



COWES HARBOUR COMMISSION

ACTS

1847

TO

2012

ARRANGEMENT OF SECTIONS INDEX

23RD APRIL 1847

11TH MAY 1847

6TH August 1897

31ST July 1914

15TH August 1919

31ST July 1931

31ST July 1936

30TH July 1954

24TH February 1970

1ST February 1988

3RD October 1989

18TH June 2001

7TH January 2013



ANNO DECIMO

VICTORIÆ REGINÆ.

C A P. XVI.

An Act for consolidating in One Act certain Provisions usually contained in Acts with respect to the Constitution and Regulation of Bodies of Commissioners appointed for carrying on Undertakings of a public Nature. [23d April 1847]

Extent of Act. Whereas it is expedient to comprise in One Act sundry Provisions usually contained in Acts of Parliament authorizing the Execution of Undertakings of a public Nature by bodies of Commissioner's, Trustees, or other Persons not being Joint Stock Companies, and that as well for avoiding the Necessity of repeating such provisions in each of the several Acts relating to such Undertakings as for ensuring greater Uniformity in the Provisions themselves: 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, That this Act shall extend only to such undertakings or Commissioners as shall be authorised or constituted by any Act of Parliament hereafter to be passed, which shall declare that this Act shall be incorporated therewith ; and all the Clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Commissioners constituted by such Act and to the Undertaking for carrying on which such Commissioners shall be constituted, so far as the same shall be applicable thereto respectively; and such Clauses, with the Clauses of every other Act which shall be incorporated therewith, shall, save as aforesaid, form Part of such Act, and be construed therewith, as forming One Act

Interpretations in this Act: And with respect to the Construction of this Act, and any Act incorporated therewith, be it enacted as follows:

“the Special Act;”
 “prescribed”
 “the Undertaking;”
 “The Commissioners”

II. The Expression “the Special Act” used in this Act shall be construed to mean any Act which shall be hereafter passed, constituting a Body of Commissioners as herein-after defined for the Purpose of carrying on any Undertaking, and with which this Act shall be incorporated; and the Word “prescribed” used in this Act, in reference to any Matter herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the Special Act: and the Sentence in which such Word occurs shall be construed as if, instead of the Word “Prescribed” the Expression “prescribed for that Purpose of that Special Act” had been used; and the Expression “the Undertaking” shall mean the Undertaking or Works, of whatever Nature, which shall be the Special Act be authorised to be executed or carried on; and the Expression “the Commissioners” shall mean the Commissioners, Trustees, Undertakers, or other Persons or Body Corporate constituted by the Special Act, or thereby entrusted with Powers for executing the Undertaking.

Interpretations in this Special Act:

III. The following Words and Expressions, both in this and the Special Act, and any Act incorporated therewith, shall have the several meanings hereby assigned to them, unless there be something in the Subject or the Context repugnant to such Construction: (that is to say,)

Number: Words importing the Singular Number only shall include the Plural Number; and words importing the Plural Number only shall include the Singular Number:

Gender: “Person:” Words importing the Masculine Gender only shall include Females: The word “Persons” shall include a Corporation, whether aggregate or sole:

“Lands:” The Word “Lands” shall extend to Messages, Lands, Tenements, and Hereditaments or Heritages of any Tenure:

“Month” The Word “Month” shall mean Calendar Month”:

“Superior Courts” The Expression “Superior Courts” where the Matter submitted to the Cognizance of the Court arises in England or Ireland, shall mean Her Majesty’s Superior Courts of Record at Westminster or Dublin, as the Case may require, and shall include the Court of Common Pleas of the County of Durham; and where such matter arises, in Scotland shall mean the Court of Session:

“Oath” The Word “Oath” shall include Affirmation in the Case of Quakers, and any Declaration lawfully substituted for an Oath in the Case of any other Persons allowed by Law to make a Declaration instead of taking an Oath:

“County” The Word “County” shall include Riding or other Divisions of a County having a separate Commission of the Peace, and in *Scotland* Stewartry, and any Ward or other Division of a County or Stewartry having a separate Sheriff, and it shall also include County of a City or County of a Town:

“Justice” The Word “Justice” shall mean Justice of the Peace acting for the Place where the Matter requiring the Cognizance of any such Justice arises; and where any Matter is authorised or required to be done by Two Justices, the Expression “Two Justices” shall be understood to mean Two or more Justices met and acting together

“Two Justices”

“Sheriff” The word “Sheriff” shall mean the Sheriff Depute of the County or Ward of a County in Scotland and the Steward Depute of the Stewartry in Scotland in which any Matter submitted to the Cognizance of the Sheriff arises, and shall include the Substitutes of such Sheriff Depute and Steward Depute respectively:

“Quarter Sessions” The Expression “Quarter Sessions” shall mean Quarter Sessions as defined by the Special Act; and if such Expression be not there defined, it shall mean the General or Quarter Sessions of the Peace which shall be held at the Place nearest to the Undertaking for the County or Place in which the Undertaking, or the principle Office thereof, is situate, or for some Division of such County having a separate Commission of the Peace.

“Clerk” The Expression “The Clerk” shall mean the Clerk of the Commissioners, and shall include the Word “Secretary”

“the Town” The Expression “the Town” shall mean the Town or District named in the Special Act within which the Powers of the Commissioners are exercised.

And with respect to citing this Act or any Part thereof, be it enacted as follows:

Short Title of this Act. **IV.** In citing this Act or other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression “The Commissioners Clauses Act, 1847.”

Form in which Portions of this Act may be incorporated with other Acts. **V.** For the Purpose of incorporating Part only of this Act with any Act of Parliament hereafter to be passed, it shall be enough to describe the Clauses of this Act with respect to any Matter in the Words introductory to the Enactment with respect to such Matter, and to enact that the Clauses so described, or that this Act, with the exception of the Clauses so described, shall be incorporated with such Act; and thereupon all the Clauses so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such Clauses were set forth there in with reference to the Matter to which such Act relates.

Commissioners. With respect to the Qualification of Commissioners, be it enacted as follows:

Joint Owners or Occupiers when qualified .eligible as Commissioners **VI.** Whereby the Special Act the Qualification of the Commissioners is made to depend upon their being rated in respect of Property of a given Amount, then if Two or more Persons be jointly rated in respect of any property, each of such Persons shall, subject to the Provisions herein and in the Special Act contained, be eligible to be chosen a Commissioner, provided the Property in respect of which such persons are rated be of a rateable yearly Value, which, when divided by the Number of Persons so rated, will give to each a sufficient rateable yearly Value according to the Provisions of this and the special Act.

Same Property not to give Two Qualifications **VII.** The same Property shall not at the same Time give a Qualification as Commissioner to One Person as the Owner, and to another as the Occupier thereof.

No Bankrupt or Insolvent to be **VIII.** No Bankrupt or Insolvent or Person not qualified as required by the Special Act, shall be capable of being or continuing a Commissioner.

a
Commissioner.

No person holding office or concerned in a Contract to be a Commissioner.

IX. Any Person who at any Time after his Appointment or Election as a Commissioner shall accept or continue to hold any Office or Place of Profit under the Special Act, or be concerned or participate in any Manner in any Contract, or in the Profit thereof; or of any work to be done under the Authority if such Act, shall thenceforth cease to be a Commissioner, and his Office shall thereupon become vacant.

Shareholders in Companies established by Act of Parliament not disqualified by reason of Contracts.

X. Provided always, That no Person being a Shareholder or Member of any Joint Stock Company established by Act of Parliament shall be prevented from acting as a Commissioner by reason of any Contract entered into between such Company and the Commissioners; but no such Commissioner, being a Member of such Company, shall vote on any Question relating to the Execution of this or the Special Act in which such Company is interested.

Commissioner not incapable of acting as a Justice.

XI. A Person shall not be incapable of acting as a Justice of the Peace in the Execution of this or the Special Act, with reference to the levying of any Penalty thereunder, by reason of his being a Commissioner

Declaration to be made by Commissioners before acting.

XII. No Person shall be capable of acting as a Commissioner except in administering the Declaration herein-after mentioned, until he shall have made and signed before One of the Commissioners, a Declaration to the Effect following:

"I A.B. do solemnly declare That I will faithfully and impartially according to the best of my Skill and Judgement, execute all the Powers and Authorities reposed in me as a Commissioner, by virtue of the [here name the Special Act] and also that [here set forth a Statement of the Possession of the Qualification required by the Special Act in the Terms thereof]."

False Declaration a Misdemeanour.

XIII. Any Person who shall falsely or corruptly make and subscribe the Declaration aforesaid, knowing the same to be untrue in any material Particular, shall be deemed guilty of a Misdemeanour, or in Scotland shall be deemed guilty of Perjury.

Declaration to be taken at the First Meeting.

XIV. Every Person elected or appointed a Commissioner shall, at the Meeting of Commissioners at which he first attends as a Commissioner, make and subscribe the Declaration herein required, and any Commissioner, whether he himself have made such Declaration or not, may administer such Declaration.

Penalty on Commissioner, not qualified, acting.

XV. Every Person who shall act as a Commissioner, being incapacitated or not duly qualified to act, or before he has made Unsubscribed such Declaration as aforesaid, or after having become disqualified, shall for every such Offence be liable to a Penalty of Fifty Costs of Suit, in any of the Superior Courts; and in every such Action of the Person sued prove that at the Time of so acting he was qualified, and had made and subscribed the Declaration aforesaid, or he shall pay the said Penalty and Costs without any other Evidence being required from the Plaintiff that that such Person had acted as a Commissioner in the Execution of this or the Special Act; nevertheless all Acts as a Commissioner of

any Person incapacitated, or not duly qualified, or not having made or subscribed the Declaration aforesaid, done previously to the Recovery of the Penalty, shall be as valid as if such Person had been duly qualified.

Commissioners neglecting to act to cease to be one.

XVI. Every Commissioner who for the Space of Six Months after his Appointment neglects to make and subscribe the Declaration herein before required, or who for Six Months in succession is absent from all Meetings of the Commissioners, and to act in the Execution of this and the Special Act, shall be deemed to have refused to act and shall cease to be a Commissioner.

Election and Rotation of Commissioners

And with respect to the Election and Rotation of the Commissioners, where the Commissioners are to be elected by the Rate payers or other like Class of Electors, be it enacted as follows:

One Third of Commissioners elected by Ratepayers and Owners to go out of Office every Three Years.

XVII. Where by the Special Act it is provided that the Commissioners shall be elected by the Ratepayers within the Town, or other Class of Electors, the First Body of Commissioners, whether appointed by the Special Act, or elected under the Provisions of this and the Special Act, shall go out of Office according to the prescribed Rotation and at the prescribed Times, and where no out of Office by Rotation in the following Manner; (that is to say,) on the First *Thursday* in the Month of *September* in the Year following that in which the Special Act is passed One Third of such Body of Commissioners shall go out of Office, and on the First *Thursday* in *September* in the following year another Third of such Body of Commissioners shall go out of Office, and on the First *Thursday* in *September* in the Year following the Remainder of such Body of Commissioners shall go out of Office, and on the First *Thursday* in the Month of *September* in every subsequent Year One Third of the Commissioners, being those who have been longest in Office, shall go out of Office; and in each Instance the Places of the retiring Commissioners shall be supplied by the Election of a like Number of Commissioners in the Manner herein or in the Special Act provided: Provided always that if the prescribed Number of Commissioners be some Number not divisible by Three, and the Number of Commissioners to retire be not prescribed, the Commissioners shall in each Case determine what Number of Commissioners, as nearly One Third as maybe, shall go out of Office, so that no Commissioner shall remain in Office longer than Three years without being re-elected.

Commissioners eligible to be re-elected.

XVIII. Every Commissioner going out of Office by Rotation, or otherwise ceasing to be a Commissioner, may be re-elected, and after such Re-election he shall, with reference to going out by Rotation, be considered as a new Commissioner.

Mode of supplying occasional Vacancies

XIX. If any of the Commissioners die or reign or be disqualified, or cease to be a Commissioner from any other Cause than that of going out of Office by Rotation, the remaining Commissioners, if they think fit, may, within One Month from the happening of such Vacancy, elect another Commissioner in his Place; and every Commissioner so elected shall continue in Office only so long as the Person in whose Place he is elected would have been entitled to continue in Office.

Manner of making the Rotation List.

XX. In order to determine the Rotation by which such First Body of Commissioners shall go out of Office, the Commissioners shall within One Month after the passing of the Special Act (or after the First Election of Commissioners, as the Case may be,) meet at some convenient Place for the Purpose of forming a Rotation List; and at such Meeting the Clerk, or some Person to be then

appointed for that Purpose by the Commissioners, shall write the Names of all the Commissioners on separate Slips of Paper, all as nearly as may be of equal size, and having folded them up in the same Manner he shall put them into a Balloting Box, and shall, in the Presence of the Meeting, draw out such Slips of Paper in succession, and the Names upon the Slips so drawn shall be written by the Clerk or other Person in a List, in the Order in which they are drawn, or where the Commissioners are elected for Wards or other Electoral Divisions of the Town (and which Electoral Divisions are herein after called Wards) in as many Lists as there are Wards or Electoral Divisions, and in the order aforesaid, each List containing the Names of the Commissioners for One such Ward or Electoral Division Only, and every such List shall be kept by the Clerk among the Papers of the Commissioners, and the Names therein shall be numbered consecutively, and the Commissioners shall retire from Office in the Order in which their Names appear on such List or Lists, as the Case may be, in the Proportions herein before or in the Special Act mentioned.

Annual Meeting
for Election of
Commissioners.

XXI. For the purpose of electing Commissioners from Time to Time in the Place of those who go out by Rotation, a Meeting of the Persons entitled to vote at such Election shall be held at the prescribed place, and if no Place be Prescribed at the principle Office of the Commissioners, on the prescribed Day, or if no Day be prescribed on the First *Thursday* in the Month of *September* in the Year following that in which the Special Act is passed, and on the First *Thursday* in *September* in each succeeding Year, or if the Commissioners are to be elected for Wards, a Meeting of the Persons entitled to vote in each Ward shall on the same Day be held at some Place to be appointed by the Commissioners, of which Meetings, and the Time and Place of holding the same, public Notice shall be given by the Clerk by Advertisement, and also by Placards affixed on the principal Doors of the Parish Churches or other Public Places in the Town Seven clear Days at the least before the Day of the Election, and at such Meeting or Meetings the Election of Commissioners shall take Place as herein-after mentioned

Returning
Officer at
Elections.

XXII. Where the Appointment of the Returning Officer to act at the Election of Commissioners is not provided for by the Special Act, the Chairman of the Commissioners shall be the Returning Officer; and if the Commissioners are to be elected for Wards, the said Chairman shall act as the presiding Officer at the Election for the Ward for which he was elected a Commissioner, and he shall appoint some other Commissioner for each of the other Wards to be the presiding Officer at the Election for such Ward, and in case of the Death of any such presiding Officer, or of his declining, or becoming incapable to act, the Commissioner shall appoint another of their Body to be the presiding Officer in the Place of the Person so dying, Commissioner shall, Two Days at least before each Election, by Advertisement, Placards, or otherwise, give public Notice of every such Appointment.

Returning
Officer to
appoint Poll
Clerks.

XIII. At every such Election of Commissioners the Commissioners shall cause to be printed a sufficient Number of Voting Papers in blank, in the Form given in the Schedule (A.) to this Act annexed, or to the like Effect, and shall furnish them to the Returning Officer for the Use of the Voters; and if it appear to the Returning Officer at any Election expedient so to do, he may cause Booths to be erected, or Rooms to be hired and used as Booths, for taking the Poll at such Election, and he shall in such case appoint a Clerk to take the Poll at each Booth, and shall cause to be affixed on the most conspicuous Part thereof the Name of the Ward or District for which such Booth is provided; and public Notice of every

Election, and of the Situation of the different Polling Places, and of the Place where Voting Papers may be procured by Electors, shall be given by the Returning Officer Two Days at least before the Commencement of the Poll.

Scale of Votes of Owners and Occupiers.

XXIV. Where by the Special Act the Owners of Property and Ratepayers are entitled to vote in the Election of Commissioners and Scale of Voting is prescribed, every such Owner and Ratepayer shall have respectively the same number and Proportion of Votes according to the Scale following; (that is to say,)

If the Property in respect of which he is entitled to vote be rated upon a rateable Value of less than Fifty Pounds, he shall have One Vote:

If such rateable Value amount to Fifty Pounds and be less than One hundred Pounds, he shall have Two Votes:

If it amount to One hundred Pounds and be less than One hundred and fifty Pounds, he shall have Three Votes;

If it amount to One hundred and fifty Pounds and be less than Two Hundred Pounds, he shall have Four Votes.

If it amount to Two hundred Pounds and be less than Two hundred and fifty Pounds, he shall have Five Votes.

And if it amount to or exceed Two hundred and fifty Pounds, he shall have Six Votes.

Electors to vote in Ward where their Property Qualification is situate, but not to vote for more than One Ward.

XXV. Whereby the Special Act the Commissioners are directed to be elected for Wards, every Person entitled to vote in the Election of Commissioners shall vote for Commissioners for that Ward only wherein the Property or Part thereof in respect of which his Name appears in the Rate Book is situate; and if any Person be rated in respect of Property situate in more than One Ward, he may vote for Commissioners for any One of such Wards, but having so voted he shall not afterwards, at the same Election, vote for a Commissioner for any other Ward; and any Vote so afterwards given by him shall void.

Commissioners may cause alphabetical List of Voters to be made, and may defray the Expense out of the Rates.

XXVI. Before any such Election of Commissioners, the Commissioners, if they think in necessary for enabling the Returning Officer to take the Poll conveniently at such Election, may cause an alphabetical List to be made out of the Names of the Persons entitled to vote at such Election as they appear in the Rates made for the purposes of the Special Act, and they shall deliver to the Returning Officer for the Time being a sufficient Number of Copies of the List so prepared to enable the Returning Officer to take the Poll at the Election, and they may defray the Expense of making such List and Copies out of the Rates payable to them under the Special Act.

Returning Officer may summon Rate Collector, &c. to attend the

XXVII. If the Qualification of the Electors of the Commissioners depend upon the Rates payable by such Electors, the Returning Officer may summon the Overseers or Inspectors of the Poor, Collectors, and other Officers employed in the Assessment or Collection of the Rates, to attend the Election in order to

Election, assist in ascertaining that the Persons presenting themselves to vote, or who have voted, are or were duly qualified to vote at such Election; and such overseers and Inspectors, Rate Collectors, or other Officers shall attend with the Rates and such other Documents necessary for the Purpose aforesaid as may be in their Custody or Power, at such Places and at such Times as the Returning Officer may direct, and shall answer all such Questions as any presiding Officer at the Poll shall put to them respecting the Title of any Person to vote at the Election; and any Overseer or Inspector, Rate Collector, or other Officer who shall wilfully neglect or fail to perform the Duties hereby imposed upon him, shall for such Neglect or Failure be liable to a Penalty not exceeding Twenty Pounds,

Penalty on Rate Collector, &c. for Neglect.

Mode of Voting at Elections. **XXVIII.** At every such Election of Commissioners the voting shall commence at Nine of the Clock in the Forenoon of the Day fixed for the Election as aforesaid, and shall finally close at Four of the Clock in the Afternoon of the same Day (unless in case of Riot or Obstruction), and shall be conducted in manner following; (that is to say,) every Person entitled to vote may vote for any Number of Persons having the prescribed Qualification (not exceeding the Number of Commissioner then to be chosen for the Town or where the Commissioners are to be elected in Wards not exceeding the Number to be elected for the Ward in which such Person is entitled to vote) by delivering to the presiding Officer at the Poll a Voting Paper, containing a Description of his Qualification to vote in the Form contained in Schedule (A.) to this Act annexed, or to the like Effect, and also the Names of the Persons for whom he votes, such Paper being signed with the Name of the Person voting, and the Poll Clerk shall thereupon openly record such Vote in the Poll Book, and the Voting Paper shall be carefully preserved by the presiding Officer; and the presiding Officer shall, if he thinks fit, or if he be required to do so by any Person entitled to vote at the said Election, put any Voter at the Time of his delivering in his Voting Paper the following Questions, or either of them:

1. Are you the Person assessed as A.B. on the [] Rate [specifying the Rate which confers the Right to Vote] in respect of Property described to be situated in [here specify the Street, &c. as described in the Rate]?

Or, if the Voter claim to vote as the Owner of the Property,

Are you the Person described as the Owner of the Property mentioned in [] Rate [specifying the Rate] and described as being situated in [here specify the Street, &c. as described in the rate]?

2. Have you already voted at the present Election? [or, if the Town be divided into Wards,] Have you already voted for Commissioners to be elected for this or any other Ward at the present Election?

And no Person required to answer either of the said Questions shall be permitted or qualified to vote until he has answered the same; and if any Person wilfully make a false Answer to either of the Questions aforesaid he shall be deemed guilty of a Misdemeanour, or in Scotland shall be deemed guilty of Perjury.

Poll may be closed if no Voting Paper **XXIX.** The presiding Officer, at any Place of voting, may close the voting or Poll at any Time before Four of the Clock, if One Hour have elapsed during which no

be tendered for One Hour.

Voting Paper has been tendered at such Place of Voting.

Returning Officer to examine Poll Books and declare the Poll.

