

ELIZABETH II



1990 CHAPTER xxi

An Act to empower Associated British Ports to construct works and to acquire lands; to confer further powers on A.B. Ports; and for other purposes.

[26th July 1990]

**W**HEREAS—

(1) By the Transport Act 1981 and the Associated British Ports (Appointed Day and Designation of Holding Company) Order 1982 the British Transport Docks Board which were established by the Transport Act 1962 were reconstituted on 31st December 1982 under the name of Associated British Ports (in this Act referred to as “A.B. Ports”) and powers in relation to A.B. Ports were conferred on Associated British Ports Holdings Limited corresponding to the powers of a holding company over a wholly-owned subsidiary: 1981 c. 56. S.I. 1982/1887. 1962 c. 46.

(2) It is the duty of A.B. Ports under the said Act of 1981 (inter alia) to provide, to such extent as it may think expedient, port facilities at its harbours and to have due regard to efficiency, economy and safety of operation as respects the services and facilities provided by it and its subsidiaries and A.B. Ports is empowered to operate its harbours:

(3) It is expedient that A.B. Ports should be empowered to construct the works authorised by this Act and to acquire the lands referred to in this Act:

(4) It is expedient that the other powers in this Act contained should be conferred upon A.B. Ports and that the other provisions in this Act contained should be enacted:

(5) Plans and sections showing the lines or situations and levels of the works to be constructed under the powers of this Act, and plans of the lands authorised to be acquired or used by this Act, 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 the said lands have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the proper officers of the county councils of the counties within which the said works will be constructed or the said lands are situated, 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:

(6) A map marked "Map of Port Talbot Harbour and Approaches" has been deposited in the office of the Clerk of the Parliaments, in the Private Bill Office of the House of Commons and in the respective offices of the Secretary of State for Transport and A.B. Ports' Dock and Harbour Master at Port Talbot:

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

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

## PART I

### PRELIMINARY

- Short title.                    1. This Act may be cited as the Associated British Ports Act 1990.
- Interpretation.              2.—(1) In this Act, unless there be something in the subject or context repugnant to such construction, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the related subject-matter the same respective meanings and—
- "A.B. Ports" means Associated British Ports;
- 1847 c. 27.                      "the Act of 1847" means the Harbours, Docks, and Piers Clauses Act 1847;
- 1964 c. xxxviii.              "the Act of 1964" means the British Transport Docks Act 1964;
- 1966 c. xxxi.                    "the Act of 1966" means the British Transport Docks Act 1966;
- 1969 c. xxiii.                  "the Act of 1969" means the British Transport Docks Act 1969;
- 1971 c. lix.                      "the Act of 1971" means the British Transport Docks Act 1971;
- 1978 c. xiv.                     "the Act of 1978" means the British Transport Docks Act 1978;
- "enactment" includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

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

“the undertaking” means the undertaking of A.B. Ports as authorised from time to time;

“vessel” has the meaning assigned to it in section 3 (Interpretation) of the Act of 1966; and

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

PART I  
—cont.

(2) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

3.—(1) The following enactments, so far as the same are applicable to the purposes and are not inconsistent with the provisions of this Act, are hereby incorporated with this Act:—

Incorporation of  
general  
enactments.

(a) sections 30 to 44 of the Railways Clauses Consolidation Act 1845 (temporary occupation of lands near the railway during the construction thereof);

1845 c. 20.

(b) sections 77 to 85E of that Act (mines lying under or near the railway); and

(c) the Act of 1847, except sections 6 to 9, 11 to 13, 16 to 23, 25, 26, 48, 49, 50, 79, 80, 84 to 90, 94, 95, 97 and 98.

(2) (a) For the purposes of the said sections 30 to 44 of the Act of 1845, as so incorporated, the works shall be deemed to be the railway and for the words “the period by the special Act limited for the completion of the railway” there shall be substituted “the period of five years from the commencement of the construction of any of the works authorised by the special Act”.

(b) For the purposes of the said sections 77 to 85E of the Act of 1845, as so incorporated, the works shall be deemed to be the railway and, for the purpose of section 78 of the said Act of 1845 (as amended by the Mines (Working Facilities and Support) Act 1923) in so far as it relates to the works, the area of protection shall, as regards mines and minerals lying within 172·21 metres of the surface of the ground, be 121·92 metres and, as regards mines and minerals lying at a greater depth than 172·21 metres below the said surface, the area of protection shall be increased by 18·3 metres for every 30·48 metres or part thereof by which the mines and minerals lie deeper below the said surface than 172·21 metres.

