificates);
- Section 67 (Testing of condition of vehicles on roads);
- Section 81 (Regulation of brakes, bells, etc., on pedal cycles);

- Section 87 (Drivers of motor vehicles to have driving licences);
 Section 103 (Obtaining licence, or driving, while disqualified);
 Section 143 (Users of motor vehicles to be insured or secured against third-party risks);
 Section 163 (Power of police to stop vehicles);
 Section 164 (Power of constables to require production of driving licence and in certain cases statement of date of birth);
 Section 165 (Power of constables to obtain names and addresses of drivers and others, and to require production of evidence of insurance or security and test certificates);
 Section 170 (Duty of driver to stop, report accident and give information or documents):

Provided that, if no duty is chargeable under the Vehicles (Excise) Act 1971, 1971 c. 10.
 in respect of a motor vehicle—

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

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

the said sections 14, 16, 41, 47, 87, 143, 164 and 170 of the Road Traffic Act 1988 shall not apply in respect of the driving, riding on or in, use or, as the case may be, presence of that vehicle on a dock road. 1988 c. 52.

(4) For the purposes of the Traffic Acts, as extended and applied by this section, the expression “highway authority” where used in those Acts means the Authority in relation to any dock road.

14.—(1) The Authority may by notice require a person placing or using in or near the Port a light which is, in their opinion, likely to mislead persons navigating in or near the Port or to interfere with the safe navigation of vessels— Lights detrimental to navigation.

(a) to screen, alter, extinguish or remove the light within a reasonable time specified in the notice; and

(b) thereafter not to use the light except as so screened or altered or, as the case may be, not to use or replace the light; and

(c) to consult with the Authority before placing or using another light in lieu of the light to which the notice relates.

(2) A person who fails to comply with a notice given under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to a fine.

15.—(1) The requirement contained in paragraph (2) of article 67 of the Reorganisation Scheme (mortgages, etc.) that all securities created or issued by the Authority shall rank equally without any priority shall not apply in relation to securities created or issued after the commencement of this section; and, accordingly, in that paragraph, after “Authority”, where it first appears, there shall be inserted “before the commencement of section 15 of the Port of Tyne Act 1989”. Priority in relation to future borrowings.

(2) At the end of paragraph (2) of article 67 of the Reorganisation Scheme there shall be inserted the following paragraph—

“(2A) No security issued after the commencement of section 15 of the Port of Tyne Act 1989 shall take priority over any security existing immediately before that commencement, except with the agreement of the holder of the existing security”.

Consequential
amendments.

16.—(1) In article 2 of the Reorganisation Scheme (interpretation), at the end of the definition of “the dock estate” there shall be inserted “or any subsidiary of theirs (other than a company formed for the purposes mentioned in section 4 (1) of the Port of Tyne Act 1989);” and after the definition of “statutory securities” there shall be inserted—

1985 c. 6.

“‘subsidiary’ has the meaning given by section 736 of the Companies Act 1985”.

(2) Article 26 of that scheme (general duties of Authority) shall hereby cease to have effect.

(3) In article 39 of that scheme (obstruction of harbour master and others), after “Scheme” there shall be inserted “or the Port of Tyne Act 1989”.

Saving for
Trinity House.

17. None of the provisions of this Act shall prejudice or derogate from any of the powers, rights, duties or privileges of Trinity House.

Crown rights.

18.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Authority to take, use, enter upon or in any manner interfere with any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

(a) 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; or

(b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under subsection (1) above may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate.

Saving for Health
and Safety at
Work etc.
Act 1974.
1974 c. 37.

19.—(1) Nothing in this Act affects the operation of any of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974.

(2) Section 80 (1) of the said Act of 1974 shall apply to any provision of this Act and of any general direction or special direction as it applies to any other provision to which that subsection applies by virtue of section 80 (2) of that Act.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR PAUL FREEMAN

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

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

£1.90 net

ISBN 0 10 510189 3