XXX. After the Close of the Poll the Returning Officer, or where the Commissioner are elected for W ards the presiding Officer in each W ard, shall examine the Poll Books, and, if necessary, compare the entries therein with the Rate Book and with the Voting Papers so delivered as aforesaid, for the Purpose of ascertaining the Number of Votes give for each Person; and so many of such Persons, being not more than the Number of Persons then to be chosen for the Town or for each Ward, as the case may be, and having the prescribed Qualification, as shall have the greatest Number of Votes shall be deemed to be elected; and in case of an Equality in the Number of Votes for any Two or more such Persons, the presiding Officer shall , if necessary to prevent an Excess in the Number of Commissioners, decide by Lot, which of such Persons shall be elected; and the presiding Officer shall, not later than Two of the Clock in the Afternoon of the Day next but one following the Day of such Election, unless such Day be *Sunday*, and then on the Day following, publish a List of the Names of the Persons so elected, and she shall also send a Notice to each Person so elected, informing him of his being elected a Commissioner.

Voting Papers to be open to Inspection for Six Months after each Election.

XXXI. Within Four Days after every Election the Returning Officer, or where the Commissioners are elected for W ards the presiding Officer in each W ard, shall cause the Voting Papers delivered as aforesaid to be arranged in Alphabetical Order, and numbered according to the Names of the Voters, and shall deliver them together with the Poll Books to the Clerk to the Commissioners; and such Clerk shall, during Six Months at least after every such Election keep Voting Papers and Poll Books at his Office, and shall permit any Person to inspect the same on Payment of a Fee of One Shilling, and if such Clerk shall refuse or fail to allow such Inspection he shall for every such Refusal or Failure be liable to a Penalty of Ten Pounds.

Manner of proceeding if any Person is elected a Commissioner in more than One Ward.

XXXII. If any Person be elected a Commissioner in more than One W ard, he shall, within Three Days after Notice thereof, choose or in Default thereof the Commissioners at their next Meeting shall declare, for which One of the W ards such Commissioner shall serve, and he shall thereupon be held to be elected in that Ward only which he shall so choose or which Commissioners shall so declare and shall cease to be a Commissioner for any other W ard.

If no Election on Day appointed, it may be made on subsequent Day.

XXXIII. If from any Cause no Election take place on the Day appointed for the same, either for the Town or for any W ard, the Election shall stand adjourned until the same Day of the following Week, and the Returning Officer shall give not less than Three Days previous Notice thereof by Advertisement, or by Placards affixed in public Places in the Town; and in such Case the Commissioners who would on that Day have retired from Office by Rotation shall continue in Office until such adjourned Election takes place.

Election not to be void for the Want of Title in presiding Officer.

XXXIV. No Election of Commissioners shall be liable to be questioned by reason only of any Defect in the Title, or any W ant of Title, of the Person by or before whom such Election shall have been held; provided that such Person have been actually appointed to preside, or have been acting in the Office giving the Right to preside at such Election.

Expenses of presiding Officer to be

XXXV. All Expenses of or incident to any Election incurred by the Returning Officer or presiding Officer shall be repaid to them by the Commissioners out of the

paid out of Rates levied.

monies arising from the Rates authorised to be levied for the Purposes of the Special Act; and Overseers and other Parochial Officers or other Persons shall be in like manner paid a reasonable Remuneration for Attendance at the Election with Rate Books, and for any other Services performed in relation to such Expenses and Remuneration shall be determined by a Justice or by the Sheriff, who shall have Power also to fix the Costs attending such Determination, and to order by whom the same shall be paid.

And with respect to the Meetings and other Proceedings of the Commissioners, and their Liabilities, be it enacted as follows:

First Meeting of the Commissioners.

XXXVI. The Commissioners shall hold their First Meeting at the prescribed Time and Place, and if a Time or Place be not prescribed they shall hold their First Meeting at some convenient Place with the Limits of the Special Act on the Third *Wednesday* next after the Commencement thereof, or if the First Body of Commissioner be not named in the Special Act, on the First *Wednesday* after the First Election of Commissioners, or as soon after such Periods respectively as conveniently may be, at the Hour of Ten of the Clock in the Forenoon, and shall proceed to put this and the Special Act into execution.

Election of Chairman of Meetings.

XXXVII. At the First Meeting of the Commissioners they shall by the Majority of the Votes of the Commissioners present, elect One of their Body to be their Chairman until the next Annual Meeting, the Commissioners, when, and at every subsequent annual Meeting, the Commissioners shall in like Manner elect a Chairman for the ensuing Year; and in the case the Chairman die, or resign, or as such, the Commissioners present at the Meeting next after the Occurrence of such Vacancy shall choose some other of their body to fill such Vacancy, and the Chairman so elected shall continue in Office so long only as the Person in whose Place he was elected would have been entitled to continue Chairman; and if at any Meeting of the Commissioners the Chairman not be present, One of the Commissioner present shall be elected Chairman of such Meeting by the Majority of the Votes of the Commissioners present at such Meeting.

Manner of Voting.

XXXVIII. At all Meetings of the Commissioners the Questions there considered shall be decided by the Votes of the Majority present, and if there be an equal Division of Votes upon any Question the Chairman or the Commissioner acting as Chairman at such Meeting shall, in addition to his own Vote as a Commissioner, have a Second or Casting Vote: Provided always, that if at any such Meeting there be an Equality of Votes in the Election of the Chairman, it shall be decided by Lot which of the Commissioners having an equal number of Votes shall be the Chairman: Provided also, that at every Annual Meeting the Chairman going out of Office at that Meeting shall, if present and willing to act, be the Chairman of such Meeting.

Quorum of Commissioners.

XXXIX. All Power vested in the Commissioners under this or the Special Act may be exercised by the prescribed Number, and where no Number is prescribed by any Five or more of the Commissioners present at any Meeting holden in pursuance of this and the Special Act, and no Business shall be transacted at any Meeting of the Commissioners unless the said Number of Commissioners be present.

Commissioners to hold Annual and Monthly

XL. The Commissioners shall hold an Annual Meeting at the prescribed Time and Place, and if no Time or Place be prescribed then on the Third *Wednesday* in

Meetings. the Month of *June* in each Year, at a Place to be appointed by the Commissioners, and the First of such Annual Meetings shall be held in the Year after that in which the Special Act is passed; and they shall also hold Monthly Meetings for the Transaction of general Business, and the said Monthly Meetings shall be held at the Office of the Commissioners, on such Day and Hour in each Month as the Commissioners shall from Time to Time appoint, and when any such Appointment is made the Clerk shall give Notice thereof to each of the Commissioners, and they shall afterwards, until the Time or Place of such Monthly Meetings is changed, and Notice of such Change given to the Commissioners, attend such Monthly Meetings without Notice.

Meetings of Commissioners may be adjourned from Time of Time. **XXLI.** The Commissioners present at such First Meeting, or at any Annual or Monthly Meeting, or at any adjourned Meeting, may from Time to Time adjourn such Meeting to the same or any other Place within the Limits of the Special Act, and if at any Meeting of the Commissioners there be not the prescribed Number, or where no Number is prescribed Five Commissioners, present within One Half Hour after the Time appointed for such Meeting the Commissioners present, or the major Part of them, or any One Commissioner if only One be present, or their Clerk, or no Commissioner be present, may adjourn such Meeting to another Day at the same or any other Place within the Limits of the Special Act.

Monthly Meetings shall be held for transacting the ordinary Business under this and the Special Act. **XXLII.** The said Monthly Meetings of the Commissioners shall be held for transacting the ordinary Business of the Commissioners under this or the Special Act, and amongst the rest for appointing and removing the inferior Officers of the Commissioners and superintending their Conduct, and for inquiring into the Conduct of the Contractors or other Persons employed by them to execute any Works, and into the State and Progress of such Works and generally for giving such Directors from Time to Time as may be necessary for carrying into effect the Purposes of this and the Special Act.

No extraordinary Business shall be transacted at Monthly Meetings unless Notice be given. **XXLIII.** Where any Business other than ordinary Business is required or intended to be transacted at any Monthly Meeting, the Clerk shall give Notice thereof to each of the Commissioners, and no such extraordinary Business, nor any new Rules or Regulations, shall be adopted at the Monthly Meetings unless due Notice thereof have been given at a prior Meeting, and sent to each Commissioner in the Manner required for Special Meetings.

No Resolution of Commissioners to be revoked at a subsequent Meetings unless under certain circumstances. **XLIV.** No Resolution at any Meeting of the Commissioners shall be revoked or altered any subsequent Meeting unless Notice of the Intention to propose such Revocation or Alteration be given by the Clerk to each of the Commissioners Seven Days at least before holding the Meeting, nor unless such Revocation or Alteration be determined upon by a Majority consisting of Two Thirds of the Commissioners present at such subsequent Meeting, if the Number of Commissioners present at such subsequent Meeting be not greater than the Number present when such Resolution was come to, or by a Majority if the Number of Commissioners present at such subsequent Meeting be greater than the Number present at such former Meeting.

As to the holding of Special Meetings. **XLV.** The Commissioners may hold Special Meetings and any Five or more of the Commissioners may require a Special Meeting to be held, but no such Meeting shall be held unless Two Clear Days' Notice thereof at the least be given.

Notice to be given of Things **XLVI.** Where by the Special Act the Commissioners are empowered to do anything

to be done by the Commissioners by Special Order Only.

by special Order only, they shall bit do such thing unless the Resolution to do the same have been agreed to by the Commissioners in some Meeting whereof Special Notice has been given, and have been confirmed in a subsequent Meeting held not sooner than Four Weeks after the preceding Meeting, and which subsequent Meetings has been advertised once at least in each of the Weeks intervening between the Two Meetings, and Special Notice thereof given to each of the Commissioners.

How Notice of Meetings of Commissioners are to be given.

XLVII. All Notices of any Meeting of the Commissioners shall be in Writing or in Print, or partly in Writing and partly in print, and shall be by the Clerk delivered or sent by the Post, or otherwise, to the usual Place of Abode or Place of Business, if any, within the Limits of the Special Act, of each of the Commissioners Two clear Days at least previous to such Meeting, and every such Notice shall specify the Object thereof, and no Business shall be transacted at any Special Meeting except such as is stated in the Notice thereof.

Expense of Meetings

XLVIII. At all Meetings of the Commissioners they shall defray their own Expenses, except what may be incurred for the Use of the Room in which the Meeting is held, and for Books, Stationery, and Fire.

Power to Commissioners to appoint Committees.

XLIX. The Commissioners may at any Meeting from Time to Time appoint Committees for any purposes which in the Opinion of the Commissioners would be better regulated and managed by means of such Committee, and they may fix the Quorum of any such Committee, and may continue, alter, or discontinue such Committee.

Quorum of Committees.

L. Every Committee so appointed may meet from Time to Time and may adjourn from Place to Place, as they may think proper, for carrying into effect the Purposes of their Appointment; but no Business shall be transacted at any Meeting of the Committee unless the Quorum of Members, if any, fixed by the Commissioners, and if no Quorum be fixed, Three Members, be present, shall be appointed Chairman, and at all Questions shall be determined by a Majority of the Votes of the Members present, and in case of an equal Division of Votes the Chairman shall have a Casting Vote in addition to his Vote as a Member of the Committee.

Acts of the Commissioners not to be invalidated by reason of Vacancies.

LI. No Proceedings of the Commissioners or of a Committee shall be invalidated or be illegal in consequence only of there being any Vacancy in the Number of Commissioners at the Time of such Proceeding.

Informalities in Appointment of Commissioners not to invalidate Proceedings.

LII. All Proceedings of the Commissioners, or of a Committee of Commissioners, or of any Person acting as a Commissioner, shall, notwithstanding it be afterwards discovered that there was some defect in the Appointment of any such Commissioners or Persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Commissioner.

Commissioners may provide public Offices, &c.

LIII. The Commissioners may from Time to Time provide and maintain fit and convenient public Offices, together with all necessary and proper Furniture for the same, for holding the Meetings and transacting the Business of the Commissioners, and for the Use of their Officers, and for the holding such Public Meetings and transacting such public Business relating to the Town as the Commissioners shall from Time to Time under the Powers of this or the Special Act, or any Act incorporated therewith, direct or allow to be held or transacted therein, and for such Purpose may purchase or hire any Lands or Buildings which the Commissioners think necessary from any Person willing to sell or let the same, or may cause any new Buildings to be erected upon any Land purchased or hired under the Provisions of this or the Special Act, or otherwise belonging to the Commissioners.

Commissioners to provide daily Attendance at the Office to receive Notices, &c.

LIV. The Commissioners shall require their Clerk, or some Person duly authorised by them in that Behalf, to attend at the Office daily, *Sundays, Christmas Days, and Good Fridays*, and Days appointed for General Feasts or Thanksgivings only excepted, for the Purpose of receiving Notices, and transacting the ordinary Business of the Commissioners, and due Notice of the Situation of the Office of the Commissioners, and of the Hours during which Attendance is given there, shall be published by the Commissioners within the Limits of the Special Act, in such Manner that the same may be fully and generally known.

Proceedings to be entered in a Book, and, when signed, shall be received in Evidence.

LV. The Commissioners shall cause Entries of all the Proceedings of the Commissioners, and of every Committee appointed by them, with the Names of the Commissioners who shall attend each Meeting, to be duly made from Time to Time in Books to be provided for the Purpose, which shall be kept by the Clerk under the Superintendence of the Commissioners, and every such Entry shall be signed by the Chairman of the Meeting at which the Proceeding took place, and such Entry so signed shall be received as Evidence in all Courts and before all Judges, Justices, and others, without Proof of such Meeting having been duly convened or held, or of the Persons attending such Meeting having been or being Commissioners or Members of Committees respectively, or of the Signature of the Chairman, or of the Fact of his having been Chairman, all of which last-mentioned Matters shall be presumed until the Contrary is proved; and such Books shall at all reasonable Times be open to the Inspection of any of the Commissioners, and of any Mortgagee of the Rates or Property of the Commissioners, .

Such Books to be Open to Inspection

Contracts

And with respect to the Contracts to be entered into and the Deeds to be executed by the Commissioners, be it enacted as follows:

Power to Commissioners to enter into Contracts.

LVI. The Commissioners may enter into Contracts with any Persons for the Execution of any Works directed or authorised by this and the Special Act to be done by the Commissioners, or for furnishing Materials, or for any other Things necessary for the Purposes of this or the Special Act, and every such Contract for the Execution of any Work shall be in Writing, and shall specify the Work to be done, and the Materials to be furnished and the Price to be paid for the same, and the Time or Times within which the Work is to be completed, and the Penalties to be suffered in the case of Non-performance thereof, and the Power hereby granted to the Commissioners to enter into Contracts may lawfully be exercised as follows; (that is to say,)

Any Contract which if made between private Persons would be by Law required to be

in Writing and under Seal, or in *Scotland* by probative Deed, the Commissioners may make in Writing and under their Common Seal, if they be incorporated, or if not incorporated under the Hands and Seals, or in *Scotland* under the Hands of the Commissioners or any Two of them, acting by the Direction and on Behalf of the Commissioners, and in the same Manner may vary or discharge the same:

Any Contract which if made between private Persons would be by Law required to be

in Writing and signed by the Parties to be charged therewith, the Commissioners may make in Writing, signed by the Commissioners or any Two of their Number, acting by the Direction and on behalf of the Commissioners, and in the same Manner may vary or discharge the same:

Any Contract which if made between Private Persons would by Law be valid,

although made by Parol only and not reduced into Writing, the Commissioners or any Two of them, acting by the Direction and on behalf of the Commissioners, may make by Parol only, without Writing, and in the same Manner may vary or discharge the same:

And all Contracts made according to the Provisions herein contained, being duly executed by the Persons contracting to perform the Works therein comprised respectively, shall be effectual in Law, and shall be binding on the Commissioners, and all other Parties thereto, their Successors, Heirs, Executors, or Administrators, as the Case may be, and in case of Default in the Execution of any such Contract either by the Commissioners or by any other Party thereto, such Actions or Suits may be maintained thereon, and Damages and Costs recovered by or against the Commissioners or the other Parties failing in the Execution thereof, as might have been maintained and recovered had the same Contracts been made between private Persons only.

Notice to be given of Contracts to the Amount of 100*l.* or upwards.

LVII. Before any Contract to the Amount of One Hundred Pounds or upwards shall be entered into by the Commissioners, Ten Days Notice at the Least shall be given in some One of the Newspapers circulating within the Limits of the Special Act, expressing the Purpose of such Contract, and inviting any Person willing to undertake the same to make Proposals for that Purpose to the Commissioners, and the Commissioners shall accept the Proposal which upon a View of all the Circumstances shall appear to them to be most advantageous, and shall take Security for the due and faithful Performance of every such Contract.

Commissioners may compound for Breach of Contract.

LVIII. The Commissioners may compound with any Party who has entered into any such Contract, or against who any Action or Suit has been brought for any Penalty contained in any such Contract, or in any Bond or other Security for the Performance thereof, or on account of any Breach or Non-performance of any such Contract, Bond, or Security for such sums of Money or other Recompense as the Commissioners think proper.

As to the Conveyance of Lands by the Commissioners.

LIX. Where by the Special Act or any Act incorporated therewith the Commissioners are authorised or required to sell or convey any Lands vested in them, and no other Mode of Conveyance is provided, they may convey such Lands, or such Interest as the Commissioners have therein, by Deed under the Common Seal of the Commissioners if they be a Corporation, or if not Corporation by Deed executed by the Commissioners, or any Two of them acting by the Authority of and on behalf of the Commissioners; and a Deed so executed followed as to Lands in *Scotland* by Investment duly recorded, shall be effectual to vest the Lands comprised therein or such Interest as the Commissioners have therein in the Grantee or other Person to whom the same shall be so conveyed, and a receipt under such Common Seal, or under the Hands of Two of the

Commissioners acting as aforesaid, shall be a sufficient Discharge to the Purchaser of any such Lands for the Purchase Money in such Receipt expressed to be received.

Legal Proceedings

And with respect to the Liabilities of the Commissioners, and to legal Proceedings by or against the Commissioners, be it enacted as follows:

Commissioners not to be personally liable for Acts done in the Capacity of a Commissioner.

LX. No Commissioner, by being Party to or executing in his Capacity of Commissioner any Contract or other Instrument on behalf of the Commissioners, or otherwise lawfully executing any of the Powers given to the Commissioners, shall be subject to be sued or prosecuted, either individually or collectively, by any Person whomsoever; and the Bodies or Goods or Lands of the several Commissioners shall not be liable to execution of any legal Process by reason of any Contract or other Instrument so entered into, signed, or executed by them, or by reason of any other lawful Act done by them in the execution of any of the Powers as Commissioners; and the Commissioners respectively, their Heirs, Executors, and Administrators, shall be indemnified out of the Rates and other Monies coming to the Hands of the Commissioners by virtues of this and the Special Act of all Payments made or Liability incurred in respect of any acts done by them, and for all Losses, Costs, and Damages which they may incur in the Execution of the Powers granted to them.

Commissioners to be indemnified for Acts done in the Execution of their Office.

Actions or Suits to be brought in the Name of any Two Commissioners or their Clerk.

LXI. In all Actions and Suits in respect of any Matter or Thing relating to the Execution of this or the Special Act, to be brought by or against the Commissioners, it shall be sufficient, where such Commissioners are not a Body Corporate, to state the Names of any Two of the Commissioners, or the Name of their Clerk, as the Party, Plaintiff or Defendant, representing the Commissioners in any such Action or Suit, and no such Action or Suit shall abate or be discontinued, or require to be transferred, by reason of the Death of any such Commissioner, or by his ceasing to be a Commissioner, or by the Death, Suspension, or Removal of such Clerk.

Executions to be Levied on the Goods belonging to Commissioners by virtue of their Office only.

LXII. Execution upon every Judgement or Decree against the Commissioners in any such Action or Suit shall be levied on the Goods, Chattels, or Personal Effects belonging to the Commissioners by virtue of their Office, and shall not in any Manner extend to charge or make liable the Persons or private Lands or Goods of any of the Commissioners, or the Heirs, Executors, or Administrators of any of them.

Commissioners and Clerk to be reimbursed all Damages, &c.

LXIII. Every Commissioner or Clerk in whose Name any such legal Proceeding shall be carried on, either as Plaintiff or Defendant, on behalf of the Commissioners, shall be reimbursed, out of the Monies which shall come into the Hands of the Treasurer of the Commissioners by virtue of his Office, all Damages, Costs, Charges, and Expenses to which any such Commissioner or Clerk may be put, or with which he may become chargeable, by reason of being so made Plaintiff or Defendant.

How Indictments to be preferred.

LXIV. The Commissioners may prefer a Bill of Indictment against any Person who shall steal or wilfully injure any Property or Thing belonging to the Commissioners or under their Management, or institute any other Proceeding which may appear to them necessary for the Protection of such Property, and in every such Case it shall be sufficient to state generally the Property or Thing in respect of which such Proceeding shall have been taken to be the Property of

the Commissioners, as they shall be described in the Special Act, without naming the individual Commissioners.

Officers.

And with respect to the Appointment and Accountability of the Officers of the Commissioners, be it enacted as follows:

Power to Commissioners to appoint Clerk and other Officers, and remove them from Time to Time.

LXV. The Commissioners may from Time to Time appoint and employ a Treasurer, Clerk, Collector, Assessor, and all such other Officers to assist in the Execution of this and the Special Act as they shall think necessary and proper, and from Time to Time remove any of such Officers, and appoint others in the Room of such as shall be so removed, or as may die, resign, or discontinue their Offices, and may, out of Monies to be raised for the Purposes of this and the Special Act, pay such Salaries and Allowance to the said Officers respectively as the Commissioners shall think reasonable.

Offices of Clerk and Treasurer not to be held by the same Person.