1923 c. 20.

(c) For the purposes of the Act of 1847, as so incorporated—

(i) the expression “the harbour, dock, or pier” means the works;

(ii) the expression “the harbour master” means, in relation to Works Nos. 1, 2 and 3, A.B. Ports’ Dock Master at Immingham and in relation to Work No. 4, A.B. Ports’ Dock Master at King’s Lynn;

(iii) the meaning of the word “vessel” as defined in this Act shall be substituted for the meaning assigned to it by section 3 of the Act of 1847; and

(iv) for the purpose of section 53 of the Act of 1847 notice of the harbour master’s directions may be given to the master of a vessel orally, or otherwise communicated to him in unwritten form, in any case where it is not reasonably practicable to serve on him a notice in writing.

PART I  
—cont.

(3) In the construction of the enactments as so incorporated, the expression “special Act” shall be read as a reference to this Act and the expression “company” shall mean A.B. Ports.

Application of  
Part I of  
Compulsory  
Purchase Act  
1965.  
1965 c. 56.  
1981 c. 67.

4.—(1) Part I of the Compulsory Purchase Act 1965 (except sections 4 and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), 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 the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

(2) 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 14 days’ notice), as so applied, for the words “fourteen days” there shall be substituted “three months”.

1845 c. 18.

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

## PART II

## LANDS

Power to acquire  
lands.

5.—(1) Subject to the provisions of this Act, A.B. Ports may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as it may require for the purposes of the works or for any purpose connected with or ancillary to the undertaking.

(2) The powers of A.B. Ports for the compulsory acquisition of land under this section shall cease on 31st December 1993.

Purchase of  
rights over land.

6.—(1) In this section references to the purchase by A.B. Ports of new rights are references to the purchase of rights to be created in favour of A.B. Ports.

(2) A.B. Ports may for the purposes of constructing, using, maintaining, renewing or removing the works, or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, purchase compulsorily such new rights as it may require over any of the lands which may be acquired under section 5 (Power to acquire lands) of this Act instead of acquiring those lands under that section.

(3) The Compulsory Purchase Act 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory purchase of rights under subsection (2) above as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the said Act of 1965 to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.

(4) Without prejudice to the generality of subsection (3) above, in relation to the purchase of rights in pursuance of subsection (2) above —

(a) Part I of the Compulsory Purchase Act 1965 shall have effect with the modifications specified in the Schedule to the Act of 1978 and as if for the references in that schedule to the Act of 1978 there were substituted references to this Act;

(b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

PART II  
—cont.

7. The following provisions of the undermentioned Acts are, with necessary modifications, incorporated with this Act:—

Incorporation of  
lands provisions.

The Act of 1964—

Section 6 (Correction of errors in deposited plans and book of reference);

The Act of 1969—

Section 8 (Disregard of recent improvements and interests); and

Section 9 (Extinction of private rights of way).

### PART III

#### WORKS, ETC.

8.—(1) Subject to the provisions of this Act, A.B. Ports may, in the lines and situations shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections, make and maintain the following works with all necessary works and conveniences connected therewith:—

Power to make  
works, etc.

In the county of Humberside—

Partly in the parish of South Killingholme, borough of Glanford, and partly in the parish of Immingham, borough of Cleethorpes, and partly on the foreshore and bed of the river Humber—

(Works at  
Immingham).

Work No. 1 A jetty of open construction with supports for overhead conveyor and cargo handling equipment commencing on the south bank of the river Humber at Killingholme at a point 20 metres north-west of the landward end of the Immingham Bulk Terminal Jetty and extending into the said river in a north-easterly direction for a distance of 360 metres and there connecting with a jetty head extending into the said river—

(a) in a south-easterly direction for a distance of 10 metres; and

(b) in a north-westerly direction for a distance of 520 metres and there terminating with a dolphin and connecting walkway extending into the said river in a west-north-westerly direction for a distance of 40 metres;

Work No. 2 A jetty of open construction commencing on the south bank of the river Humber at Killingholme at a point 190 metres south-east of the landward end of the Immingham Gas Jetty and extending into the said river in a north-easterly direction for a distance of 400 metres and terminating by a junction with Work No. 1;

Work No. 3 A bund constructed on the foreshore and bed of the river Humber commencing at a point where the west bank of the South Killingholme Haven meets the bank of the river Humber and thence curving in a south-easterly direction parallel to the bank of the river Humber to a point 270 metres south-east of the Immingham Bulk Terminal Jetty, thence turning northwards for a distance of 370 metres, thence

PART III  
—cont.

north-westerly for a distance of 540 metres, thence westerly and curving south-westerly for a distance of 460 metres and terminating on the bank of the river Humber at a point 25 metres north-west of the landward end to the Immingham Gas Jetty.

