



Cattewater Reclamation Act 1992

1992 CHAPTER xiv

An Act to empower New Cattedown Limited to construct works in the Cattewater in the city of Plymouth; to authorise the Company to acquire lands; and for other purposes. [16th July 1992]

WHEREAS—

- (1) New Cattedown Limited (hereinafter referred to as “the Company”) are a company incorporated under the Companies Act 1985, being a joint venture company formed by private enterprise and the Plymouth City Council:
- (2) The Cattedown area in the city of Plymouth (hereinafter referred to as “the city”) is in urgent need of comprehensive urban regeneration and is within the defined core area designated by the Government for the purposes of the urban programme as an inner urban area:
- (3) There is a shortage of industrial land within the city:
- (4) An area of waterfront development in the city is essential to form the catalyst for further development and the Company intend to carry out the waterfront development including additional port related uses:
- (5) It is expedient that the Company should be empowered to construct the works described in this Act and to acquire lands therefor:
- (6) The purposes of this Act cannot be effected without the authority of Parliament:
- (7) A plan and sections showing the lines or situations and levels of the works by this Act authorised, such plan showing also the land which the Company may acquire or use under the powers of this Act, and a book of reference to such plan containing the names of the owners or reputed owners, lessees or reputed lessees and of the occupiers of all such lands and describing the same have been deposited in the office of the Clerk of the Parliaments, in the Private Bill Office of the House of Commons and with the Chief Executive of the Devon County Council which plan, sections and book of reference are in this Act referred to respectively as the deposited plan, the deposited sections and the deposited book of reference:

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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

1 Short title

This Act may be cited as the Cattewater Reclamation Act 1992.

2 Interpretation

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

“the Act of 1965” means the Compulsory Purchase Act 1965;

“the city” means the city of Plymouth;

“the City Council” means the council of the city;

“the Commissioners” means the Cattewater Harbour Commissioners;

“the Company” means New Cattedown Limited;

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

“new rights” means easements or other rights to be created in favour of the Company, including rights restricting the use of land; and the expression “new right” shall be construed accordingly;

“tidal works” means so much of the works as is on, under or over tidal waters or tidal lands below the level of mean high-water springs;

“the tribunal” means the Lands Tribunal;

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

“the works” means the works authorised by subsection (1) of section 13 (Power to construct work) of this Act including those works as altered, replaced or re-laid under subsection (2) of that section and any works constructed under section 14 (Subsidiary works) of this Act and “work” shall be construed accordingly.

(2) References in this Act to grid references refer to the map co-ordinates on the National Grid used by the Ordnance Survey and shall be construed as if the words “or thereabouts” were inserted after each grid reference.

3 Application of enactments

(1) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof are hereby incorporated with this Act and, as so incorporated, shall have effect as if—

(a) for the words “the period by the special Act limited for the completion of the railway” there were substituted the words “the period of five years from the commencement of the construction of the works authorised by the special Act”;

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- (b) the expression “the company” meant the Company; and
 - (c) the expression “the railway” meant the works authorised by this Act and “the centre of the railway” meant the centre line of the works respectively.
- (2) (a)
- Part I of the Act of 1965 (except section 4, section 27, 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 Part II of the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.
- (b) In section 11 (1) of the Act of 1965, as so applied, for the words “fourteen days” there shall be substituted the words “three months”.
 - (c) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.
- (3) Part II and Part III of Schedule 2 to the Acquisition of Land Act 1981 shall apply to the compulsory acquisition of land under this Act as if this Act were a compulsory purchase order which incorporated those provisions.

PART II

LANDS

4 Power to acquire lands

- (1) Subject to the provisions of this Act, the Company may enter upon, take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as they may require for the purposes of constructing and maintaining the works and obtaining access to the works or otherwise for the purposes of this Act or other purposes connected therewith.

(2) (a)

The powers of the Company for the compulsory acquisition of lands under this section shall not be exercised after 31st December 1995.