LXVI. The same Person shall not be appointed to the Office both of Clerk and Treasurer; and if any Person being the Clerk, or the Partner of such Clerk, or in the Service of such Clerk or of his Partner, accept the Office of Treasurer, or if any Person being the Treasurer, or Partner of such Treasurer, or in the Service of such Treasurer or of his Partner, accept the Office of the Clerk, he shall forfeit the Sum of One Hundred Pounds, and any Person may sue for such Penalty by Action of Debt or on the Case in any of the Superior Courts, and shall on Recovery thereof be entitled to full Costs of Suit.

Officer taking Fees other than those allowed to lose his Office and Forfeit 50l.

LXVII. Every Officer employed by the Commissioners who shall exact or accept on account of anything done by virtue of his Office, or in relation to the Matters to be done under this or the Special Act, any Fee or Reward whatsoever other than the Salary or Allowances allowed by the Commissioners, or who shall be in anywise concerned or interested in any Bargain or Contract made by the Commissioners, shall be incapable of being afterwards employed by the Commissioners and shall forfeit the Sum of Fifty Pounds, and any Person may sue for such Penalty by Action of Debt or on the Case in any of the Superior Courts, and shall on Recovery thereof be entitled to full Costs of Suit.

Security to be taken from all Officers intrusted with Money.

LXVIII. Before any Person, whether Treasurer, Collector, or other Officer, intrusted by the Commissioners with the Custody or Control of Monies by virtue of his Office, shall enter upon such Office, the Commissioners shall take sufficient Security from him for the faithful Execution thereof.

Collectors to pay over Monies within Seven Days to the Treasurer.

LXIX. Every Collector appointed or employed by the Commissioners by virtue of this or the Special Act to collect any Rates shall, within Seven Days after he shall have received any Monies on account of any such Rates, pay over the same to the Treasurer of the Commissioners to their Account, and the Receipt of such Treasurer for the Monies so paid shall be a sufficient discharge to the Collector, and every such Collector shall, in such Time and in such Manner as the Commissioners direct, deliver to them true and perfect Accounts in Writing under his Hand of all Monies received by him and of all Monies paid by him to the said Treasurer by virtue of this or the Special Act, and also a List of the Names of all Persons who have neglected or refused to pay any Rate or Money owing by them, with a Statement of the Monies due from them respectively.

Officers to account.

LXX. Every Collector and other Officer appointed or employed by the Commissioners by virtue of this or the Special Act shall, from Time to Time when required by the Commissioners make out and deliver to them, or to any

Person appointed by them for that Purpose a true and perfect Account in Writing under his Hand of all Monies received by him on behalf of the Commissioners, and such Account shall state how and to whom and for what Purpose such Monies have been disposed of, and together with such Account such Officer shall deliver the Vouchers and Receipts for such Payments; and every such Officer shall pay to the Commissioners, or to any Person appointed by them to receive the same, all Monies which shall appear to be owing from him upon the Balance of such Accounts.

Summary Recovery against Parties failing to account.

LXXI. If any such Collector or other Officer fail to render such Accounts as aforesaid, or to produce and deliver up all the Vouchers and Receipts relating to the same in his Possession or Power, or to pay the Balance thereof when thereunto required, or if for Five Days after being thereunto required he fail to deliver up to the Commissioners, or to any Person appointed by them to receive the same, all Papers and Writings, Property, Effects, Matters and Things, in his Possession or Power, relating to the Execution of this or the Special Act, or any Act incorporated therewith, or belonging to the Commissioners, then, on Complaint thereof being made to a Justice, or to the Sheriff, such Justice or Sheriff shall summon such Officer to appear before Two or more Justices, or before such Sheriff, according as the Summons may have been issued by a Justice or by the Sheriff, at a Time and Place to be set Forth in such Summons, to answer such Charge; and upon the Appearance of such Officer, or upon Proof that such Summons was personally served upon him, or left at his last known Place of Abode, such Justice or Sheriff may hear and determine the matter in a Summary Way, and may adjust and declare the Balance owing by such Officer; and if it appear, wither upon Confession of such Officer, or upon Evidence, or upon Inspection of the Account, that any Monies of the Commissioners, are in the Hands of such Officer, or owing by him to the Commissioners, such Justices or Sheriff may order such Officer to pay the same, and if he fail to pat the Amount it shall be lawful for such Justices or Sheriff to grant a Warrant to levy the same by Distress, or by Pounding and Sale, or in Default thereof to commit the Offender to Gaol, there to remain without Bail for a Period not exceeding Three Months, unless the same be sooner paid.

Officers refusing to make out Account and deliver up Documents, &c. may be committed to Prison.

LXXII. If any such Officer summoned as aforesaid refuse to make out such Account in Writing, or to produce and deliver to the Justices or Sheriff the several Vouchers and Receipts relating thereto, or to deliver up any Books, Papers, Writings, Property, Effects, Matters, or Things, in his Possession or Power, belonging to the Commissioners, such Justice or Sheriff may commit such Offender to Gaol, there to remain until he shall have delivered up all the Vouchers and Receipts in his Possession or Power relating to such accounts, and all the Books, Papers, Writings, Property, Effects, Matters, and Things, in his Possession or Power, belonging to the Commissioners.

Where Officer about to abscond, a Warrant may be issued in the first instance.

LXXIII. Provided always, That if any Commissioner, or other Person acting on behalf of the Commissioners, shall make Oath that he has good Reason to believe, upon Grounds to be stated in his Deposition, and that he does believe that it is the Intention of any such Officer as aforesaid to abscond, the Justice or the Sheriff before whom the Complaint is made may, instead of issuing his Summons, issue his Warrant for bring such Officer before such Two Justices as aforesaid if the Warrant be issued by a Justice, or before such Sheriff if the Warrant be issued by him; but no Person executing such Warrant shall keep such Officer in Custody longer than Twenty Four Hours without bringing him

before sine Justice or the Sheriff, according as he may be summoned before the one or the other; and the Justice or sheriff before whom such Officer may be brought may either discharge such Officer, if he think there is no sufficient Ground for his Detention, or order such Officer to be detained in Custody so as to be brought before Two Justices at a Time and Place to be named in such Order, unless such Officer give Bail to the Satisfaction of such Justice for his Appearance before such Justices to answer the Complaint of the Commissioners.

Proceedings
against Officers
not to discharge
Sureties.

LXXIV. No such Proceeding against or Dealing with any such Officer as aforesaid shall deprive the Commissioners of any Remedy which they might otherwise have against any Surety of such Officer.

Mortgages

And with respect to the Mortgages to be Executed by the Commissioners, be it enacted as follows:

Form of
Mortgages.

LXXV. Every Mortgagee or Assignment in Security of Rates or other Property authorised to be made under the Provisions of this or the Special Act shall be by Deed duly stamped, in which the Consideration shall be duly stated; and every Deed shall be under the Common Seal of the Commissioners if they be a Body Corporate, or if they be not a Body Corporate shall be executed by the Commissioners or any Five of them, and may be according to the Form in the Schedule (B.) to this Act annexed or to the like Effect; and the respective Mortgagees or Assignees in Security shall be entitled one with another to the respective Proportions of the Rates and Assessments or other Property comprised in such Mortgages or Assignations respectively, according to the respective Sums in such Mortgages or Assignations mentioned to be advanced by such Mortgagees or Assignees respectively, and to be repaid the Sums so advanced, with Interest, without any Preference one above another by reason of the Priority of advancing such Monies, or of the Dates of any such Mortgages or Assignations respectively.

Register of
Mortgages to
be kept and to
be open to
Inspection.

LXXVI. A Register of Mortgages or Assignations in Security shall be kept by the Clerk to the Commissioners, and where by the Special act the Commissioners are authorised or required to raise separate Sums on separate Rates or other Property, a separate Register shall be kept for each Class of Mortgages or Assignations in Security and within Fourteen Days after the Date of any Mortgage or Assignment in Security an Entry or Memorial of the Number and Date thereof, and of the Names of the Parties thereto, with their proper Additions, shall be made in the proper Register, and every such Register may be perused at all reasonable Times by any such Person interested in any such Mortgage or Assignment in Security without Fee or Reward.

Transfers of
Mortgages.

LXXVII. Any Person entitled to any such Mortgage or Assignment may transfer his Right and Interest therein to any other Person' and every Transfer shall be by Deed duly Stamped, wherein the Consideration shall be truly stated; and every such Transfer may be according to the Form in the Schedule (C.) to this Act annexed, or the like Effect.

Register of
Transfers to be
kept.

LXXVIII. Within Thirty Days after the Date of every such Transfer, if executed within the United Kingdom, or otherwise within Thirty Days after the Arrival thereof in the United Kingdom, it shall be produced to the Clerk to the Commissioners,

and thereupon such Clerk shall cause an Entry or Memorial thereof to be made, in the same manner as in the Case of the original Mortgage or Assignment in Security, and for such Entry the Clerk may demand a Sum not exceeding Five Shillings; and after such entry every such Transfer shall entitle the Transferee, his Executors, Administrators, or Assigns, to the full Benefit of the original Mortgage or Assignment in Security, and the Principal and Interest thereby secured; and such Transferee may in like Manner assign or transfer the same again, *toties quoties*; and it shall not be in the Power of any Person, except the Person to whom the same shall have been last transferred, his Executors, Administrators, or Assigns, to make void, release, or discharge the Mortgage or Assignment so transferred, or any Money thereby secured.

Interest on Mortgages to be paid half-yearly.

LXXIX. Unless otherwise provided by any Mortgage or Assignment in Security, the Interest of the Money borrowed thereupon shall be paid half-yearly to the several Parties entitled thereto.

Power to borrow Money at a lower Rate of Interest to pay off Securities at a higher Rate.

LXXX. If the Commissioners can at any Time borrow or take up any sum of Money at a lower Rate of Interest than any Securities given by them and then be in force shall bear, they may borrow such Sum at such lower Rate as aforesaid, in order to pay off and discharge the Securities being such higher Rate of Interest, and may charge the Rates and other Property which they may be authorised to Mortgage or assign in Security under this or the Special Act, or any Part thereof, with Payment of such Sum and such lower Rate of Interest, in such Manner and subject to such Regulations as are herein contained with respect to other Monies borrowed on Mortgage or Assignment in Security.

Repayment of Money borrowed at a Time and Place agreed upon.

LXXXI. The Commissioners may, if they think proper, fix a Period for the Repayment of all Principal Monies borrowed under the Provisions of this or the Special Act, with the Interest thereof, and in such Case the Commissioners shall cause such Period to be inserted in the Mortgage Deed or Assignment in Security; and upon Expiration of such Period the Principal Sum, together with the Arrears of Interest thereon, shall, on Demand, be paid to the Party entitled to receive such Principal Money and Interest, and if no other Place of Payment be inserted in such Deed such Principal and Interest shall be payable at the Office of the Commissioners.

Repayment of Money borrowed when no Time or Place has been agreed upon.

LXXXII. If no Time be fixed in the Mortgage Deed or Assignment in Security for the repayment of the Money so borrowed, the Party entitled to receive such Money may, at the Expiration or at any such Time after the Expiration of Twelve Months from the Date of such Deed, demand Payment of the Principal Money thereby secured with all Arrears of Interest, upon giving Six Months previous Notice for that Purpose, and in the like Case the Commissioners may at any Time pay off the Money borrowed, on giving the like Notice; and every such Notice shall be in Writing or Print, or both, and if given by a Mortgagee or Creditor shall be delivered to the Clerk or left at the Office of the Commissioners, and if given by the Commissioners shall be given either personally to such Mortgagee or Creditor, or left at his Residence, or if such Mortgagee or Creditor be unknown to the Commissioners, or cannot be found after diligent Inquiry, such Notice shall be given by Advertisement in the *London Gazette* if the Office of the Commissioners is in *England*, the *Edinburgh Gazette*, if it is in *Scotland*, or in the *Dublin Gazette*, if it is in *Ireland*.

Interest to case on Expiration of

LXXXIII. If the Commissioners shall have given Notice of their Intention to pay off any such Mortgage or Assignment in Security at a Time when the same may

Notice to pay off a Mortgage Debt.

lawfully be paid off by them, then at the Expiration of such Notice all further Interest shall cease to be payable thereon, unless Demand of Payment made pursuant to such Notice, or at any Time thereafter, the Commissioners fail to pay the Principal and Interest due at the Expiration of such Notice on such Mortgage or Assignment in Security.

Monies Borrowed on Security of Rates to paid off in a limited Period.

LXXXIV. In order to discharge the Principal Money borrowed as aforesaid on Security of any of the rates , the Commissioners shall every Year appropriate and set apart out of such Rates respectively a Sum equal to the prescribed Part, and if no Part be prescribed One Twentieth Part of the Sums so borrowed respectively, as a Sinking Fund to be applied in paying off the respective Principal Monies so borrowed, and shall from Time to Time cause such Sinking Fund to be invested in the Purchase of Exchequer Bills or other Government Securities, or in *Scotland* deposited in One of the Banks there incorporated by Act of Parliament or Royal Charter, and to be increased by Accumulation in the Way of Compound Interest or otherwise until the same respectively shall be of sufficient Amount to pay off the Principal Debts respectively to which such Sinking Fund shall be applicable, or some Part thereof, which the Commissioners shall think ought then to be paid off, at which Time the same shall be so applied in paying off the same in Manner herein-after mentioned.

Mode of paying off Mortgages.

LXXXV. Whenever the Commissioners shall be enabled to pay off One or more of the Mortgages or Assignations in Security which shall be then payable, and shall nit be able to pay off the whole of the same Class, they shall decide the Order in which they shall be paid off by Lot among the Class to which such One or more the Mortgages or Assignations in Security belong, and shall cause a Notice signed by their Clerk, to be given to the Persons entitled to the Money to be paid off, pursuant to such Lot, and such Notice shall express the Principal Sum proposed to be paid off, and that the same will be paid, together with the Interest due thereon, at a Place to be specified, at the Expiration of Six Months from the Date of giving such Notice.

Arrears of Interest, enforced by Appointment of a Receiver.

LXXXVI. Where by the Special Act the Mortgagees or Assignees in Security of the Commissioners are empowered to enforce the Payment of the Arrears of Interest, or the Arrears of Principal and Interest due to them, by the Appointment of a Receiver, the, if within Thirty Days after the Interest accruing upon any such Mortgage or Assignment in Security has become payable, and after Demand thereof in Writing, the same be not paid, the Mortgagee or Assignee in Security may without Prejudice to his Right to sue for the Interest so in arrear in any of the Superior Courts, require herein-after provided; and if within Six Months after the Principal Money owing upon any such Mortgage or Assignment in Security has become payable, and after Demand thereof in Writing, the same be not paid, together with all Interest due in respect thereof, the Mortgagee or Assignee in Security, without Prejudice to his Right to sue for such Principal Money, together with all arrears of Interests, in any of the Superior Courts may, his Debt do not amount to the prescribed Sum, he may in conjunction with other Mortgagees or Assignees in Security whose Debts being in so arrear, after, demand as aforesaid, together with his amount to the prescribed Sum, require the Appointment of a Receiver, by an Application to be made as herein-after provided.

Arrears of Principal and Interest.

As to the Appointment of a Receiver.

LXXXVII. Every Application for a Receiver in the Cases aforesaid shall in *England* or *Ireland* be made to Two Justices, and in *Scotland* to the Sheriff, and on any such Application such Justices or Sheriff may by Order in Writing, after hearing

the Parties, appoint some Person to receive the whole or a competent Part of the Rates or Sums liable to the Payment of such Interest, or until such Principal and Interest, as the Case may be, until such Interest, or until such Principal and Interest, as the case may be, together with all Costs including the Charges of receiving the Rates or Sums aforesaid, be fully paid; and upon such Appointment being made all such Rates and Sums of Money as aforesaid, or such Part thereof as may be ordered by the said Justices or Sheriff shall be paid to the Person so to be appointed, and the Money so paid shall be so much Money received by or to the Use of the Party to whom such Interest, or such Principal and Interest, as the Case may be, shall be then due and on whose behalf such receiver shall have been appointed, and after such Interest and Costs, or such Principal, Interest, and Costs have been so received, the Power of such Receiver shall cease.

Account Books to be open to the Inspection of Mortgagees.

LXXXVIII. The Books of Account of the Commissioners shall be open at all seasonable Times to the Inspection of the respective Mortgagees or Assignees in Security of the Commissioners, with Liberty to take Extracts therefrom, without Fee or Reward.

Accounts.

And with respect to the Accounts to be kept by the Commissioners, be it enacted as follows:

Accounts to be kept of Receipts and Disbursements, which shall be opened for Inspection.

LXXXIX. The Commissioners shall cause Books to be provided and kept, and true and regular Accounts to be entered therein of all Sums of Money received and Paid for and on account of this and the Special Act, and of the several Purposes for which such Sums of Money shall have been received and paid, which Books shall at all reasonable Times be open to the Inspection of any of the Commissioners, and any Mortgagee, Assignee, in Security, or other Creditor of the Commissioners, without Fee or Reward, and the Commissioners and Person aforesaid, or any of them, may take Copies of or Extracts from the said Books, without paying anything for the same; and any Clerk or other Person having the Custody of the said Books who shall not, on any reasonable Demand of any Commissioner, Mortgagee, or Creditor as aforesaid, permit him to inspect the said Books, or to take such Copies or Extracts as aforesaid, shall be liable to a Penalty of Five Pounds for every such Offence.

Penalty for Refusal.

Statement of Accounts to be prepared and to be open for Inspection

XC. The Commissioners shall cause their Accounts to be balanced in each Year to a Period not less than One Month before the Annual General Meeting at which they are to be produced, as after mentioned; and Fourteen Days at the least before such Meeting the Commissioners shall cause a full and true Statement and Account to be drawn out of the Amount of all Rates or Assessments made, and of all Contracts entered into, and of all Monies received and expended by virtue of this or the Special Act during the preceding Year, and also of all Debts then owing by the Commissioners, and they shall cause such Statement and Account to be printed, and shall allow the same to remain for Inspection at the Office of the Commissioners; and every Creditor on the Rates and Assessments by this or the Special Act, or any Act incorporated therewith, authorised to be made and every Person paying any such Rate or Assessment, or any Person acting on behalf of any such Creditor or Ratepayer, may at all reasonable Times inspect such Statement, and Account, and compare the same with the Books and Documents relating thereto in the Possession of the Commissioners; and the Clerk shall, on Demand furnish a printed Copy of the said Statement and Account to every such Creditor and Ratepayer, without

Copies of such Statements to be furnished.

Fee; and Fourteen Days at the least before to the Meeting for examining and settling such Account the Commissioners shall give public Notice of such intended Meeting, stating in such Notice that the said Statement and Account are printed, and lie at the Office of the Commissioners ready for the Inspection of the Creditors and Ratepayers or other Parties interested.

Accounts to examined and settled at the Annual Meeting.

XCI. The Accounts of the Commissioners, so balanced as aforesaid, together with the said Statement and Account, shall be produced at the Annual Meeting of Commissioners, or at some adjournment thereof, at which Meeting all Creditors and Ratepayers and other Persons interested may be present, and the Accounts shall be than finally examined and settled by the Commissioners, and if the same be found just and true they shall be allowed by the Commissioners, and certified accordingly under the Hand of the Chairman of such Meeting; and after such Accounts have been so allowed and signed by such Chairman and also by the Auditors, as herein-after provided, the same shall be final in regard to all Persons whomsoever, unless an Appeal be prosecuted against such Accounts as herein-after provided.

Auditors to be Appointed.

XCII. Except in the Cases where by the Special Act Provision is made for the Appointment of a permanent Auditor, and such Auditor shall have been appointed accordingly, the Ratepayers present at the said Annual Meeting may appoint Two or more Persons not being Commissioners to be Auditors of the Accounts of the Commissioners; and if no other Person present at such Meeting propose the Names of Two Persons to be appointed Auditors by such Meeting, it shall be the Duty of the Chairman of the Meeting to propose the Names of Two Persons to be so appointed; and the Persons so to be appointed Auditors shall have the like Qualification, and shall be subject to the like Disqualification or Disability, as the Commissioners; and before entering on their Office they shall make and sign before a Justice or the Sheriff a solemn Declaration of the like Purport and Effect to that hereby required to be signed by the Commissioners; and the Auditors so appointed shall receive a reasonable Remuneration for their Time and Trouble, not exceeding Two Guineas each for every day they shall be fully employed on such Audit, and all such Expenses as they shall be put unto attending the auditing of the said Accounts; and if any Dispute arise as to the Amount of the Remuneration and Expenses to be paid to such Auditors, it shall in *England or Ireland* be settled by Two Justices, and in *Scotland* by the Sheriff.

Qualification of Auditors.

Auditors to inspect Accounts and may appeal against Part of the same, if they think fit.

XCIII. The Auditors so nominated, or the said permanent auditor if any shall have been so appointed as aforesaid, shall attend as soon as conveniently may be after the said Annual Meeting at the Office of the Commissioners, or at some other convenient Place to be appointed by the Commissioners, and from Time to Time shall in the Presence of the Clerk to the Commissioners, if he desire to be present, proceed to audit the Accounts of the Commissioners for the Year Preceding the said Annual Meeting; and the Commissioners shall by their Clerk produce and lay before such Auditors the Accounts o allowed and certified aforesaid, together with the Statement and Account herein-before mentioned, accompanied with proper Vouchers in support of the same, and all Books, Papers, and Writings in their Custody or Power relating thereto; and any Person interested in the said Account, either as Creditor of the Commissioners or as a Ratepayer, may be present at the Audit of the said Accounts, by himself or his Agent, and may make any Objection to any Part of such Account; and if the

said Accounts be found correct such Auditors shall sign the same in token of their Allowance thereof, but if any Auditors think there is a just Cause to disapprove of any Part of the said Accounts, they or any other Person interested in the said Accounts as aforesaid may appeal against any such Parts of the said Accounts as shall be so disapproved of to One of the Two next Quarter Sessions in *England or Ireland*, and to the Sheriff in *Scotland*, Notice in Writing of such Appeal being given to the Clerk of the Commissioners Fourteen Days at the least before the Hearing of such Appeal.