In the county of Norfolk—

In the borough of King's Lynn and West Norfolk—

(Riverside quay  
at King's Lynn).

Work No. 4 A quay of solid construction (consisting of a sheet piled wall with infilling landward of it) 220 metres in length, including berths for vessels, comprising an area of 0.53 hectares and extending into the river Great Ouse from the east bank of the said river between, at its northern end, a point adjacent to the southern side of the confluence of the Fisher Fleet and the said river and, at its southern end, a point at the northern extremity of North Quay Wall which adjoins the lock entrance to Alexandra Dock.

(2) Subject to the provisions of this Act, A.B. Ports may within the limits of deviation from time to time renew, alter, replace or relay temporarily or permanently the works.

(3) A.B. Ports may fill in and reclaim, and may hold and use as part of the undertaking, so much of the foreshore and bed of the river Humber as is situated within the limits of deviation and is landward of Work No. 3.

(4) The works shall for all purposes form part of the undertaking.

Power to dredge  
in Humber and  
Great Ouse.

9.—(1) A.B. Ports may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river Humber—

(a) within the area delineated on the deposited plans as being the limit of dredging, for the purpose of enabling the works to be used at all states of the tide; and

(b) adjoining or near to Works Nos. 1, 2 and 3, for the purpose of affording uninterrupted means of access thereto;

and may (subject to subsection (3) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it from the river Humber in the course of any such operations.

(2) A.B. Ports may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river Great Ouse—

(a) within the area delineated on the deposited plans as being the limit of dredging, for the purpose of enabling the works to be used at all states of the tide; and

(b) adjoining or near to Work No. 4, for the purpose of affording uninterrupted means of access thereto; and

may (subject to subsection (3) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it from the river Great Ouse in the course of any such operations.

(3) (a) No materials referred to in this section shall be deposited below the level of mean high-water springs except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(b) The power to use, appropriate or dispose of materials referred to in this section shall not extend to wreck (within the meaning of Part IX of the Merchant Shipping Act 1894) found by A.B. Ports.

10. The limits within which the powers of A.B. Ports' Dock Master at Immingham in relation to Works Nos. 1, 2 and 3 may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Act, shall extend to a distance of 200 metres in every direction from Works Nos. 1, 2 and 3:

Provided that such powers shall be limited to vessels going to, moored at or departing from those works.

11. The limits within which the powers of A.B. Ports' Dock Master at King's Lynn in relation to Work No. 4 may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Act, shall extend to a distance of 100 metres in every direction from Work No. 4.

12. All byelaws, rules and regulations of A.B. Ports in force at Immingham Dock and at King's Lynn Docks immediately before the passing of this Act shall, unless A.B. Ports shall otherwise determine in relation to Work No. 1, 2, 3 or 4 (as the case may be), be deemed to apply to Works Nos. 1, 2, 3 and 4 respectively, and may be enforced by A.B. Ports accordingly until such time as new byelaws, rules or regulations relating to Work No. 1, 2, 3 or 4 (as the case may be) shall be made by A.B. Ports and come into operation.

13. So much of Works Nos. 1, 2 and 3 as is beyond low water shall be deemed to be within the county of Humberside and —

- (a) the borough of Glanford or Cleethorpes;
- (b) the parish of South Killingholme or Immingham; and
- (c) the petty sessional division of Barton-upon-Humber or Grimsby;

as the case may be.

14.—(1) The following provisions of the undermentioned Acts are, with necessary modifications, incorporated with this Act: —

The Act of 1964 —

- Section 20 (Temporary stoppage of roads and footpaths); and
- Section 30 (Fine for obstructing works):

The Act of 1966 —

- Section 9 (Subsidiary works);
- Section 10 (Power to deviate);
- Section 21 (Tidal works not to be executed without approval of Board of Trade);
- Section 23 (Abatement of works abandoned or decayed);
- Section 24 (Survey of tidal works); and
- Section 26 (Lights on tidal works during construction):

The Act of 1969 —

- Section 17 (Provision against danger to navigation):

The Act of 1971 —

- Section 16 (Permanent lights on works).