- (b) The power to acquire compulsorily any land shall for the purposes of this subsection be deemed to have been exercised if before 31st December 1995 notice to treat has been served in respect of that land.

5 Power to acquire new rights only

- (1) The Company may, instead of acquiring any land under section 4 (Power to acquire lands) of this Act, acquire compulsorily such new rights as they require in, over or under the land.
- (2) In relation to the compulsory acquisition of a right by virtue of subsection (1) above, section 251 of the Highways Act 1980 (rights acquired to be binding on successive owners of the land) shall apply—
- (a) as if references to such a compulsory acquisition were included in references to the compulsory acquisition of a right by virtue of section 250 of that Act;

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- (b) as if any such acquisition were made by a compulsory purchase order made in exercise of highway land acquisition powers;
 - (c) as if references in that section to a highway authority were references to the Company; and
 - (d) as if references in subsection (4) of that section to another highway authority were references to a local authority.
- (3) Any new right acquired under this section, whether compulsorily or by agreement, shall be a local land charge.
- (4) (a)
- The Company may give notice to treat in respect of any new right describing the nature thereof; and the Act of 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory acquisition of new rights under subsection (1) above as it applies to the compulsory acquisition of land so that, in appropriate contexts, references in that Act to land are read as referring, or as including references, to the new rights or to land in, over or under which the new rights are or are to be exercisable according to the requirements of the particular context.
- (b) Without prejudice to the generality of paragraph (a) above, in relation to the purchase of the new rights in pursuance of subsection (1) above—
 - (i) Part I of the Act of 1965 shall have effect with the modifications specified in the Schedule to this Act;
 - (ii) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.
- (5) The Company may, with or without consideration, release either wholly or partly any new right acquired under this section.
- (6) Where the Company have acquired only a new right in, over or under any land under this section they shall not be required or, except by agreement or during the execution of the works, entitled to fence off or sever that land from the adjoining land.

6 Correction of errors in deposited plan and book of reference

- (1) If the deposited plan 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 Company after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.
- (2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.
- (3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons and with the Chief Executive of the Devon County Council and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Company to take the land or an easement therein (as the case may be) and execute the works in accordance with the certificate.

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- (4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

7 Disregard of recent improvements and interests

In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land or new rights under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, works executed, or improvement or alteration made, whether in the land acquired or on any other land with which the claimant is, or was at the time of the carrying out of the building, works, improvement or alteration, directly or indirectly concerned if the tribunal are satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration (as the case may be) was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

8 Extinction of rights affecting land

- (1) All rights, in, over or under any land which may be acquired or appropriated by the Company for the purposes of this Act shall, as from the acquisition or appropriation of the land, be extinguished:

Provided that nothing in this subsection shall affect any right vested in, or any main, pipe, wire, drain, sewer or other works and apparatus belonging to, any undertaking for the supply of water or gas or of a licence holder pursuant to section 6(1) of the Electricity Act 1989 for telecommunication, for sewerage or sewage disposal or for land drainage which is so vested, or so belongs as the case may be, for the purposes of the carrying on of the undertaking.

- (2) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to compensation paid by the Company in an amount which is to be determined in case of dispute by the tribunal in accordance with the enactments relating to compensation for the compulsory purchase of land.

9 Grant of new rights by person under disability

- (1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, subject to the provisions of the Act of 1965, grant to the Company any new right in, over or under the lands required for the purposes of this Act which he is able and willing to grant.
- (2) The provisions of the Act of 1965 with respect to lands and rentcharges, so far as they are applicable, shall extend and apply to any such grant and to any such new right as aforesaid.

10 Agreements with adjoining owners

- (1) The Company may enter into and carry into effect agreements with any person being the owner of, or interested in, any land adjoining any portion of the works, or of the land which may be acquired by the Company under this Act, with respect to the sale by the Company to him (subject to such reservations, restrictions or other provisions as to the Company seem fit) of any land not required for the works.