The Court may Order Payment of the Costs of the Appeal.

XCIV. Upon the Hearing of any such Appeal the Justices or the Sheriff may make such Order as they or he think fit respecting the Payment of the Costs of the Appellant out of the Monies coming to the Hands of the Commissioners under the Special Act or otherwise, as they or he think fit, and such Order shall be final.

Annual account to be made up and transmitted to the Clerk of the Peace in England, or Ireland, or to the Sheriff Clerk in Scotland and to be open to Inspection.

XCIV. The Commissioners shall every Year cause and annual Account in Abstract to be prepared, showing the total Receipt and Expenditure of all Funds levied by virtue of this and the Special Act, and any Act incorporated therewith, for the Year ending on the Day down to which their Accounts shall have been made up for the said Annual Meeting, or some other convenient Day in each Year, under the several distinct Heads of Receipt and Expenditure, with a Statement of the Balance of such Account, duly audited and certified by the Chairman of the Commissioners, and also by the Auditors thereof, and shall, if the Undertaking is situated in *England*, or *Ireland*, send a Copy of the said Account free of Charge to the Clerk of the Peace for the County where the Undertaking is situate, and if the Undertaking is situated in *Scotland*, shall send a Copy to the Sheriff Clerk of such County, on or before the Thirty-First Day of *January* then next, or within One Month after the same has been duly audited, which Account shall be open to the Inspection of the Public at all reasonable Hours, on Payment of the Sum of One Shilling for every such Inspection; and if the Commissioners shall omit to prepare and transmit such Account as aforesaid, they shall be liable for every such Omission to a Penalty of Twenty Pounds.

Byelaws.

And with respect to the making of Byelaws, be it enacted as follows:

Power make Byelaws for Regulating the Conduct of the Officers &c. of the Commissioners.

XCVI. The Commissioners may from Time to Time make such Byelaws as they think fit, for the purpose of regulating the Conduct of the Officers and Servants of the Commissioners, and for providing for the due Management of the Affairs of the Commissioners, and may from Time to Time alter or repeal any such Byelaws, and make others, provided such Byelaws be not repugnant to the Laws of that Part of the United Kingdom where the same are to have effect, or to the Provisions of this or the Special Act; and such Byelaws shall be reduced into Writing, and shall have affixed thereto the Common Seal of the Commissioners, where the Commissioners are a Body Corporate, or shall be signed by the Commissioners or any Two of them, where they are not a body Corporate; and a Copy of such Byelaws shall be given to every Officer and Servant of the Commissioners affected thereby.

Fines for Breach of such Byelaws.

XCVII. The Commissioners may by such Byelaws impose such reasonable Penalties, upon all Persons, being Officers or Servants of the Commissioners, offending against such Byelaws, as the Commissioners think fit, not exceeding

Five Pounds for any One Offence.

Byelaws to be so framed as that Penalties may be mitigated.

XCVIII. All the Byelaws to be made by the Commissioners shall be so framed as to allow the Justice or the Sheriff before whom any Penalty imposed thereby may be sought to be recovered to order a Part only of such Penalty to be paid, if such Justice or Sheriff think fit.

Notices

And with respect to giving Notices and Orders, be it enacted as follows:

Service of Notices upon Commissioners.

XCIX. Any Summons or Notice, or any Writ or other Proceedings at Law or in Equity, requiring to be served upon the Commissioners may be served by the same being left at or sent through the Post Office, directed to the Commissioners, at their principle Office, or One of their principle Offices where there shall be more than One, or by being given personally to the Clerk, or in case there be no Clerk, then by being given to any One Commissioner.

Notices by Advertisement.

C. All Notices required by this or the Special Act, or any Act incorporated therewith, to be given by Advertisement, shall be advertised in the prescribed Newspaper, or if no Newspaper be prescribed or if the prescribed Newspaper cease to be published, in a Newspaper circulating in the District within the Undertaking shall be situated.

Authentication of Notices and Orders.

CI. Every Order, Summons, Notice, or other such Document requiring Authentication by the Commissioners shall be sufficiently authenticated if signed by Two Commissioners or by the Clerk of the Commissioners, although they be incorporated, and the same may be in Writing or in Print or partly in Writing and partly in Print.

Proof of Debts in Bankruptcy.

CII. And with respect to the Proof of Debts in Bankruptcy or Insolvency, be it enacted, That if any Person against whom the Commissioners have any Claim or Demand become bankrupt, or take the Benefit of any Act for the Relief of Insolvent Debtors, the Clerk or Treasurer of the Commissioners, in all Proceedings against the Estate of such Bankrupt or Insolvent, or under any Fiat, Sequestration, or Act of Insolvency against such Bankrupt or Insolvent, may represent the Commissioners, and act in their Behalf, in all respects as if such Claim or Demand had been the Claim or Demand of such Secretary or Treasurer, and not of the Commissioners.

Tender of Amends.

CIII. And with respect to Tender of Amends, be it enacted, That if any Person shall have committed any Irregularity, Trespass or other wrongful Proceeding in the Execution of this or the Special Act or by virtue of any Power or Authority thereby given, and if before Action brought in respect thereof such Party make Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender have been made, the Defendant, by Leave of the Court where such Action is pending, may at any Time before Issue joined, pay into Court such Sum of Money as he thinks fit, and thereupon such Proceedings shall be had as in other Cases where the Defendants are allowed to pay Money into Court.

Recovery of Damages and Penalties.

And with respect to the Recovery of Damages not specially provided for, and of Penalties, and to the Determination of any other Matter referred to Justices or to the Sheriff, be it enacted as follows:

Railways

CV. All Things herein or in the Special Act or any Act incorporated herewith,

Clauses Consolidation Acts, 1845, as to Damages, &c., to be incorporated with this and the Special Act.

authorised or required to be done by Two Justices, may and shall be done in *England* and *Ireland* by any One Magistrate having by Law Authority to act alone for any Purpose with the Powers of Two or more Justices, and in *Scotland* by the Sheriff or Steward of any County or Stewartry or Ward, or his Substitute.

Penalties &c. imposed in respect of any Offence committed with the Metropolitan Police District to be paid to the Receiver, and applied under 2 & 3 Vict. C. 71.

CVI. Every Penalty or Forfeiture imposed by this or the Special Act, or any Act incorporated therewith, or by any Byelaw in pursuance thereof, in respect of any Offence which shall take place within the Metropolitan Police District, shall be recovered, enforced, accounted for, and except where the Application thereof is otherwise specially accounted for, and, except where the Application thereof is otherwise specially provided for, shall be applied in the same Manner as Penalties or Forfeitures, other than Fines upon Drunken Persons or upon Constables for Misconduct, or for Assaults upon Police Constables, are directed to be recovered, enforced, accounted for, paid and applied by an Act passed in the Third Year of the Reign of Her present Majesty, intituled *An Act for regulating the Police Courts in the Metropolis*; and every Order or Conviction of any of the Police Magistrates in respect of any such Forfeiture or Penalty shall be subject to the like Appeal and upon the same Terms as is provided in respect of any Order or Conviction of any of the said Police Magistrates by the said last-mentioned Act; and every Magistrate by whom any Order or Conviction shall have been made shall have the same Power of binding over the Witnesses who shall have been examined, and such Witnesses shall be entitled to the same Allowance of expenses as they would have had or been entitled to in case the Order, conviction, and Appeal had been made in pursuance of the Provisions of the said last-mentioned Act.

In Ireland Part of Penalties to be paid to Guardians of Unions.

CVII. Provided always, That in *Ireland* in the Case of any Penalty imposed by Justices, where the Application is not otherwise provided for, such Justices may award not more than One Half of such Penalty to the Informer, and shall award the Remainder to the Guardians of the Poor of the Union within which the Offence shall have been committed, to be applied in aid of the Poor Rates of such Union.

Persons giving false Evidence liable to Penalties of Perjury.

CVIII. Every Person who, upon any Examination upon Oath under the Provisions of this or the Special Act, or any Act incorporated therewith, shall wilfully and corruptly give false Evidence, shall be liable to the Penalties of wilful and corrupt Perjury.

Nothing in this or the Special Act to affect the Rights of the Crown.

CIX. And be it enacted, That nothing in this or the Special Act shall be deemed to extend to or affect any Act of Parliament relating to Her Majesty's Duties of Customs or Excise, or any other Revenue of the Crown, or to extend to or affect any Claim of Her Majesty in right of Her Crown, or otherwise howsoever, or any Proceedings at Law or in Equity by or on behalf of Her Majesty, in any Part of the United Kingdom of *Great Britain* and *Ireland*.

Access to Special Act

And with respect to Access to the Special Act, be it enacted as follows:

Copies of Special Act to be kept by Commissioners at their Office

CX. The Commissioners shall, at all Times after the expiration of Six Months after the passing of the Special Act, keep in their principal Office of Business a Copy of the Special Act, printed by the Printers to Her Majesty or some of them, and shall also, within the Space of Six Months, deposit in the Office of the Clerk of

and deposited with the Clerks of the Peace &c. and be open to Inspection.

the Peace in *England or Ireland*, and of the Sheriff Clerk in *Scotland* of the County in which the Undertaking is situate, a Copy of such Special Act so printed as aforesaid; and the said Clerk of the Peace and Sheriff Clerk respectively shall receive, and they and the Commissioners respectively shall keep, the said Copies of the Special Act, and shall permit all Persons interested to inspect the same, and make Extracts or Copies therefrom, in the like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided in the Case of certain Plans and Sections of an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

7 W. 4. & 1 Vict. C 83.

Penalty on Commissioners failing to keep or deposit such Copies.

CXI. If the Commissioners fail to keep or deposit as herein-before mentioned any of the said Copies of the Special Act, they shall forfeit Twenty Pounds for every such Offence, and also Five Pounds for every Day afterwards during which such Copy shall be not so kept or deposited.

Act may be amended &c.

CXII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.) Sect. 23.

Voting Paper.

Town of

[*or*

District of]

Voting Paper for the Town [*or* District] of

[*or if divided into Wards,*

Voting Paper for

Ward, in the Town [*or District*] of

| Name of the Persons voted for as Commissioners. | Christian Name and Surname of Voter. | Description of Property | Number of Votes | |
|---|--------------------------------------|-------------------------|-----------------|-------------|
| | | | As Owner | As Occupier |
| | | | | |

I vote for the Persons named in the above List as Commissioners for this Town [or District, or Ward, as the case may be].

(Signed)

Here the Name of the Voter should be written.

SCHEDULE (B.) Sect. 75.

Form of Mortgage.

By virtue of [here name the Special Act], we [here name the Corporation if the Commissioners be incorporated, or if not incorporated, Five of the Commissioners,] appointed in pursuance of the said Act, in consideration of the Sum of _____ paid to the Treasurer to the said Commissioners by A.B. _____ for the purposes of the said Act, do grant and assign unto the said A.B. his Executors, Administrators, and Assigns, such Proportion of the Rates, Rents, Profits, and other Monies arising or accruing by virtue of the said Act from [here describe the Rates or other Property proposed to be mortgaged] as the said Sum of _____ doth or shall bear to the whole Sum which is or shall be borrowed upon the Credit of the said Rates, Rents, Profits, or Monies to hold to the said A.B., his Executors, Administrators, and Assigns, from this Day until the said Sum of _____ with Interest at _____ per Centum per Annum for the same, shall be fully paid and satisfied (the Principal Sum to be repaid at the End of _____ Years from the Date hereof [in case any Period be agreed upon for that Purpose]). Given under our Corporate Seal [or In witness whereof we have hereunto set our Hands and Seals, or, if the Deed be granted in Scotland, insert the testing Clause required by the Law of Scotland, as the Case may be], this _____ Day of _____ One thousand eight hundred and _____

SCHEDULE (C.) Sect 77.

Form of Transfer of Mortgage.

I A.B. of _____ in consideration of the Sum of _____ paid to me by C.D., of _____ do hereby transfer to the said C.D., his Executors, Administrators, and Assigns, a certain Mortgage [*or, if the Deed be granted in Scotland, a certain Assignment in Security,*] Number _____ made by "The Commissioners for executing the [*here name the Special Act*] to _____ bearing Date _____ the Day of _____ for securing the Sum of _____ and _____ Interest [*or if such Transfer be by Indorsement, the within Security*], and all my Right, Estate, and Interest in and to the Money thereby secured, and in and to the Rates, Rents, Profits, or other Monies thereby assigned. In witness whereof I have hereunto set my Hand and Seal [*or, if the Deed be granted in Scotland, insert the testing Clause required by the Law of Scotland*], this _____ Day of _____ One thousand eight hundred and _____

SCHEDULE (D.) Sect.

Form of Conviction

To } Be it remembered, That on this _____ Day of _____ in the Year of our Lord A.B. is convicted before us, Two of Her Majesty's Justices of the Peace for the County of _____ [*or, before me _____ the Sheriff of the County of _____*] [*here describe the Offence generally and the Time and Place when and where committed*], contrary to [*here name the Special Act*]. Given under our Hands and Seals [*or if be the Sheriff, under my Hand*], the Day and Year first above W ritten.

C



ANNO DECIMO

VICTORIÆ REGINÆ

C A P. XXVII

An Act for Consolidating in One Act certain Provisions usually contained in Acts authorising the making and improving of Harbours, Docks, and Piers.

[11th May 1847]

| | |
|-----------------------------|--|
| Extent of Act. | Whereas it is expedient to comprise in One Act sundry Provisions usually contained in Acts of Parliament authorising the Construction or improving of Harbours, Docks and Piers, and that as well for avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Undertakings as for ensuring greater Uniformity in the Provisions themselves: 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, That this Act shall extend only to such Harbours, Docks, or Piers as shall be authorised by any Act of Parliament hereafter to be passed which shall desire that this Act shall be incorporated therewith; and all the Clauses of this act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Undertaking authorised thereby, so far as they are applicable to such Undertaking, and shall, with the Clauses of every other Act incorporated therewith, form Part of such Act, and be construed therewith as forming <i>One Act</i> . |
| Interpretation in this Act. | And with respect to the Construction of this Act and any Act incorporated therewith, be it enacted as follows: |
| "Special Act" | II. The expression "the Special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the Construction or improving of an Harbour, Dock, or Pier, and with which this Act shall be incorporated: and |
| "prescribed" | the Word "prescribed" used in this Act in reference to any Matters herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the Special Act, and the Sentence in which such Word occurs shall be construed as if, instead of the Word "prescribed" the Expression "prescribed for that Purpose in the Special Act" had been used; and the |
| "the prescribed Limits" | Expression "the prescribed Limits," used with reference to the Harbour, Dock, or Pier, shall mean the Distance measured from the Harbour, Dock or Pier, within other local Limits (if any) beyond the Harbour, Dock, or Pier with which the Powers of the Harbour-Master, Dock-Master, or Pier-Master, for the regulation of the Harbour, Dock, or Pier, shall by the Special Act be authorised to be exercised; and the Expression "the Lands" shall mean the Lands which shall be |

| | |
|---|---|
| <p>“The Lands” “The Harbour, Dock, or Pier”</p> <p>“The Harbour Master”</p> | <p>Special Act be authorised to be taken or used for the Purposes thereof; the Expression “the Harbour, Dock, or Pier” shall mean the Harbour, Dock, or Pier, and the Work connected therewith by the Special Act authorised to be constructed; the Expression “the Harbour-Master” shall mean, with reference to any such Harbour, the Harbour-Master, and with reference to any such Dock the Dock-master, and with reference to any such Pier the Pier-master, respectively appointed virtue of this or the Special Act, and with respect to all Acts authorised or required to be done by such Harbour-master, Dock-master or Pier-master or Pier-master, shall include the Assistants of every such Harbour-master, Dock-master or Pier-master, and the Expression “the Undertakers” shall mean the Persons by the Special Act authorised to construct the Harbour, Dock, or Pier or otherwise carry into effect the Purposes of the Special Act with reference thereto.</p> |
| <p>Interpretations in this and the Special Act.</p> | <p>III. The following Words and Expressions in both this and the Special Act and any Act incorporated therewith, shall have the Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)</p> |
| <p>Number</p> | <p>Words importing the Singular Number only shall include the Plural Number and the Words importing the Plural Number only shall include the Singular Number:</p> |
| <p>Gender:</p> | <p>Words importing the Masculine Gender only shall include Females:</p> |
| <p>“Person”:</p> | <p>The Words “Person” shall include incorporation, whether aggregate or sole:</p> |
| <p>“Lands”:</p> | <p>The Word “Lands” shall include Messages, Lands, Tenements and Hereditaments, or Heritages of any Tenure:</p> |
| <p>“Vessel”</p> | <p>The Word “Vessel” shall include Ship, Boat, Lighter, and Craft of every kind, and whether navigated by Steam or otherwise:</p> |
| <p>“Master”:</p> | <p>The Word “Master” when used in relation to any Vessel, shall be understood to mean the Person having the Command or Charge of the Vessel for the Time being:</p> |
| <p>“Owner”:</p> | <p>The Word “Owner” when used in relation to Goods, shall be understood to include any Consignor, Consignee, Shipper, or Agent for Sale or Custody of such Goods, as well as the Owner thereof:</p> |
| <p>“Goods”</p> | <p>The Word “Goods” shall include Wares and Merchandise of every Description and all Articles in respect of which Rates and Duties are payable under the Special Act:</p> |
| <p>“Rate”:</p> | <p>The Word “Rate” shall mean any Rate or Duty or other Payment in the Nature thereof payable under the Special Act:</p> |
| <p>“the Collector of Rates”</p> | <p>The Expression “the Collector of Rates” shall mean the Person appointed by the Undertakers to collect the Rates by the Special Act authorised to be levied by them, and shall include the Assistants of such Collector:</p> |
| <p>“Month”</p> | <p>The Word “Month” shall mean Calendar Month:</p> |
| <p>“Superior</p> | <p>The Expression “Superior Courts”, where the Matter submitted to the Cognizance of</p> |

| | |
|--|---|
| Courts” | the Superior Courts arises in <i>England</i> or <i>Ireland</i> , shall mean Her Majesty’s Superior Courts of Record at <i>Westminster</i> or <i>Dublin</i> , as the case may require, and shall include the Court of Pleas of the County of <i>Durham</i> , and where such Matter arises in <i>Scotland</i> , shall mean the Court of Session: |
| “Oath” | The Word “Oath” shall include Affirmation in the Case of Quakers and any Declaration lawfully substituted for an Oath in the Case of any Persons allowed by Law to make a Declaration instead of making an Oath: |
| “County”: | The Word “County” shall include any Riding or other Division of a County having a separate Commission of the Peace, and in <i>Scotland</i> shall include Stewartry, and any Ward or other Division of a County or Stewartry having a separate Sheriff, and shall also include County of a City and County of a Town: |
| “Justice” | The Word “Justice” shall mean Justice of the Peace acting for the Place where the Matter requiring the Cognizance of any such Justice arises, and where such Matter arises in respect of Lands situate not wholly in any one Jurisdiction, shall mean a Justice acting for the Place where any Part of such Lands shall be acting for the Place where any Part of such Lands shall be situate: and where any Matter shall be authorised or required to be done by Two Justices, the Expression “Two Justices” shall be understood to mean Two or more Justices met and acting together: |
| “Sheriff” | The Word “Sheriff” shall mean the Sheriff Depute of the County or Ward of a County in <i>Scotland</i> , and the Steward Depute of the Stewartry in <i>Scotland</i> , in which the Matter submitted to the Cognizance of the Sheriff arises, and shall include the Substitute of such Sheriff Depute and Steward Depute respectively: |
| “Quarter Sessions” | The Expression “Quarter Sessions” shall mean Quarter Sessions as defined in the Special Act; and if such Expression be not there defined, it shall mean the General or Quarter Sessions of the Peace which shall be held at the Place nearest to the Situation of the Harbour, Dock or Pier for the County or Place in which the Harbour, Dock, or Pier, or the Principal Office thereof is situate, or for some Division of such County having a separate Commission of the Peace: |
| “Lords of the Admiralty” | The Expression “the Lords of the Admiralty” shall mean the Lord High Admiral of the United Kingdom of <i>Great Britain</i> and <i>Ireland</i> or the Commissioners for executing the Office of Lord High Admiral. |
| Citing the Act | And with respect to citing this Act, or any Part thereof, be it enacted as follows: |
| Short title of this act | IV. In citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression “The Harbours, Docks, and Piers Clauses Act, 1847.” |
| Form in which Portions of this Act may be incorporated in other Acts | V. For the purpose of incorporating Part only of this Act with any Act hereafter to be passed it shall be enough to describe the Clauses Of this Act with respect to any Matters in the Words introductory to the Enactment with respect to such Matter, and to enact that the Clauses do described, or that this Act with the Exception of the Clauses so described, shall be incorporated with such Act, and there- Upon all the Clauses of this Act so incorporated shall, save so far as they shall be expressly varied or expected by such Act, form Part of such Act, and such Act shall be construed as if such Clauses were set forth therein with reference to the Matter to which such Act relates |

Construction
Of Harbour,
Dock or Pier

And with respect to the Construction of the Harbour, Dock or Pier, be it enacted as follows :

Construction
Of Harbour,
Dock or Pier
to be subject to
the Provisions of
this Act and One
of the Lands
Clauses
Consolidation
Acts

VI. W hereby the Special Act the Undertakers shall be empowered for the Purpose of constructing the Harbour, Dock or Pier, to take or use any Lands otherwise than with the Consent of the Owners and Occupiers thereof, they shall, in exercising the Power so given to them, be subject, if the Harbour, Dock, or Pier be situate in *England or Ireland*, to the Provisions and Restrictions contained in this Act and in the Lands Clauses Consolidation Act, 1845, and if the Harbour, Dock or Pier be situated in *Scotland* to the Provisions and Restrictions contained in this and in the Lands Clauses Consolidation (*Scotland*) Act, 1845; and the Undertakers shall make to the Owners and Occupiers of and all other Parties interested in any Lands taken or used for the Purpose of this or the Special Act, or injuriously affected by the Construction of the Works thereby authorized, full Compensation for the Value of the Lands so taken or used, and for all Damage sustained by such Owners, Occupiers, and other Parties by reason of the Exercise as regards such Lands of the Powers vested in the Undertakers by this or the Special Act, or any Act incorporated therewith, and, except where otherwise provided by this or the Special Act, the Amount of such Compensation shall be ascertained and determined in the Manner provided by the said Lands Clauses Consolidation Acts for determining Questions

Construction
Of Harbour,
Dock or Pier

Question of Compensation with regard to Land purchased or taken under the Provisions thereof, and all the Provisions of the last mentioned Acts shall be applicable to determining the Amount of any such Compensation, and to enforcing the Payment or other Satisfaction thereof.