(2) (a) For the purpose of the said section 9, as so incorporated, the words after "those works" in the proviso to subsection (1) thereof shall be omitted.

(b) For the purposes of the said sections 26, 17 and 16, as so incorporated, for the words "one hundred pounds" in subsection (2) of each of those sections there shall be substituted "the statutory maximum".

PART III  
—cont.

Limits of jurisdiction at Immingham.

Limits of jurisdiction at King's Lynn.

Application of byelaws.

Works Nos. 1, 2 and 3 to be within county of Humberside, etc.

Incorporation of works provisions.

PART III  
—cont.

(3) (a) Notwithstanding anything in section 9 (Subsidiary works) of the Act of 1966, as so incorporated, A.B. Ports shall not in the exercise of the powers conferred by that section —

- (i) use any telecommunication apparatus kept installed for the purposes of a telecommunications code system; or
- (ii) alter any such apparatus except in accordance with and subject to the provisions of paragraph 23 of the telecommunications code.

(b) In paragraph (a) above —

1984 c. 12.

“alter” and “telecommunication apparatus” have the same meanings as in paragraph 1 of Schedule 2 to the Telecommunications Act 1984;

“the telecommunications code” means the code contained in the said Schedule 2; and

“telecommunications code system” has the same meaning as in Schedule 4 to the said Act of 1984.

## PART IV

## PORT TALBOT PROVISIONS

Interpretation of  
Part IV.

15. In this Part of this Act —

“the deposited map” means the map marked “Map of Port Talbot Harbour and Approaches” deposited as recited above;

“the existing approach channel” means the deep water approach channel dredged under the powers conferred on A.B. Ports by section 17 (Power to dredge Port Talbot harbour and approaches) of the Act of 1964 (identified by means of two parallel lines of buoys 183 metres apart) and depicted by a continuous black line on the deposited map;

“the existing harbour limits” means the limits of the harbour of Port Talbot defined in section 19 (Extension of dock and harbour master’s jurisdiction and of limits of harbour) of the Act of 1971 and depicted by a broken black line on the deposited map;

“the extended harbour limits” means the area depicted by a broken red line on the deposited map, being an area bounded by an imaginary line commencing at a point on the existing harbour limits where latitude 51° 33·98’ intersects longitude 3° 51·53’, thence extending on a bearing of 232° 49’ for a distance of 1,850 metres to the point where latitude 51° 33·38’ intersects longitude 3° 52·80’, thence on a bearing of 142° 49’ for a distance of 1,200 metres to the point at which latitude 51° 32·87’ intersects longitude 3° 52·15’ and thence on a bearing of 5° 49’ for a distance of 1,695 metres to a point on the existing harbour limits where latitude 51° 33·45’ intersects longitude 3° 51·00’; and

“the extended approach channel” means an extension of the existing channel as depicted by a continuous red line on the deposited map.

Extension of  
channel and  
harbour limits.

16.—(1) A.B. Ports may exercise the powers of section 17 (Power to dredge Port Talbot harbour and approaches) of the Act of 1964 in the extended approach channel.



(2) The limits within which the powers of A.B. Ports' Dock and Harbour Master at Port Talbot may be exercised under and subject to the provisions of the Act of 1847, as incorporated with the Act of 1964, shall extend to and include the extended harbour limits.

PART IV  
—cont.

(3) The provisions of sections 21 (Marking tidal harbour and approach channel) and 22 (Restriction on navigation in approach channel area) of the Act of 1971 shall extend to, and apply in, the extended approach channel and the extended harbour limits.

## PART V

### PROTECTIVE PROVISION

17.—(1) Nothing in this Act affects 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 authorises A.B. Ports to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description —

Crown rights.

- (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 Her Majesty in right of Her Crown and under the management (pursuant to any statute or otherwise) of the Secretary of State without his consent in writing; or
- (c) 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.

## PART VI

### GENERAL

18.—(1) In this section “Part 11 development” means development authorised by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).

Planning  
permission.  
S.I. 1988/1813.

(2) Subject to the provisions of subsection (3) below, in its application to development authorised by this Act the planning permission granted for Part 11 development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

(3) Subsection (2) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of works or the substitution of new works therefor.

PART VI  
—cont.  
Costs of Act.

19. All costs, charges and expenses of, and incidental to, the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by A.B. Ports and may in whole or in part be defrayed out of revenue.

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