Errors and
Omissions in
Plans & e may
be corrected by
Justices, &c.
who shall certify
the same.

VII. If any Omissions, Mis-statement, or wrong Description shall have been made of any Lands, or of the Owners, Lessees, or Occupiers of any Lands described on the Plans or Books of Reference relating to the Harbour, Dock or Pier deposited in compliance with the Standing Orders of either House of Parliament, or in the Schedule to the Special Act, the Undertakers, after giving Ten Days' Notice to the Owners, Lessees, and Occupiers of the Lands affected by such proposed Correction, may apply, in *England or Ireland*, to Two Justices, and in *Scotland* to the Sheriff, for the Correction thereof; and if it appear to such Justices or Sheriff that such Omission, Mis-statement, or wrong

Certificate to be
deposited

Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of any such Omission, Mis-statement, or wrong Description; and such Certificate shall, along with the other Documents to which it relates, be deposited, in *England and Ireland*, with the Clerk of the Peace of the several Counties in which the Lands affected by such Alteration are situate, and in *Scotland* with the Sheriff Clerk of such Counties and with the Schoolmasters of the several Parishes in which such Lands are situate, and with the Town Clerk if such Lands situate in a Royal Burgh; and thereupon such Plan, Book of Reference, or Schedule shall be deemed to be corrected according to such Certificate; and the Undertakers may make the Works in accordance with such Certificate, as if such Omission, Mis-statement, or wrong Description had not been made.

Works not to be proceeded with until Plans of all Alterations, authorised by Parliament have been deposited

VIII. The Undertakers shall not commence the Execution of the Harbour, Dock, or Pier unless they shall have previously deposited with the said Clerks of the Peace in *England* and Ireland, and with the Sheriff Clerk in *Scotland*, of every County in which the Harbour, Dock, or Pier, is situate, a Plan and Section of all such Alterations from the original Plan and Section as shall have been approved of by Parliament, on the same Scale and containing the same Particulars as the original Plan and Section, and shall also have deposited with the Parish Clerks of several Parishes in *England*, and the Clerks of the Unions of the Parishes in *Ireland*, and the Schoolmasters of the several Parishes and the Town Clerk of any Royal Burgh in *Scotland* in which such Alterations shall have been authorized to be made, Copies or Extracts of or from such Plans and Sections as shall relate to such Parishes and Royal Burghs respectively.

Clerks of the Peace, &c. to receive Plans of Alterations, and allow Inspection.

IX. The said Clerks of the Peace, Sheriff Clerks, Parish Clerks, Clerks of Unions, Schoolmasters, and Town Clerks shall receive the said Plans and Sections of Alterations and Copies and Extracts thereof respectively, and shall retain the same as well as the said original Plans and Sections. And shall permit all Persons interested to inspect any of the Documents aforesaid, and to make Copies and Extracts of and from the same, in the like Manner and upon the like Terms, and under the like Penalty for Default, as is provided in the Case of the original Plans and Sections by an Act passed in the First Year of the Reign of her present Majesty; intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

Construction of Harbour, Dock or Pier

7 W. 4 & 1
Vict.c.83.

Copies of Plans, &c. to be Evidence.

X. True Copies of the said Plans and Books of Reference, or of any Alteration or Correction thereof, or Extract therefrom, certified by any such Clerk of the Peace or Sheriff Clerk, which Certificate such Clerk shall give to all Parties interested when required, shall be received in all Courts of Justice or elsewhere as Evidence of the Contents thereof.

No Deviation beyond the Limits defined upon Plans

XI. The Undertakers in making the Harbour, Dock or Pier shall not deviate from the Line of the Works laid down in the Said Plans more than the prescribed Numbers of Yards, and where no Number of Yards is prescribed not more than Ten Yards, nor in any Case to any greater Extent than the Line of lateral Deviation described in the said Plans with respect to such Harbour, Dock, or Pier, nor take or use for the Purpose of such Deviation the Lands of any Person not mentioned in the Books of Reference, without his previous Consent in Writing, unless the Name of such Person have been omitted by Mistake, and the Fact that such Omission proceeded from Mistake have been certified in manner herein-before provided

Works on the Shore of the Sea, &c. not to be constructed without the Authority of the Commissioners of Woods, &c. and of the Admiralty

XII. The Undertakers shall not construct the Harbour, Dock & Pier, or any Part thereof, or any Works connected therewith, on any Part of the Shore of the Sea, or any Creek, Bay, Arm of the Sea, or navigable River communicating therewith, where and so far up the same as the Tide flows and reflows, without the previous Consent of Her Majesty, Her Heirs and Successors, to be signified in Writing under the Hands of Two of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works Buildings and of the Lords of the Admiralty, to be signified in Writing under the Hand of the Secretary of the Admiralty, and then only according to such Plan and under such Restrictions and Regulations as the said Commissioners of Her Majesty's Woods, Forest, Land Revenues, Works and Buildings, and the said Lords of the Admiralty approve of, such Approval being signified as last aforesaid; and where any such

Construction of Harbour, Dock or Pier

Work shall have been constructed with such Consent as aforesaid, the Undertakers shall not at any Time alter or extend the same, without obtaining, previously to making any such Alteration or Extension, the like Consents or Approvals; and if any such Work shall be commenced or completed without such Consent and Approval, the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings or the said Lords of the Admiralty, may abate and remove the same, and restore the Site thereof to its former Condition, at the Costs of the Undertakers, and the amount of such Costs shall be a Debt due to the Crown, and recoverable against the Undertakers accordingly : Provided always, that if the Conservancy of the navigable River shall legally belong to any Person the like Consent and Approval of such Person shall also be necessary. In addition to the Consents and Approvals herein-before required; and if the Right of Property of or in the Shore shall legally belong to any Person, such Right shall not be prejudiced except so far as Power to purchase the same shall be given by the Special Act.

Before Alterations in Plans are executed, to be approved of by the Admiralty and the Commissioners of Woods &c.

XIII. If the Undertakers purpose to make and Deviations from or Alterations in the Plans of their Works, deposited as aforesaid, they shall, before adopting and carrying such Deviations or Alterations into execution, submit the Plans thereof to the Lords of the Admiralty, and also to the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings; and no Deviations from or Alterations in the deposited Plans shall be adopted by the Undertakers unless approved by the Lords of the Admiralty or the said Commissioners respectively, signified in manner aforesaid, or, otherwise, as they shall think proper.

Accommodation for Custom House Officers

And with respect to the Construction of Works for the Accommodation of the Officers of Customs, be it enacted as follows:

Undertakers To erect Watch-house and Boat-house for Custom House Officers, and Keep the same in repair.

XIV. The Undertakers, before they shall be entitled to take any Rates in respect of the Harbour, Dock, or Pier, if required so to do by the Commissioners of Her Majesty's Customs. Or at any Time thereafter when so required, shall erect on a suitable Spot within or near the Harbour, Dock, or Pier, to be approved of by the said Commissioners, and always thereafter

Penalty on Undertakers neglecting to repair Watch-house &c.

maintain a Watch-house and Boat-house for the Use of the Tide Surveyors of the Customs and their Crew of such Size and Materials and in such Manner as shall be approved of by the said Commissioners, and shall also, to the Satisfaction of the said Commissioners, provide from Time to Time a sufficient Number of Huts for the Use of the Officers of Revenue, with all fir and necessary weighing Materials; and shall at all Times keep such Watch-house, Boat-house, Huts and weighing Materials in good and sufficient Repair.

Penalty on Undertakers Neglecting To repair Watch-house, &c.

XV. If at any Time such Watch-house or Boat-house or such Huts or weighing Materials shall be out of repair, or not provided as required by the said Commissioners, and Notice thereof be given to the Undertakers, they shall repair or provide the same to the Satisfaction of the said Commissioners within three Months after such Notice, or in default thereof shall forfeit the Sum of One hundred Pounds for every Month during which such Watch-house, Boat-house, Huts or weighing Materials shall continue out of repair or be not provided ,

such Penalty to be recovered in any of the Superior Courts against the Undertakers as a Debt due to the Crown, and to be sued for by any Officer of Customs, by the Direction of the said Commissioners.

Life-boats

And with respect to Life-Boats be it enacted as follows :

Life-boats, &c
to be provided
by Undertakers

XVI. Unless it be provided by the Special Act that the Undertakers need not provide Life-boats. The Undertakers. Before they shall be entitled to take any Rates in respect of the Harbour, Dock or Pier, shall provide and always thereafter maintain in good repair an efficient and well-appointed Life-boat, a Manby's Mortar, and a sufficient Supply of Carte's Rockets, or such Mortar and Rockets as the Lords of the Admiralty, by Writing under the Hand of the Secretary of the Admiralty, shall approve of, with all necessary Tackle, and a competent Crew and proper Persons for the effectual Working thereof for the Assistance and Succour of Vessels in distress; and the Undertakers shall cause such Life-boat, Mortar, and Rockets to be stationed at or upon the most advanced Works of the Harbour, Dock, or Pier, or such other Place as the Lords of the Admiralty shall approve of as aforesaid, and to be used on all necessary Occasions.

Tide Gauge
&c.

XVII. The Undertakers shall be liable to a Penalty not exceeding Two Pounds for every Twenty-four Hours during which the said Life-boat, Mortar, and Rockets, or any of them, or the Tackle belonging thereto, shall not be provided or maintained and stationed as aforesaid.

A Self-
registering Tide
Gauge and
Barometer to be
provided by
Undertakers

XVIII. Unless it be provided by the Special Act that the Undertakers need not provide a Tide or Weather Gauge, the Undertakers. Before they shall be entitled to take any Rates in respect of the Harbour, Dock or Pier. Shall provide, and always thereafter maintain in good Repair and Working Order, in a proper Part of the Harbour, Dock, or Pier, and in such Manner as the Lords of the Admiralty shall by Writing under the Hand of the Secretary of the Admiralty approve of, an efficient self-registering Tide Gauge, with a Barometer, and they shall cause the daily Working and Results of the said Tide Gauge and Barometer, and a daily Account of the State of the Wind and Weather, to be regularly and properly kept, and shall cause the full and true Results and Details thereof to be sent monthly to the Secretary of the Admiralty.

Penalty for not
providing Tide
Gauge,
&c.

XIX. The Undertakers shall be liable to a Penalty not exceeding Two Pounds for every Twenty-four Hours during which the said self-registering Tide Gauge and Barometer shall not be provided or maintained, or such Account of the Wind and Weather shall not be kept aforesaid ; and they shall be liable to a Penalty not exceeding Ten Pounds for each month they shall neglect or refuse to send as aforesaid to the Secretary of the Admiralty a full true Account of the daily Workings of the said Tide Gauge and Barometer, and of the daily State of the Wind and Weather.

Power to purchase additional Land Required for extra-ordinary Purposes.

XX. The Undertakers, in addition to the Lands authorized to be compulsorily taken by them under the Powers of the Special Act, may contract with any Party willing to sell the same for the Purchase of any Lands, adjoining or near to the Undertaking for extraordinary Purpose ; (that is to say)
For the making and providing additional Yards, Wharfs and Places for Receiving, depositing, and loading or unloading Goods, and for the Erection of Weighing Machines, Toll Houses, Offices, Warehouses, Sheds, and other Buildings and Conveniences :
For making convenient Roads to the Harbour, Dock or Pier, or any other Purpose which may be requisite or convenient for the Formation or Use thereof.

Penalty for not providing Tide Gauge, &c.

XXI. The Undertakers may, as well upon the said Lands as upon any other Lands acquired by them under the Provisions of this and the Special Act, construct such Warehouses, Storehouses, Sheds, and other Buildings and Works as they may deem necessary for the Accomodation of Goods shipped or unshipped within the Harbour, Dock or Pier, and may erect or provide such Cranes, Weighing and other Machines, Conveniences, Weights, and Measures as they think necessary for loading, unloading, measuring, and weighing such Goods.

Undertakers to hire Persons to work Cranes

XXII. The Undertakers or their Lessees shall provide proper Servants and Labourers for working such Cranes at all reasonable Times for the Use of the Public

Power to lease Wharf's, Warehouses, &c.

XXIII. The Undertakers may lease or grant the Use or Occupation of any Warehouses, Buildings, Wharfs, Yards, Cranes, Machines, or other Conveniences provided by them for the Purpose of this or the Special Act, at such Rents and upon such Terms and Conditions as shall be agreed upon between the Undertakers and the Persons taking the same, provided that no such Lease be granted for a longer Term than Three Years.

Legal Quays to be approved by the Treasury &c.

XXIV. And with respect to the Quays, be it enacted, That the Quays of the Harbour, Dock or Pier shall not be deemed to be legal Quays for the shipping and unshipping of Goods until the same have been approved of by the the Commissioners of Her Majesty's Treasury and the Commissioners of Her Majesty's Customs respectively for that purpose; and such Quays, and the Use thereof, shall be subject to all the same Rules, Regulations, and Restrictions to which legal or lawful Quays are or may be by Law subject.

Rates.

And with respect to the Rates to be taken by the Undertakers, be it enacted as follows:

Certificate of Magistrate to be Evidence

XXV. A Certificate under the Hand of the Chairman of the Quarter Sessions in *England or Ireland* and of the Sheriff in *Scotland*, shall be conclusive Evidence that the Harbour, Dock, or Pier is completed and fit for the Reception of

that the
Harbour
&c is
completed

Vessels, or other the Purpose intended, and such Chairman or Sheriff shall sign such Certificate on Proof being adduced to him of such Completion and Fitness

Tonnage of
British
Registered
Vessels to
be ascertained
according
to Law; of other
Vessels
according to
established
Rules
Exemption of
Vessels in Her
Majesty's
Service &c
from Rates

XXVII. For the purpose of ascertaining the Tonnage Rates payable upon Vessels under this or the Special Act, the Tonnage of *British* Vessels duly registered according to Law shall be ascertained according to the certified Tonnage in the Register of such Vessels, and the Tonnage of all other Vessels shall be ascertained according to the Rules of Admeasurement for the Time being established by Law for regulating the Admeasurement of the Tonnage and Burthen of the Merchant Shipping of the United Kingdom.

XXVIII. Nothing in this or the Special Act contained shall extend to charge with Rates or Duties, or to regulate or subject to any Control, any Vessel belonging to or employed in the Service of Her Majesty, Her Heirs and Successors, or any Member of the Royal Family, or in the Service of the Customs or Excise, or of the Corporation of *Trinity House of Deptford Strond*, Or the Commissioners of Northern Lights using the Harbour, Dock, or Pier, and not conveying Goods for Hire, or any Packet Boat or Post Office Packet, being a Packet Boat or Post Office Packet as defined under the Provisions of any Act relating to the Post Office or any Post Office Bag of Letters conveyed by any such Packet Boat or Packet or by any other Vessel whatsoever, or any of the Officers or Persons employed in the Service of the Admiralty, Ordnance, Customs, Excise or Post Office or their Baggage or any Vessel or Goods being under Seizure by the Officers of Revenue, or any Naval, Victualling, or Ordnance Stores, or other Stores or Goods for the Service of or being the Property of Her Majesty, or ant Troops landed upon or delivered or disembarked from any of the Quays of the Harbour. Dock or Pier, or their Baggage, but all such Vessels, Officers or Persons as aforesaid shall have the free Use of the Harbour, Dock, or Pier without any Charge or Rate being made for using the same; Provided always, that if any Person claim and take the Benefit of any such Exemption as aforesaid without being entitled thereto, he shall for every such Offence be liable to a Penalty not exceeding Ten Pounds.

Vessels
returning from
stress of
Weather not to
pay rates
again

XXIX. If any Vessel for which the Rates have been paid be obliged from Stress of Weather or other sufficient Cause, after leaving the Harbour, Dock, or Pier, to return with the same Cargo, the Rates so paid shall not again be payable in respect of such Vessel.

Power to vary
the Rates from
Time to Time

XXX. The Undertakers may from Time to Time vary the Rates or any of them respectively in such Manner as they think expedient, by reducing or raising the same, provided that the Rates do not in any Case exceed the Amount authorized by the Special Act to be taken, and provided also that the Rates be at all Times charged equally to all Persons in respect of the same Description of

Vessels and the same Description of Goods.

As to the Rates on Foreign Vessels where Treaties of Reciprocity exist.

XXXI. Provided always, That the Rates chargeable by this or the Special Act upon Vessels not entitled to the Privileges of a *British* ship, or upon Goods imported or exported in such Vessel, or upon Persons not being *British* Subjects, shall not be applicable to Vessels belonging to Countries with which Treaties or Reciprocity shall have been concluded, so long as such Treaties shall continue in force, nor to the Goods imported or exported therein, nor to the Subjects of such Countries but during such Periods the same Rates shall be levied upon the Vessels of such Countries, and upon the Goods imported or exported therein, and upon the Subjects of such Countries, as may be from Time to Time payable under this or the Special Act upon Vessels entitled to the Privileges of *British* Ships, or upon Goods imported or exported in such Vessels, or upon the Subjects of such Countries.

Powers to compound for Tolls payable in respect of Passenger or Pleasure Vessels

XXXII. The Undertakers may from Time to Time agree with the Proprietors or Masters of Vessels engaged in transporting Passengers, or with any other Persons using the Dock, Harbour, or Pier either for Purposes or Business or Pleasure, for the Payment of fixed Sum, payable in advance, as a Composition, by the Year, or other shorter Periods, for the Rates payable by or in respect of such Passengers or their Luggage, or by such other Persons as aforesaid: Provided always, that if the Undertakers at any Time make any such Agreement by way of Composition as aforesaid, the Proprietors or Masters of all other Vessels engaged in like Manner, and all other Persons using or frequenting the Harbour, Dock, or Pier as aforesaid, may compound for the Rates payable by them respectively upon the like Terms as shall be contained in such Agreement, and the Undertakers shall accept such Composition accordingly, to the Intent that such Rates may not be compounded for partially or in favour of any particular Person or Party whatsoever.

Harbour, Dock, and Pier free to the Public on Payment of Rates

XXXIII. Upon Payment of the Rates made payable by this and the Special Act, and subject to the other Provisions thereof, the Harbour, Dock and Pier shall be open to all Persons for the shipping and unshipping of Goods and the embarking and landing of Passengers.

Collection of rates

And with respect to the Collection and Recovery of Rates, be it, enacted as follows :

Collector may enter Vessels to ascertain Rates Payable.

XXXIV. The Collector of Rates may, either alone or with any other Persons, enter into any Vessel within the Limits of the Harbour, Dock, or Pier, in order to ascertain the Rates payable in respect of such Vessel or of any Goods therein.

Master to report Arrival of Vessel

XXXV. Within Twenty-four Hours after the Arrival within the Limits of the Harbour, Dock or Pier, of any Vessel liable to Rates the Master of such Vessel shall report such Arrival to the Harbourmaster, and if he fail to make such Report within the Time aforesaid he shall be liable to a Penalty not exceeding Ten Pounds.

Penalty for Neglect

Master of Vessel to produce Certificate of Registry

XXXVI. The Master of every registered Vessel shall, on Demand, produce the Certificate of Registry of such Vessel to the Collector of Rates, and if any such Master refuse or neglect to make such Production, on Demand, he shall be

liable to a Penalty not exceeding Twenty Pounds

Masters of such Vessels to give Accounts of Goods intended to be unshipped within the Limits, &c

XXXVII. When any Goods are intended to be unshipped within the Limits of the Harbour, Dock, or Pier, the Master of the Vessel containing such Goods shall within Twelve Hours after the Arrival of such Vessel within the Limits of the Harbour, Dock or Pier, deliver to the Collector of Rates the Names of the Consignee of the Goods intended to be unshipped, or other Person to whom the same are to be delivered, and if the whole Cargo be intended to be unshipped, a Copy of the Bill of Landing or Manifest of the Cargo, or, if Part only of the Cargo be intended to be unshipped, the best Account in Writing in his Power of the Kinds, Weights, and Quantities of the several Goods intended to be unshipped; and every such Master shall, if required so to do by the Collector of Rates, give to him Twelve Hours' Notice of the Time at which the Cargo of such Vessel, or any Part of the same, is intended to be unshipped.

Penalty on Masters giving no Account, or a false Account, of Goods to be unshipped

XXXVIII. Every Master of a Vessel of which the Cargo or Part of the Cargo shall be unshipped within the Limits of the Harbour, Dock, or Pier, who shall have failed to deliver or to give any of the Particulars in regard to the Cargo or the Notice in regard to the Unshipment thereof herein-before required to be delivered or given by such Master, or who shall deliver or give any false Particulars or Notice, shall for every such Offence be liable to a Penalty not exceeding Ten Pounds

Skippers to give an Account of Goods intended to be shipped.

XXXIX. Before any Person shall ship any Goods on board of any Vessel lying within the Limits of the Harbour, Dock, or Pier he shall give to the Collector of Rates a true Account, signed by him, of the Kinds, Quantities, and Weights of such Goods; and every Person who shall ship any Goods in any such Vessel without having given such Accounts, or who shall give or sign a false Account of such Goods, shall for every such Offence be liable to a Penalty not exceeding Ten Pounds.

In case of Dispute between Collector and Master, &c. Goods to be weighed or measured

XL. If any Difference arise between the Collector of the Rates and the Master of any Vessel or the Owner of any Goods, concerning the Weight or Quantities of the Goods in respect of which any Rates are payable, such Collector may cause all such Goods to be weighed or measured, and if necessary, may detain the Vessel containing such Goods until they have been weighed or measured.

As to the Expenses of weighing or measuring Goods

XLI. If the Weight or Quantity of such Goods be greater than that shown by the Manifest, Bill of Landing, Account, or Statement delivered by the Master of the Vessel or by the Owner of the Goods the Expenses of such weighing or measuring shall be paid to the Undertakers, and shall be recoverable by the same Means as are herein or in the Special Act provided for the Recovery of Rates; but if the Weight Quantity of such Goods be the same or less than that shown by the Manifest, Bill of Landing, Account or Statement so delivered, the Undertakers shall pay all the Expenses of such weighing or measuring, and shall also pay to the Master of the Vessel or to the Owner of the Goods all the Expenses occasioned by such weighing or measuring, or by the Detection of the Vessel for that Purpose.

Collection of Rates

Rates on Goods when payable

XLII. The Rates Payable to the Undertakers in respect of any Goods shipped or unshipped within the Limits of the Harbour, Docks, or Pier, shall be paid as follows : (that is to say) if, such Goods are to be shipped they shall be paid before the Shipment, or if such Goods are to be unshipped they shall be paid

before the Removal of the Goods from the Premises of the Undertakers, and before the Expiration of Two Months next after they were unshipped,

Penalty on evading Payment of Rates.

XLIII. If the Master of any Vessel or Owner of any Goods evade the Payment of the Rates payable to the Undertakers in respect of such Vessel or Goods, or any Part thereof, he shall pay to them Three Times the Amount of the Rates of which he shall so have evaded the Payment, and the same shall be recovered from such Master or Owner respectively in the same Manner as Penalties imposed by this Act are directed to be recovered, or by Action in any Court of competent Jurisdiction.

Recovery of Tonnage Rates by Distraint of Ship and Tackle

XLIV. If the Master of any Vessel in respect of which any Rate is payable to the Undertakers refuse or neglect to pay the same, or any Part thereof, the Collector of Rates may, with such Assistance as he may deem necessary, go on board of such Vessel and demand such Rates, and on Nonpayment thereof, or any Part thereof, take, distrain, or arrest, of his own Authority, such Vessel, and the Tackle, Apparel, and Furniture belonging thereto, or any Part thereof, and detail the Matters so distrained or arrested until the Rates are paid; and in case any of the said Rates shall remain unpaid for the Space of Seven Days next after any Distress or Arrestment so made, the said Collector may cause the Matters so distrained or arrested to be appraised by Two or more sworn Appraisers, and afterwards cause the Matters distrained or arrested, or any Part thereof, to be sold, and with the Proceeds of such Sale may satisfy the Rates so unpaid, and the Expenses of taking, keeping, appraising, and selling the Matters so distrained or arrested, rendering the Overplus (if any) to the Master of such Vessel upon Demand,

Recovery of Rates on Goods

XLV. If Default be made in the Payment of the Rates payable in respect of any such Goods, the Collector of Rates may distrain or arrest, of his own Authority, such Goods and for that Purpose may enter any Vessel within the Limits of the Harbour, Dock, or Pier, in which the Goods may be, with such Assistance as he shall deem necessary, or if the said Goods have been removed without Payment of such Rates he may distrain or arrest any other Goods within the Limits of the Harbour, Dock or Pier, or the Premises of the Undertakers, belonging to the Person liable to pay such Rates may sell the Goods so distrained or arrested, and out of the Proceeds of such Sale pay the Rates due to the Undertakers, rendering the Overplus, if any, to the Owner of such Goods, on Demand; or the Undertakers may recover such Rates by Action in any Court having competent Jurisdiction : Provided always, that the Collector of Rates shall, before making Any such Distress or Arrestment as aforesaid, pay all Duties which may be payable to Her Majesty in respect of the Goods so distrained or arrested, and he may retain the Amount of Duties so paid out of the Proceeds arising from the Sale of such Goods.

Collection of Rates

Disputes concerning Rates or Charges occasioned by Distress to be settled by a Justice in England or Ireland, and in Scotland by the Sheriff

XLVI. If any Dispute arise concerning the amount of any Rates due, or the Charges occasioned by any Distress or Arrestment, by virtue of this or the Special Act, the Person making such Distress or using such Arrestment may detain the Goods distrained or arrested until the Amount of the Rates due or the Charges of such Distress or Arrestment be ascertained by a Justice, if in England or Ireland, and by the Sheriff if in Scotland, who, upon Application made to him for that Purpose, shall determine the same, and award such Cost to be paid by either of the Parties to the other of them as he shall think reasonable, and such Costs, if not paid on Demand, shall be levied by Distress or Pounding and Sale, and such Justice or Sheriff shall issue his Warrant

accordingly

List of Rates to be set up in large and legible Characters

XLVII. The Undertakers shall from Time to Time cause to be painted on Boards, or to be printed and attached to Boards, in large and legible Characters, a List of the several Rates for the Time being payable, and shall cause such Boards containing such Lists to be fixed in front of the principal Office of Business of the Undertakers, and on some conspicuous Part of the Quays of the Harbour, Dock or Pier; and no Rate shall be payable during such Time as such List is not so affixed, nor shall any Rate not specified in such List be payable : Provided always, that if any such List be destroyed, injured, or obliterated, the Rates shall continue payable during such Time as may be reasonably required for the Restoration or Reparation of such List, in the same Manner as if such List had continued affixed and in the same State required by this Act.

Collector of Customs may with-hold a Clearance to any Vessel until the Rates paid

XLVIII. The Collector or other proper Officer of Her Majesty's Customs for the District within which the Harbour, Dock, or Pier is situated may, with the Consent of the Commissioners of Her Majesty's Customs, refuse to receive any Entry or give any Cocquet, Discharge, or Clearance, or take any Report inwards or outwards of any Vessel liable to the Payment of any of the Rates imposed by the Special Act, until the Master of such Vessel produces to such Collector or Officer a Certificate, under the Hand of the Collector of Rates, that the Rates payable in respect of such Vessel, and any Goods imported or exported by such Vessel, have been paid, or, if there be any Dispute as to the Rates payable, until such Collector or Officer shall be satisfied that sufficient Security has been given for the Payment of such Rates when ascertained, together with the Expenses arising from the Nonpayment thereof. And with respect to the Accounts to be kept of the Rates, and of the Vessels in respect of which they are payable, be it enacted as follows:

Account of Rates

Undertakers to keep Account of Rates and Vessels, &c

XLIX. The Undertakers shall keep Books of Account, in which shall be entered the several Sums received by or payable to them for Rates in respect of Vessels, the Tonnage of each Vessel for which such Rates are received or payable, the Name of the Master thereof, the Port to which such Vessel belongs, the Place from which on each Occasion such Vessel arrived, and the Place to which on each Occasion such Vessel is bound, and also the several Sums received by or payable to them in respect of the Goods landed from or taken on board every Vessel within the Limits of the Harbour, Dock, or Pier

Annual Account to be prepared and transmitted to the Clerk of the Peace in England, Ireland or to the Sheriff in Scotland

L. The Undertakers shall every Year cause an Annual Account in abstract to be prepared, showing the total Receipt and Expenditure of all Monies levied by virtue of this or the Special Act, for the Year ending the Thirty-first Day of *December* or some other convenient Day in each Year, under the several distinct Heads of Receipt and Expenditure, with a Statement of the Balance of such Account duly audited and certified by the Clerk or Secretary for the Time being of the Undertakers and shall send a Copy of the said Account, free of Charge, to the Clerk of the Peace in *England* and *Ireland*, and the Sheriff Clerk in *Scotland*, for the County or of the Counties respectively, if more than One, in which the Harbour, Dock, or Pier is situate, on or before the Expiration of One Month from the Day on which such Account shall end, which Accounts shall be open to the Inspection of the Public at all seasonable Hours, on Payment of the Sum of One Shilling for every such Inspection: provided always, that if the said Undertakers omit to prepare and send such Accounts as aforesaid, they shall forfeit for every such Omission the Sum of Twenty Pounds.

| | |
|--|---|
| Harbour, Dock and Pier-masters | And with respect to the appointment of Harbour-masters, Dock-masters, and Pier-masters, and their Duties be it enacted as follows : |
| Appointment of Harbour, Dock or Pier Master. | LI. The Undertakers may appoint such Harbour-masters as they think necessary (including in such Expression Dock-masters and Pier-masters, as herein-before defined), and from Time to Time, often as they think fit, may remove and such Harbour-master. |
| Powers of Harbour, Dock, or Pier Master | <p>LII. The Harbour-master may give Directions for all or any of the following Purposes : (that is to say,)</p> <p>For regulating the Time at which and the Manner in which any Vessel shall enter into, go out of, or lie in or at the Harbour, Dock, or Pier, and within the prescribed Limits, if any, and its Position, mooring or unmooring, placing and removing, whilst therein :</p> <p>For regulating the Position in which any Vessel shall take in or discharge its Cargo or any Part thereof, or shall take in or land its Passengers, or shall take in or deliver Ballast within the Harbour, Dock, or Pier :</p> |
| Harbour, Dock and Pier Master | <p>For regulating the Manner in which any Vessel entering the Harbour or Dock or coming to the Pier shall be dismantled, as well as for the Safety of such Vessel as for preventing Injury, to other Vessels, and to the Harbour, Dock, or Pier, and the Mooring thereof :</p> <p>For removing unserviceable Vessels, and other Obstructions from the Harbour, Dock, or Pier, and keeping the same clear :</p> <p>For regulating the Quantity of Ballast or dead Weight in the Hold which each Vessel in or at the Harbour, Dock, or Pier shall have during the Delivery of her Cargo, or after having discharged the same :</p> <p>Provided always, that nothing in this or the Special Act contained shall authorize the Harbour-master to do or cause to be done any Act in any way repugnant to or inconsistent with any Law relating to the Customs, or any Regulations of the Commissioners of Her Majesty's Customs.</p> |
| Penalty on Shipmasters not complying with Directions of the Harbour-master | LIII. The Master of every Vessel within the Harbour or Dock, or at or near the Pier, or within the prescribed Limits, if any, shall regulate such Vessel according to the Directions of the Harbour-master, made in conformity with this and the Special Act: and any Master or a Vessel, who after Notice of any such Direction by the Harbour-master served upon him, shall not forthwith regulate such Vessel according to such Direction, shall be liable to a Penalty not exceeding Twenty Pounds. |
| Penalty on Harbour-master for Misbehaviour | LIV. If any Harbour-master or any of his Assistants, without reasonable Cause, or in an unreasonable or unfair Manner, exercise any of the Powers or Authorities vested in the Harbour-master by this or the Special Act, the Person so offending shall for every such Offence be liable to a Penalty not exceeding Five Pounds. |
| Penalty on offering Bribes to Dock Officers, and on Officers taking Bribes | LV. If any Person give or offer any Sum of Money, or anything whatsoever by way of Reward or Bribe to any Harbour-master or any Officer employed in or about the Harbour, Dock, or Pier, shall for the Purpose of gaining an undue Preference in the Execution of his Office, or for the Purpose of inducing such Harbour-master or other Officer to do or omit to do anything relating to his Office, or if such Harbour-master or other Officer receive any such Reward or Bribe as aforesaid, every Person so offending shall be liable for every such |

Offence to a Penalty of Twenty Pounds.

Harbour-master
may remove
Wrecks, &c

LVI. The Harbour-master may remove any Wreck or other Obstruction to the Harbour, Dock or Pier, or the Approaches to the same, and also any floating Timber which impeded the Navigation thereof, and the Expense of removing any such Wreck, Obstruction, or floating Timber shall be repaid by the Owner of the same, and the Harbour-master may detain such Wreck or floating Timber for securing the Expenses, and on Nonpayment of such Expenses, on Demand, may sell such Wreck or floating Timber, and out of the Proceeds of such Expenses, rendering the Overplus, if any, to the Owner on Demand

Unserviceable
Vessels to be
altogether
removed from
Harbour

LVII. No Vessel which shall be laid by or neglected as unfit for Sea Service shall be permitted to lie within the Limits of the Harbour, Dock, or Pier, but the Harbour-master may cause every such Vessel to be, at the Expense of the Owner thereof, removed from the Harbour, Dock, or Pier, and laid on any Part of the Strand or Sea Shore, or other Place where the same may, without Injury to any Person, be placed: and in the Charges of removing or placing such Vessel may be recovered from the Owner of such Vessel by summary Complaint, in *England or Ireland*, before any Justice of the Peace, and in *Scotland* before the Sheriff: and in case of Refusal or Neglect of Payment of such Charges for the Space of Seven Days after having been awarded by such Justice or Sheriffs, the Harbour-master may levy such Charges by Distress and Sale or Pounding and Sale of such Vessel, or of the Tackle, Apparel, or Furniture thereof, or any Part thereof, and the Justice or Sheriff shall issue his Warrant accordingly

Harbour-master
may remove
Vessels within
Doc, &c.

LVIII. If the Master of any Vessel in or at the Harbour, Dock or Pier, or within the prescribed Limits, if any, shall not moor, unmoor, place, or remove the same according to the Directions of the Harbour-master, or if there is no Person on Board of any such Vessel to attend to such Directions, the Harbour-master may cause such Vessel to be moored, unmoored, placed, or removed as he shall think fit, within or at the Harbour, Dock, or Pier, or within the prescribed Limits, and for that Purpose the Harbour-master may cast off, unloose, or cut the Rope, or unshackle or break the Chain by which any such Vessel is moored or fastened: and all Expenses attending the mooring, unmooring, placing or removing of such Vessel shall be paid to the Undertakers by the Master of such Vessel : Provided always, that before the Harbour-master shall unloose or cut any Rope or unshackle or break any Chain by which any Vessel, without any Person on board to protect the same. Shall be moored or fastened, he shall cause a sufficient Number of Persons to be put on board of such Vessel for the Protection of the same.

Vessels entering
Harbour or Dock
to be dismantled
as Harbour-
master shall
direct

LIX. Before any Vessel shall enter the Harbour or Dock or approach the Pier the Master thereof shall cause her to be dismantled as directed by the Harbour-master; and if any Vessel shall enter the Harbour or Dock or approach the Pier without being dismantled in the Manner required by the Harbour-master, after Notice shall have been given to the Master of such Vessel so to dismantle the same, such Master shall for every such Offence be liable to a Penalty not exceeding Ten Pounds.

Vessels to have
their Sails
lowered when
entering and
navigating Dock.

LX. Before any Vessel shall enter into the Dock, the Master of such Vessel shall cause her Sails to be lowered or furled; and if the Master of any Vessel shall navigate the same under sail into or in the Dock he shall for every such Offence be liable to a Penalty not exceeding Ten Pounds.

Vessel to have
Hawsers, &c.
fixed to
Moorings.

Harbour, Dock,
and Pier Master.

Penalty for
wilfully cutting
Moorings.

Penalty on
Vessels lying
near the
Entrance of
Harbour or Dock
without
Permission

Vessel may be
removed for the
Purpose of
repairing
Harbour or
Dock,

Harbour-master
may remove
such Vessel if
the Master
thereof neglect
or refuse so to
do

Discharge of
Cargoes and
Removal of
Goods

Delivery of
Cargoes and
placing of
discharged
Vessels

LXI. Every Vessel in the Harbour or Dock or at or near the Pier shall have substantial Hawsers, Tow-lines, and Fasts fixed to the Dolphins, Booms, Buoys, or mooring Posts, when required by the Harbour-master: and if any Vessel shall be in the Harbour or Dock or at or near the Pier without substantial Hawsers, Tow-lines, or Fasts fixed as aforesaid, after Notice from the Harbour-master to the Master of such Vessel to furnish or fix the same, such Master shall for every such Offence be liable to a Penalty not exceeding Ten Pounds.

LXII. Every Person other than the Harbour-master who shall wilfully cut, break, or destroy the Mooring or Fastening of any Vessel lying in the Harbour or Dock or at or near the Pier shall for every such Offense be liable to a Penalty not exceeding Five Pounds.

LXIII As soon as the Harbour or Dock shall be so far completed as to admit Vessels to enter therein, no Vessel except with the Permission of the Harbour-master, shall lie or be moored in the Entrance of the Harbour or Dock, or within the prescribed Limits, and if the Master of any Vessel either place it or suffer it to remain in the Entrance of the Harbour or Dock, or within the prescribed Limits, without such Permission, and do not, on being required so to do by the Harbour-master, forthwith proceed to remove such Vessel, he shall be liable to a Penalty not exceeding Five Pounds, and a further Sum of Twenty Shillings for every Hour that such Vessel shall remain within the Limits aforesaid, after a reasonable Time for removing the same has expired after such requisition.

LXIV. Whenever the Undertakers shall deem it necessary, for the Purpose of repairing, scouring, or cleaning the Harbour, Dock, or Pier, that any Vessel lying therein or thereat shall be removed therefrom, the Master of such Vessel shall, within Three Days after Notice in Writing signed by the Harbour-master has been given to him, remove such Vessel according to such Notice: and in case of his neglecting so to do, such Master shall be liable to a Penalty not exceeding Ten Pounds.

LXV. If the Master of such Vessel cannot be found, or if he neglect or refuse to move the same, as required by the said Notice, the Harbour-master may remove such Vessel to such Station as he shall select, and the Expense of such Removal shall be paid to the Undertakers by the Owner of the said Vessel or the Master thereof: Provided always, that previous to the Repair of Harbour, Dock, or Pier which shall require the Removal of the Vessels therefrom, the Harbour-master shall give Three Days' Notice of such Repair and of the Necessity for such Removal to the Collector and Comptroller of the Customs of the District within which the Harbour, Dock, or Pier is situate, or which shall be specified for that Purpose in the Special Act, and cause a like Notice to be affixed on some conspicuous Part of such Custom House and of the Office of the Undertakers.

And with respect to the discharging of Vessels and the Removal of the Goods, be it enacted as follows:

LXVI. The Master of every Vessel which shall go into the Harbour or Dock for the Purpose of being discharged of her Cargo shall cause her to be discharged as soon as conveniently may be after entering therein, and shall cause her, after being so discharged to be removed, without loss of Time, into such Part of the

Harbour or Dock as shall be set apart for light Vessels, and the Harbour-master shall cause a Part of the Harbour or Dock to be set apart for light Vessels accordingly; and if the Master of any such Vessel shall not cause it to be so removed within Twenty-four Hours, after being required so to do by Notice in Writing signed by the Harbour-master, he shall be liable to a Penalty not exceeding Ten Pounds, and the Harbour-master may cause such Vessel to be so removed, and the Expenses of such Removal shall be paid to the Undertakers by the Master of such Vessel.

Penalty on Wharfingers giving undue Preference.

LXVII. If any Wharfinger or other Servant of the Undertakers, or any of their Lessees, or the Servants of such Lessees, shall give any undue Preference, or show any Partiality in loading or unloading any Goods on any Quays, Wharfs, or other Works belonging to the Undertakers, the Person so offending shall be liable to a Penalty not exceeding Five Pounds.

Goods may be removed from the Quay, &c. after lying there longer than allowed by Byelaws

LXVIII. No Goods shall be allowed to remain upon any of the Piers or Quays, or in the Approaches thereto for a longer Time than shall be allowed by the Byelaws of the Undertakers: and if any Goods shall so remain without the Consent of the Undertakers the Harbour-master, or any Person appointed by the Undertakers for that Purpose, may remove the same to any of the Premises of the Undertakers or other convenient Place, and keep the same until Payment to the Undertakers of the Expenses of such Removal, and of the keeping of the Goods : and if such Expensed be not paid within Seven Days after Demand thereof made upon the Owner, or if no such Owner can be found, the Harbour-master may sell such Goods and out of the Proceeds of such Sale pay such Expenses, rendering Overplus, if any, to the Owner on Demand.

Protection of the Harbour, Dock, and Pier

And with respect to the Protection of the Harbour, Dock, and Pier, and the Vessels therein from Fire or other Injury, be it enacted as follows :

Combustible Matter on Quays, &c, to be removed

LXIX. Every Person being the Owner of or having the Charge of any Tar, Pitch, Resin, spirituous Liquors, Turpentine, Oil, or other combustible Thing which shall be upon any Quay, Dock, or Wharf belonging to the Undertakers, or on the Deck of any Bessel within the Harbour or Dock, or at or near the Pier, shall cause the same to be removed to a Place of Safety within Two Hours after being required so to do by the Notice in Writing, signed by the Harbour-master, and if he fail so to do shall forfeit a Sum not exceeding Forty Shillings for every Hour such combustible Thing shall remain in any such Place as aforesaid after the Expiration of Two Hours from the Service of the said Notice.

Combustibles to be guarded during the night.

LXX. If any such combustible Thing aforesaid shall remain on any Part of the Quays or Works connected with the Harbour, Dock, or Pier, or on the Deck of any Vessel within the Harbour or Dock or Pier or at or near the Pier, after Sunset, the Owner or Person having the Charge of the same, or on his Default the Harbour-master, at the Expense of such Owner, shall provide a sufficient Number of Persons to guard the same from Half an Hour before Sunset to Half an Hour after Sunrise; and such Expense, if not paid by the said Owner to the Undertakers, on Demand, shall be ascertained and recovered in the same Manner as Damages for the recovery of which no special Provision is made are by this Act directed to be ascertained and recovered.

Protection of the Harbour, Dock, and Pier.

Penalties against Offences

LXXI. Every Person who shall commit any of the Acts following shall be deemed guilty of an Offence, and shall for every such Offence be liable to a Penalty not

| | |
|---|--|
| herein named. | exceeding Ten Pounds; (that is to say,) |
| Boiling or heating Pitch, &c. | 1 Every Person who shall boil or heat any Pitch, Tar, Resin, Turpentine, Oil, or other combustible Matter in any Vessel lying within the Harbour or Dock or near the Pier, or in any Place within the Limits of the Harbour, Dock, or Pier, except in such Place and in such Manner as shall be specially appointed by the Undertakers for that Purpose. |
| Fire in Vessels | 2 Every Person who shall have or cause to be had any Fire or Lighted Candle or Lamp in any Vessel within the Harbour or Dock, or at or near the Pier, except with the Permission of the Harbour-master: |
| Fires within Docks | 3 Every Person who shall have or cause to be had any Fire, Candle, or Lamp lighted within any of the Docks or the Works belonging to the same, except at such Times and in such Manner as shall be permitted by the Byelaws of the Undertakers. |
| Loaded Guns | 4 Every Person who shall bring any loaded Gun on the Quays or Works of the Harbour or Dock or on the Pier, or shall have or suffer to remain any loaded Gun in any Vessel in the Harbour or Dock or at or near the Pier: |
| Gunpowder | 5 Every Person who shall, without the Permission of the Undertakers, bring or suffer to remain any Gunpowder on the Quays or Works of the Harbour or within the Dock, or at or near the Pier. |
| Power to enter Ship and search for and extinguish Fires or Lights | LXXII. The Harbour-master may enter into any Vessel within the Harbour or Dock or at or near the Pier, to search for any Fire or Light in or suspected to be in such Vessel, contrary to the Provisions of this or the Special Act, or of any Byelaw made in pursuance thereof, and may extinguish the same; and any Person who shall obstruct the Harbour-master in the Execution of such Duty shall for every such Offence be liable to a Penalty not exceeding Ten Pounds. |
| Penalty for throwing Ballast, &c. into Harbour or Dock | LXXIII. Every Person who shall throw or put any Ballast, Earth, Ashes, Stones, or other Thing into the Harbour or Dock shall for every such Offence be liable to a Penalty not exceeding Five Pounds : Provided always, that nothing in this Act contained shall prejudice or prevent any Person from adopting any Measures which but for the passing of this Act he would be lawfully entitled to adopt for recovering any Land which shall at any Time have been lost to him or severed from Land belonging to him by reason of the Overflowing or Washing of any navigable River, or for protecting his Land from future Loss or Damage by the Overflowing or Washing of such navigable River |
| Protection of the Harbour, Dock, and Pier, | |
| Owner of Vessel answerable for Damage to Works | LXXIV. The Owner of every Vessel or Float of Timber shall be answerable to the Undertakers for any damage done by such Vessel or Float of Timber, or by any Person employed about the same. To the Harbour, Dock, or Pier, or the Quays or Works connected therein and the Master or Person having the Charge of such Vessel or Float of Timber through whose wilful Act or Negligence any such Damage is done shall also be liable to make good the same; and the Undertaker may detain any such Vessel or Float of Timber until sufficient Security has been given for the Amount of Damage done by the same : Provided always, that nothing herein contained shall extend to impose any Liability for any such Damage upon the Owner of any Vessel where such |

Vessel shall at the Time when such Damage is caused be in charge of a duly licenced Pilot, whom such Owner or Master is bound by Law to employ and put his Vessel in charge.

As to the Recovery of Amount of Damage to Quays, &c.

LXXV. If the Amount claimed in respect of any such Damage as aforesaid do not exceed Fifty Pounds, such Damage shall be ascertained, and the Amount thereof shall, in *England* or *Ireland*, be recovered before Two Justices, and in *Scotland* before the Sheriff; and in addition to the Remedies hereby provided for the Recovery of the same, the Justices or Sheriff before whom the same are recovered may cause the Vessel or Float of Timber causing such Damage, and any Tackle and Furniture thereof, to be distrained and kept until the Amount of Damages and Costs awarded by them is paid, and if the same be not paid within Seven Days after such Distress or Keeping may cause the Property so distrained or kept, or any Part thereof, to be sold, and out of the Proceeds of such Sale may pay the Amount of Damages and Costs awarded by such Justices or Sheriff, and all the Charges incurred by the Distress, keeping, and Sale of such Property

Owner may recover Damage from his Servants

LXXVI. If the Owner of any Vessel or Float of Timber make Satisfaction for any such Damage as aforesaid, wilfully or negligently done by the Master or Person having charge of such Vessel or Float of Timber, or if the Owner of any Vessel or Goods in any in any other Case have been compelled to pay any Penalty or Costs by reason of any Act or Omission of any other Person, the Person who actually did such Damage or who committed such Offence shall repay the Owner of such Vessel or such Goods the Amount of Proceedings to enforce such Repayment; and if such Damage or Penalty respectively do not exceed Fifty Pounds the Sum may, in *England* or *Ireland*, be recovered before Two or more Justices, and in *Scotland* before the Sheriff.

Lighthouses, Beacons and Buoys

And with respect to Buoys, Lighthouses, and Beacons, be it enacted as follows:

Power to erect Lighthouses and lay down Buoys, with Consent of Trinity House.

LXXVII. The Undertakers shall lay down Buoys for the Guidance of Vessels in such Situations within the Limits of the Harbour, Dock, or Pier, and of such Character, as shall from Time to Time be directed by the Corporation of *Trinity House, Deptford, Strond*, the Corporation for preserving and improving the Port of *Dublin*, or the Commissioners of the Northern Lights respectively, according as Harbour, Dock or Pier is situated in *England, Ireland* or *Scotland*

Lights, Beacons, or Seamarks, not to be exhibits or altered without Sanction of Trinity House

LXXVIII. The Undertakers shall not erect any Lighthouse or Beacon, or exhibit or allow to be exhibited any Light, Beacon, or Sea-mark without the Sanction in Writing of the said Corporation of *Trinity House*, of the said Corporation for preserving and improving the Port of *Dublin*, or of the said Commissioners of Northern Lights respectively, according as the Harbour, Dock or Pier is situated in *England, Ireland* or *Scotland*, first having been obtained in that Behalf; and if any such Light, Beacon, or Sea-mark be exhibited with such Sanctions as aforesaid, the same shall not, be afterwards altered without the like Sanction: and every such Light, Beacon, and Sea-mark shall be of such Power and Description, and shall be from Time to Time discontinued or altered, as the said Corporation or Commissioners respectively shall from Time to Time direct.

Harbour and

And with respect to the Police of the Harbour, Dock, or Pier, be it enacted as

Dock Police.

follows:

Justice to
appoint Special
Constables
named by the
Undertakers.

LXXIX. Any Two Justices may appoint such person as shall be nominated for that Purpose by the Undertakers to be special Constables within the Limits of the Harbour, Dock, Pier and Premises of the Undertakers, and within One Mile of the same; and every Person so appointed shall be sworn in by any such Justices duly to execute the Office of a Constable within the Limits aforesaid, and when o sworn in shall have the same Powers, Protections, and Privileges within the Limits aforesaid, and shall be subject to the same Liabilities, as Constables have or are subject to by the Laws of the Realm.

Dismissal of
Constables

LXXX. Any Two Justices may dismiss any such Constable from his Office, and upon such Dismissal all Powers, Protections, and Privileges vested in such Constable shall cease.

Meters and
Weighers.

And with respect to the Appointment of Meters and Weighers, and their Duties, be it enacted as follows:

Power to appoint
Meters and
Weighers

LXXXI. Where under the Special Act the Undertakers shall have the Appointment of Meters and Weighers, the Undertakers may appoint and license a sufficient Number of Persons to be Meters and Weighers within the Limits of the Harbour, Dock, and Pier, and remove any such Persons at their Pleasure, and may make Regulations for their Government, and fix reasonable Rates to be paid, or other Remuneration to be made to them for weighing and measuring Goods.

Licensed Meters
and Weighers
only to be
employed.

LXXXII. When a sufficient Number of Meters and Weighers have been appointed by the Undertakers, under the Powers of this and the Special Act, the Master of any Vessel, or the Owner of any Goods shipped, unshipped, or delivered within or upon the Harbour or Dock or Pier, shall not employ any Person other than a Weigher or Meter licensed by the Undertakers, or appointed by the Commissioners of Her Majesty's Customs, shall weigh or measure the same; and if in such Case any Person other than a Meter or Weigher licensed by the Undertakers, or a Meter or Weigher appointed by the Commissioners of Her Majesty's Customs, shall weigh or measure any such Goods as aforesaid, such Person, as well as the Person by whom he shall be employed, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and the weighing or measurement of any such Goods by any such Person shall be deemed illegal.

Byelaw

And with respect to the Byelaws to be made by the Undertakers, be it enacted as follows:

Byelaws may be
made for all or
any of the
Purposes herein
named

LXXXIII. The Undertakers may from Time to Time make such Byelaws as they shall think fit for all or any of the following purposes; (that is to say,)

For regulating the Use of the Harbour, Dock, or Pier :
For regulating the Exercise of the several Powers vested in the Harbour-master :
For regulating the Admission of Vessels into or near the Harbour, Dock, or Pier, and their removal out of and from the same, and for the good Order and Government of such Vessels whilst within the Harbour or Dock, or at or near the Pier:
For regulating the shipping and unshipping, landing, warehousing, stowing,

depositing, and removing of all Goods within the Limits of the Harbour, Dock or Pier, and the Premises of the Undertakers:
 For regulating (with the Consent of the Commissioners of her Majesty's Customs) the Hours during which the Gates or Entrances or Outlets to the Harbour, Dock, or Pier shall be open:
 For regulating the Duties and Conduct of all Persons, as well the Servants of the Undertakers as others, not being Officers of Customs or Excise, who shall be employed in the Harbour, Dock, or Pier, and the Premises of the Undertakers:
 For regulating the Use of Fires and Lights within the Harbour, Dock, or Pier, and the Premises belonging thereto, and within any Vessel being within the Harbour or Dock, or at or near the Pier, or within the prescribed Limits (if any):
 For preventing Damage or Injury to any Vessel or Goods within the Harbour or Dock, or at or near the Pier, or on the Premises of the Undertakers:
 For regulating the Use of the Cranes, Weighing Machines, Weights, and Measures belonging to the Undertakers, and the Duties and Conduct of all Weighers and Meters employed by them:
 For regulating the Duties and Conduct of the Porters and Carriers employed on the Premises of the Undertakers, and fixing the Rates to be paid to them for carrying any Goods, Articles, or Things from or to the same:

Byelaws may be repealed or altered from Time to Time

And the Undertakers may from Time to Time, as they shall think fit, repeal or alter any such Byelaws: Provided always, that such Byelaws shall not be repugnant to the Laws of that Part of the United Kingdom where the same are to have Effect, or the Provisions of this or in the Special Act; and such Byelaws shall be reduced into Writing, and have affixed thereto the Common Seal of the Undertakers if they be a Body Corporate, or the Signatures of the Undertakers or Two of them if they be not a Body Corporate, and if affecting other Persons than the Officers or Servant of the Undertakers shall be confirmed and published as herein provided.

Byelaws may be enforced by Imposition of Penalties.

LXXXIV. The Undertakers may, by the Byelaws so to be made by them, impose such reasonable Penalties as they shall think fit, not exceeding Five Pounds for each Breach of such Byelaw: Provided always, that such Byelaws shall be so framed as to allow the Justices or Sheriff before whom any Penalty imposed thereby shall be sought to be recovered to order the whole or Part only of such Penalty to be paid.

No Byelaws to come into operation until allowed in the Manner prescribed, and approved by One of the Judges.

LXXXV. No Byelaws made under the Authority of this or the Special Act, except such as relate solely to the Undertakers or their Officers or Servants shall come into operation until the same be confirmed in the prescribed Manner, and if no Manner of Confirmation be prescribed then not until they be allowed by some Judge of One of the Superior Courts, or in England or Ireland by the Justices at the Quarter Sessions, or in Scotland by the Sheriff; and it shall be incumbent on such Justices or Sheriff, on the Request of the Undertakers, to inquire into any Byelaws tendered to them for that Purpose, and to allow or disallow of the same, as they shall think meet.

Notice of Allowance of Byelaws to be given in One or more Newspapers.

LXXXVI. Provided always, That no such Byelaws shall be confirmed unless Notice of the Intentions to apply for a Confirmation of the same have been given in One or more Newspapers of the County in which the Harbour, Dock, or Pier, or the principal Office thereof, is situate, One Month at least before the Hearing of such Application: and any Person desiring to object to any such Byelaw, on giving to the Undertakers Notice of the Nature of his Objection Ten Days before hearing of the Application for the Allowance thereof, may, by himself or his

Counsel, Attorney, or Agent, be heard thereon, but not so as to allow more than One objecting Party to be heard on the same Matter of Objection.

A Copy of proposed Byelaws to be open to Inspection

LXXXVII. For One Month at least before any such Application for Confirmation of any Byelaws, a Copy of the proposed Byelaws shall be kept at the principal Office of the Undertakers; and all Persons may, at all Times, inspect such Copy without Fee or Reward, and the Undertakers shall furnish every Person who shall apply for the same with a Copy thereof, or of any Part thereof, on Payment of Sixpence for every One hundred Words so to be copied

Publication of Byelaws

LXXXVIII. The said Byelaws when confirmed shall be published in the prescribed Manner, and when no Manner of Publication is prescribed they shall be printed; and the Clerk to the Undertakers shall deliver a printed Copy thereof to every Person applying for the same without Charge, and a Copy thereof shall be painted or placed on Boards, and put up in some conspicuous Part of the Office of the Undertakers, and also on some conspicuous Part of the Harbour, Dock, or Pier, and Boards, with the Byelaws thereon, shall be renewed from Time to Time, as Occasion shall require, and shall be open to Inspections without Fee or Reward, and in case the said Clerk shall not permit the same to be inspected at all reasonable Times, he shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Byelaws to be binding on all Parties.

LXXXIX. All Byelaws made and confirmed according to the Provisions of this and the Special Act, when so published and put up, shall be binding upon and be observed by all Parties, and shall be sufficient to justify all Persons acting under same.

Proof of Publication of Byelaws

XC. The Production of a written or printed Copy of the Byelaws requiring Confirmation by a Judge of the Superior Courts or the Court of Quarter Sessions or the Sheriff, authenticated by the Signature of the Judge or of the Chairman of the Court or the Sheriff who shall have approved of the same, and a written or printed Copy of the Byelaws not requiring such Confirmation, authenticated by the Common Seal of the Undertakers if incorporated, or under the Hands of the Undertakers if not incorporated, or any Two of them. Shall be Evidence of the Existence and due making of such Byelaws in all Cases of Prosecution under the same, without Proof of the Signature of such Judge or Chairman or Sheriff, or the Common Seal or Signature of the Undertakers; and with respect to the Proof of the Publication of any such Byelaws, it shall be sufficient to prove that a Board containing a Copy thereof was put up and continued in manner by this Act directed, and in case of its afterwards, being displaced or damaged that such Board was replaced or restored as soon as conveniently might be, unless Proof be adduced by the Party, complained against that such painted Board did not contain a Copy of such Byelaws, or was not duly put up or continued as directed by this Act.

Tenders of Amends

XCI. And with respect to the Tender Amends, be it enacted, That if any Party shall have committed and Irregularity, Trespass or other wrongful Proceeding in the Execution of this or the Special Act, or any Act incorporated therewith, or by virtue of any Power or Authority thereby given, and if, before Action brought in respect thereof, such Party make Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Action is pending, at any Time before Issue joined, pay into Court such Sum of Money as he thinks fit, and thereupon such Proceeding shall be had as in other Case where Defendants are allowed to pay Money into Court.

Recovery of Damages and Penalties

And with respect to the Recovery of Damages not specially provided for, and of Penalties, and to the Determination of any other Matter referred to Justices or the Sheriff, be enacted as follows:

Railways Clauses Consolidation Acts, 1845, as to Damages &c. to be incorporated with this and the Special Act.

XCII. If the Harbour, Dock, or Pier be in *England* or *Ireland*, the Clauses of the Railways Clauses Consolidation Act, 1845, with respect to the Recovery of Damages not specially provided for, and Penalties, and to the Determination of any other Matter referred to Justices, shall be incorporated with this and the Special Act; and if the Harbour, Dock, or Pier be in *Scotland*, the Clauses of the Railways Clauses Consolidation Act (*Scotland*), 1845, with respect to the Recovery of Damages not specially provided for, and to the Determination of any other Matter referred to the Sheriff or to Justices, shall be incorporated with this and the Special Act, and such Clauses shall apply to the Harbour, Dock, or Pier, and to the Undertakers respectively, and shall be construed as if the Word "Undertakers" had been inserted therein instead of the Word "Company"

In Ireland Part of Penalties to be paid to Guardians of Unions.

XCIII. Provided always, That in *Ireland*, in the Case of any Penalty imposed by Justices, where the Application is not otherwise provided for, such Justices may award not more than One Half of such Penalty to the Informer, and shall award the Remainder to the Guardians of the Poor of the Union within which the Offence shall have been committed. To be applied in aid of the Poor Rates of such Union

All things required to be done by Two Justices in England and Ireland may, in certain Cases, be done by One and in Scotland by the Sheriff &c.

XCIV. All things herein or in the Special Act, or any Act incorporated therewith, authorised or required to be done by Two Justices may and shall be done, in *England* and *Ireland*, by any One Magistrate, having by Law Authority to act alone for any Purpose with the Powers of Two or more Justices, and in *Scotland* by the Sheriff or Steward of any County, Stewarty, or Ward, or his Substitute

Penalties &c. imposed in respect of any Offence committed within the Metropolitan Police District to be paid to the Receiver, and applied under 2 & 3 Vict. E.71

XCIV. Every Penalty or Forfeit imposed by this or the Special Act, or any Act incorporated therewith, or by any Byelaw in pursuance thereof, in respect of any Offence which shall take place within the Metropolitan Police District, shall be recovered, enforced, accounted for, and , except where the Application thereof is otherwise specially provided for, shall be paid to the Receivers of the Metropolitan Police District, and shall be applied in the same Manner as Penalties or Forfeitures other than Fines upon drunken Persons, or upon Constables for Misconduct, or for Assaults upon Police Constables, are directed to be recovered, enforced, accounted for, paid and applied by an Act passed in the Third Year of the Reign of Her present Majesty, intituled *An Act for regulating the Police Courts in the Metropolis*; and every Order or Conviction of any of the Police Magistrates in respect of any such Forfeiture or Penalty shall be subject to the like Appeal, and upon the same Terms, as is provided in respect of any Order or Conviction of any of the said Police Magistrates by the said last-mentioned Act; and every Magistrate by whom any Order or Conviction shall have been made shall have the same Power of binding over the Witnesses who shall have been examined; and such Witnesses shall be entitled to in case the Order, Conviction, and Appeal had been made in pursuance of the Provisions of the said last-mentioned Act.

Recovery of Damages and Penalties

Persons giving false Evidence

XCVI. Every person who, upon any Examination upon Oath under the Provisions

liable to Penalties or Perjury.

of this or the Special Act, or any incorporated therewith, shall wilfully and corruptly give false Evidence shall be liable to the Penalties of wilful and corrupt Perjury.

Access to Special Act

And with respect to Access to the Special Act, be it enacted as follows:

Copies of Special Act to be kept by Undertakers at their Office and deposited with the Clerks of the Peace, &c. and be open to Inspection

XCVII. The Undertakers shall at all Times, after the Expiration of Six Months after the passing of the Special Act, keep in their principal Office of Business a Copy of the Special Act, printed by the Printers to Her Majesty or some of them, and shall also within the Space of such Six Months deposit in the Office of the Clerk of the Peace in England or Ireland, and of the Sheriff Clerk in Scotland, of the County in which the Harbour, Dock, or Pier, or any part thereof, is situate, a Copy of such Special Act so printed as aforesaid; and the said Clerk of the Peace and Sheriff Clerk shall receive, and they and the Undertakers respectively shall keep, the said Copies of the Special Act, and shall allow all Persons interested to inspect the same, and make Extracts or Copies therefrom, in the like Manner and upon the like Terms and under the like Penalty for Default as is provided in the Case of certain Plans and Sections by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties, and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

7 W. 4. & 1 Vict. C. 83

Penalty on Undertakers failing to keep or deposit such Copies Saving of Rights.

XCVIII. If the Undertakers fail to keep or deposit, as herein-before mentioned, any of the said Copies of the Special Act they shall forfeit Twenty Pounds for every such Offence, and also Five Pounds for every Day afterwards during which such Copy shall be not so kept or deposited.

And with respect to the Saving of Rights, be it enacted as follows:

Nothing in this or the Special Act to affect the Rights of the Crown.

XCIX. Nothing in this or the Special Act, or any Act incorporated therewith, contained shall extend to alienate, defeat, vary, lessen, abrogate, or prejudice and Estate, Right, Title, Interest, Prerogative, Royalty, Jurisdiction. Or Authority. Of or appertaining to the Queen's most Excellent Majesty, Her Heirs or Successors, nor to abridge, vary, or abrogate any of the Powers or Authorities by Law vested in the Lords of the Admiralty, or in the Commissioners of Her Majesty's Customs, or in the Commissioners for the Time being of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, in relation to the Possessions and Land Revenues of Her Majesty in right of Her Crown, or otherwise howsoever.

nor the Rights of the Crown as to Revenue &c.

C. Nothing in this or the Special Act shall be deemed to extend to or affect any Act of Parliament relating to Her Majesty's Duties of Customs or Excise, or any other Revenue of the Crown, or to extend to or affect any Claim of Her Majesty in right of her Crown, or otherwise howsoever, or any Proceedings at Law or in Equity by or on behalf of Her Majesty, in any Part of the United Kingdom of *Great Britain and Ireland*

nor the Rights of the City of London;

CI. Nothing in this Act or the Special Act contained shall prejudice or derogate from the Estates, Rights, Liberties, Interests, Privileges, Franchises, or Authority of the Mayor and Commonalty and Citizens of the City of *London*, or their Successors, or the Lord Mayor of the City for the Time being.

nor the Rights of

CII. Nothing in this or the Special Act contained shall prejudice or derogate from

Trinity House,
&c.

any of the Rights or Privileges, Jurisdiction or Authority of the Corporation of the *Trinity House of Deptford Strond*, the Corporation for preserving and improving the Port of *Dublin*, Or the Commissioners of Northern Lights, or any Lord of the Manor within the Limits of the Harbour or Dock

Act not to
exempt the
Undertakers
from the
Provisions of
General Act

CIII. And be it enacted, That nothing herein or in the Special Act contained shall be deemed to exempt the Undertakers from the Provisions, Regulations, and Conditions which may be contained in any General Act relating to Harbours, Docks or Piers, or to Ports, Harbours, or tidal Waters, which may be passed in the same Session in which the Special Act is passed, or any future Session of Parliament.

Act may be
amended, &c.

CIV. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.



CHAPTER cclviii

A.D. 1897

An Act to incorporate Harbour Commissioners for the Harbour and Roads of Cowes in the Isle of Wight to define the limits of the Harbour and Roads to vest the Harbour in the Commissioners and to confer upon them powers for the improvement maintenance and regulation of the Harbour and Roads and for other purposes.

[6th August 1897]

WHEREAS the Harbour of Cowes in the Isle of Wight (herein-after called “the harbour”) and the roads adjoining thereto are much used by steamships yachts and other vessels and it is expedient that the said harbour and roads should be improved and efficiently maintained and regulated :

And whereas it is expedient to define the limits of the harbour and roads and to constitute a harbour authority for the same and for that purpose to incorporate Commissioners as by this Act provided and to vest in such Commissioners the exclusive jurisdiction management and control over and in the harbour and roads with the powers and authorities in this Act contained for the improvement regulation and management thereof:

And whereas an absolute majority of the whole number of the corporation at a meeting held by them on the sixth day of October one thousand eight hundred and ninety six after ten clear days’ notice by public advertisement of such meeting in the Isle of Wight County Press a local newspaper published and circulating in the district of the corporation such notice being in addition to the ordinary notice required for summoning such meeting resolved that the expense in relation to promoting a Bill respecting the harbour (herein-after referred to as Cowes Harbour (No. 1) Bill) be paid by the corporation and be charged upon and paid out of the borough fund:

And whereas such resolution was published twice in the said Isle of Wight County Press and has in respect of matter within the jurisdiction of the Local Government Board received the approval of that Board.

[Price 2s]

A

1

And whereas the propriety of the promotion of Cowes Harbour (No. 1) Bill was confirmed by an absolute majority of the whole number of the corporation at a further special meeting held in pursuance of a similar notice by the corporation

on the fifth day of January one thousand eight hundred and ninety-seven being not less than fourteen days after the deposit of the said Bill in Parliament :

And whereas the owners and ratepayers of the district of the corporation by resolution in the manner provided in the Third Schedule to the Public Health Act 1875 have consented to the promotion of the said Bill :

And whereas an absolute majority of the whole number of the Cowes Council at a meeting held by the council on the twenty-second day of October one thousand eight hundred and ninety-six after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Isle of Wight Herald a local newspaper published and circulating in the district of Cowes Council such notice being in addition to the ordinary notice required for summoning such meeting resolved that the expense in relation to promoting another Bill for the like purpose (herein-after referred to as Cowes Harbour (No. 2) Bill) be paid by the Cowes Council and charged upon and paid out of the general district rate :

And whereas such resolution was published twice in the said Isle of Wight Herald and has in respect of matters within the jurisdiction of the Local Government Board received the approval of the Board :

And whereas the propriety of the promotion of Cowes Harbour (No. 2) Bill was confirmed by an absolute majority of the whole number of the Cowes Council at a further special meeting held in pursuance of a similar notice by the Cowes Council on the twenty-sixth day of January one thousand eight hundred and ninety-seven being not less than fourteen days after the deposit of the said Bill in Parliament :

And whereas the owners and ratepayers of the district of the Cowes Council by resolution in the manner provided in the Third Schedule to the Public Health Act 1897 have consented to the promotion of Cowes Harbour (No. 2) Bill :

And whereas by arrangements between the corporation and the Cowes Council the said Bills originally deposited in Parliament by the corporation and the Cowes Town Council were withdrawn and the Bill for this Act was introduced in lieu thereof and for the purpose of effecting the same or similar objects :

And whereas the objects aforesaid cannot be attained 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 the present Parliament assembled and by the authority of the same as follows (that is to say) :-

- | | |
|-----------------------|---|
| Short title | 1. This Act may be cited as the Cowes Harbour Act 1897. |
| Incorporation of Acts | 2. The following Acts (so far as they are not varied by or inconsistent with the provisions of this Act) (that is to say) The Lands Clauses Acts (except the provisions thereof relating to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking) The Commissioners Clause Act 1847 (except section 6 and 7 and except the sections with respect to the election and rotation of the Commissioners where the Commissioners are to be elected by the ratepayers or other like class of electors and except the sections with respect to the accounts to be kept by the Commissioners and except section 84) The Harbours Docks and Piers Clauses Act 1847 (except sections of that Act with respect to lifeboats and with respect to keeping a tide and weather gauge unless and until otherwise required by the Board of Trade and except sections 25 and 26) are incorporated with and form part of this Act. |

Interpretation

3. In this Act -----

- “The Commissioners” means the Commissioners for the Harbour of Cowes by this Act constituted and incorporated ;
- “The corporation” means the mayor aldermen and burgesses of the borough of Newport Isle of Wight;
- “The town council” means the council of the borough of Newport Isle of Wight;
- “The mayor” means the mayor of the borough of Newport aforesaid;
- “The county council” means the county council for the administrative county of the Isle of Wight;
- “The Cowes Council” means the Cowes Urban District Council;
- “The East Cowes Council” means East Cowes Urban District Council;
- “The steam packet company” means Southampton Isle of Wight and South of England Royal Mail Steam Packet Company Limited;
- “The railway company” means the Isle of Wight Central Railway Company;
- “The clerk” means the clerk to the Commissioners;
- “The harbour” means the harbour of Cowes as defined by this Act;
- “The harbour office” means the principal office for the time being of the Commissioners at Cowes;
- “The roads” means Cowes Roads as defined by this Act;
- “The existing harbour master” means the harbour master appointed by the corporation and now performing the duties of harbour master;
- “Days” when used with reference to the period before or within which anything has to be done or any notice has to be given under this Act means clear days.

incorporation of Commissioners for carrying this Act into execution

- 4.—(1) There shall be a body of Commissioners constituted as by this Act provided for the purpose of carrying this Act into execution. They and their successors shall be a body corporate under the name or style of “the Commissioners for the Harbour of Cowes” with a perpetual succession and a common seal and they shall have power to sue and be sued and to purchase take hold and dispose of lands and other property and all other powers and privileges of a body corporate.
- (2) On the seventh day of December one thousand eight hundred and ninety-seven the Commissioners shall come into office.

Constitution of Commissioners

5. REPEALED 2001

Election and rotation of members representing councils

6. REPEALED 2001

Election and rotation of traders and other members

7. REPEALED 2001

Election of Chairman and Vice Chairman

8. REPEALED

Qualification of Traders members

9. **REPEALED** substituted by section 6 of Jan 1988

Disqualification of Commissioners

10 A person shall be disqualified from being or acting as a Commissioner if He or the partnership or company through or as representing which he derives his qualification -----

- (A) Is an infant or alien:
- (B) Has within five years before his election or since his election been convicted either on indictment or summarily of any crime and sentenced to imprisonment with hard labour without the option of a fine or any greater punishment and has not received a free pardon or has been adjudged bankrupt or has made a composition or arrangement with his creditors or in the case of a company if an order has been made or a binding resolution passed for the winding-up of such company:
- (C) Holds any paid office under the Commissioners:
- (D) Is concerned in any bargain or contract entered into with the Commissioners or participates in the profits of any such bargain or contract or of any work done under the authority of the Commissioners: Provided that a person shall not be disqualified by reason of his or his partnership or company being interested-----
 - (a) In the sale or lease of any land or any loan of money to the Commissioners
 - (b) In any agreement with the Commissioners for the compounding of tolls rates or dues Provided that no Commissioner so interested shall vote at any meeting on any question as to approving or disapproving any such agreement with respect to the rates or dues payable by such person or by any other Commissioner or partnership company through or as representing which any Commissioner derives his qualification;
 - (c) In any newspaper in which any advertisement relating to the affairs of the Commissioners is inserted;
 - (d) In any contract with the Commissioners as a shareholder in any joint stock company but he shall not vote at any meeting of the Commissioners on any question in which such company is interested.

Where a person is disqualified by being adjudged bankrupt or making a composition or arrangement with his creditors the disqualification shall cease in the case of bankruptcy when the adjudication is annulled or when a discharge is obtained with a certificate that the bankruptcy was caused by misfortune without any misconduct or at the expiration of five years from the date of any discharge without such certificate as aforesaid and in case of composition or arrangement the disqualification shall cease on payment of the debts in full or at the expiration of five years from such date of such composition or arrangement:

If any person acts when disqualified under this section he shall for each offence be liable to a penalty not exceeding twenty pounds

Qualification of electors of Traders members

11. **REPEALED**

Freighters claiming to vote to make statement

12. **REPEALED**

List of electors of traders members to be made out

13. **REPEALED**

Printing and sale of lists of electors of traders memvbers

14. **REPEALED**

Revision of lists of electors of traders members

15. **REPEALED** Amended 1936 Sec 30

Commissioners to produce books &c to revisers

16. **REPEALED**

Evidence of revised list

17. **REPEALED**

Revised lists to be conclusive evidence of right to vote

18. **REPEALED**

Printing and sale of revised lists

19. **REPEALED**

Election of traders members

20. **REPEALED**

Mode of supplying occasional vacancies

21. **REPEALED**

Errors in election &c not to vitiate acts of Commissioners

22. **REPEALED**

Meetings of Commissioners

23. **REPEALED**

Quorum

24. **REPEALED**

Expenses of revision of lists of election

25. **REPEALED**

Special meetings of Commissioners

26. REPEALED

Accounts

27. REPEALED

Audit of accounts

28. There shall be appointed annually by the Commissioners on or before the thirtieth day of June two persons (not being Commissioners) in this Act called the auditors whose duty shall be to inspect and examine the accounts for the year ending the thirty-first day of March next before their appointment and in case the auditors shall find the same to be correct they shall certify the same in writing to the Commissioners and in case the auditors shall find the same or any part thereof not to be correct they shall have power to make all such inquiries as under the circumstances may be necessary and expedient and shall make to the Commissioners a special report in writing of the facts connected therewith and the Commissioners shall be at liberty to pay to each of the auditors a sum not exceeding ten pounds as a remuneration for such auditing.

Where day for any proceeding falls on Sunday &c. proceedings to be taken on next day.

29. Where by this act any proceeding or act is directed or allowed to take or be taken or done on a certain day then if that day happens to be a Sunday public holiday or a day appointed for a public fast humiliation or thanksgiving the proceedings or act shall be considered as taken or done in due time if it is taken or done on the next day afterwards not being one of the days herein-before specified.

Limit of harbour and roads

30. REPEALED

For protection of Fountain Pier and Pontoon and New Fountain causeway and Vine Causeway.

31---(1) Nothing in this Act or in the Harbours Docks and Piers Clauses Act 1847 shall confer upon the Commissioners or any harbour master or other official of the Commissioners any jurisdiction or power over or in respect to the pier and pontoon belonging or reputed to belong to Edmund Granville Ward and known as the Fountain Pier or any enlargement thereof or any vessel or boat moored at the said pier or pontoon or any works connected therewith nor shall the said pier or pontoon be deemed to be within the harbour or subject to any byelaws of the Commissioners nor shall any vessel or boat while so moored be deemed to be within the harbour or subject to such byelaws except for the purpose of levying the rates by this Act authorised and for preventing any such vessel from unnecessarily interfering with the passage of vessels through the fairway of the harbour past the site of the said pier and pontoon.

(2) Neither the Commissioners nor any such harbour master or official shall be entitled to direct the time or manner in which any vessel or boat shall approach or depart from or be moored at the said pier or pontoon for any such works or the dismantling of any such vessel or boat Provided that no such vessel or boat shall approach or depart from or be moored at any works connected with the said pier or pontoon in such a manner as unnecessarily to interfere with the passage of vessels through the fairway of the harbour past the site or the said pier or pontoon.

(3) The Commissioners shall so regulate the mooring of vessels and boats within the harbour as to allow of free access to and egress from the said pier and pontoon by all vessels and boats resorting thereto.

- Report to be prepared as to works
32. The Commissioners shall as soon as may be after the first election of Commissioners cause to be prepared a report by a competent engineer on the works necessary to be immediately proceeded with for the dredging and deepening lighting and buoing of the harbour with plans sections and an estimate of expense and such plans sections and estimate shall be submitted to the Board of Trade and to the Admiralty respectively for their consent.
- Improvement of harbour
33. The Commissioners shall forthwith after the consent of the Board of Trade so such plans and estimate has been obtained proceed to carry out the same and improve the harbour in accordance with such plans.
- Power to dredge & C
34. In addition to carrying out the works so consented to by the Board of Trade the Commissioners may improve the harbour by dredging and deepening the same and the accesses thereto and may lay down erect make and maintain such buoys moorings posts lights beacons landing-places approaches and other works and conveniences as they may think necessary or desirable for effecting any of the purposes of this Act but such landing places or other like works shall be used except for the purposes of the Commissioners in the execution of this Act Provided that in any action affecting the harbour channel the consent of the Admiralty shall be previously maintained.
- Power to compel execution of improvements
35. If the Commissioners shall at any time make default in duly and efficiently carrying out the improvements in this Act contemplated it shall be lawful for the Board of Trade on the representation of any body appointing Commissioners to order the Commissioners to carry out such of improvements as they may think reasonable and in default may cause the same to be executed and the cost thereof to be defrayed by the Commissioners.
- Commissioners may provide tugs &c. and charge for same.
36. The Commissioners may build purchase acquire provide or hire such tugboats dredgers lighters and other craft as they think requisite for the purpose of this Act or for the use and accommodation of vessels frequenting the harbour and roads and may demand and receive such rents rates and charges as the Commissioners shall think reasonable for or in respect of the use or letting of the same.
- Rates for Steam tugs &c
37. The Commissioners may with the approval of the Board of Trade fix such rates or charges as appear to them reasonable for or in respect of the use of such steam tugs or other power maintained used and let such rates or charges shall be paid by the owner agent master consignee or other person having charge of the vessel obtaining the assistance of such tug or other power to the Commissioners as the case may be and such rates and charges shall be due and payable whether such steam tug or other power shall be actually employed or not provided and assistance thereof shall have been required and shall in consequence of a requisition have been rendered by the master or other person having the command of such steam tug or other power.
- Penalty for injuring works.
38. Every person who wilfully obstructs any person acting under the authority of the Commissioners or who injures pulls up or removes any buoys beacons poles posts moorings or other conveniences shall for every such offence be liable on conviction to a penalty not exceeding ten pounds and shall in addition be liable to repay to the Commissioners any expenses incurred by them in making good such damage.

Power to levy rates

39. Subject to the provisions of this Act the Commissioners may demand recover and receive in respect of vessels described in Schedules A and B to this Act entering the harbour any sums not exceeding the several rates payments or compositions in the said schedules specified and in respect of vessels using the mooring buoys posts and moorings in the harbour or in the roads any sums not exceeding the several rates in Schedule C to this Act specified Provided that no rate for entering the harbour shall be leviable for or in respect of vessels entering the harbour or on their way to any other port and not anchoring mooring or taking the ground or loading or unloading any cargo or landing or embarking any passengers within the limits of the harbour or using any of the works or conveniences of the Commissioners Provided also that nothing in this Act contained shall authorise the Commissioners to levy ant rates on vessels passing through the harbour bound to or coming from any place in the River Medina southward of “The Folly” and not loading or unloading any cargo within the limits of the harbour.

Power to owners of vessels to compound for rates or dues.

40. The Commissioners shall at all times if called upon so to do by the owner of any vessel entering or using the harbour accept from such owner in lieu of the rates or dues specified in Schedules A and B respectively to this Act the fixed payments of compositions respectively mentioned in such schedules such fixed payments or compositions to be made payable in advance unless otherwise agree with the Commissioners.

Revision of rates tolls and charges

41. The Commissioners shall from time to time revise the tolls rates and charges received by them under this Act so that the income of the Commissioners may always be as far as practicable sufficient and not more than sufficient for the purposes of this Act Provided that such dues tolls rates and charges in no case exceed the amounts specified in Schedules A B and C to this Act And if at any time the clear annual income derived from the harbour and works on the average of the then three last preceding years after payment of all expensed interest and outgoings shall exceed the amount sufficient to answer the purpose of this Act the Board of Trade may if in their discretion they think fit reduce the rates tolls and charges specified in the said schedules so such amounts as will be sufficient to provide the income required for the purpose of this Act but with power to the Board of Trade at any time to raise such rates tolls and charges or any of them again to not exceeding the amounts specifies in the said Schedules.

Meters and weighers may be licensed

42. The Commissioners may license a sufficient number of persons to be meters and weighers at and within the harbour but their services shall be optional and not compulsory and the meters and weighers who now hold appointments under the corporation shall continue in office.

Power to purchase land by agreement

43. The Commissioners may purchase by agreement and hold for the purposes of this Act but not for the purpose of constructing a pier any land not exceeding in the whole six acres but nothing in this Act contained shall exempt the Commissioners from any indictment or other proceeding on account of any nuisance caused or permitted by them on any land acquired under this section.

Byelaws

44. The Commissioners may make byelaws under the provisions of the Harbour Docks and Piers Clauses Act 1847 incorporated with this Act for the regulation and control of vessels and boats within the harbour and for the regulation and control of masters and other persons and goods and traffic in and at the harbour and the works ground or property belonging to the Commissioners and used for

harbour purposes but byelaws so made shall not come into operation until the same shall have received the allowance and confirmation of the Board of Trade which shall be sufficient for all purposes.

Harbour master may prevent sailing of vessels when rates have not been paid.

45. The harbour master may prevent the removal or sailing out of the harbour of any vessel or boat in respect of which any dues or rates shall have been payable until evidence shall have been produced to him of the payment of such dues or rates to the collector of rates

Power to borrow

46. Subject to the provisions of this Act the Commissioners may borrow at interest for the payment of the costs charges and expenses referred to in the section of this Act of which the marginal note is "Costs of Act" such sums as may be required and they may also with the consent of the Board of Trade borrow at interest for the purposes of this Act to which capital is properly applicable such sum or sums of money as they think fit not exceeding fifteen thousand pounds and in order to secure the moneys so borrowed they may mortgage all or any of their rates tolls and revenues :

Money borrowed under this section shall be applied only to the purposes for which it is authorised to be borrowed :

Money borrowed under this section for the purposes of the said costs charges and expenses shall be repaid within fifteen years from the borrowing of the same :

Money borrowed under this section for any other purpose shall be repaid within fifty years from the borrowing of the same:

The Board of Trade may direct any inquiries to be held that they may deem necessary in relation to their approval of the sum or sums of money to be borrowed and the Commissioners shall pay to the Board of Trade any expenses incurred by them in relation to any inquiries held under this section.

Re-borrowing

47. If having borrowed any money under the provisions of this Act the Commissioners pay off the same or any part thereof otherwise than by instalments or by means of a sinking fund they may re-borrow the same and so from time to time Provided that all money so re-borrowed shall be repaid within the period prescribed for the repayments of the money in lieu of which such re-borrowing has been made.

Sinking fund

48. The Commissioners shall pay off all moneys borrowed by them under the powers of this Act either by equal annual instalments of principal or of principal and interest and interest or by equal annual contributions to a sinking fund appropriated for that purpose and with the accumulations thereof (if any) from time to time applied for that purpose.

Application of sinking fund

49. The Commissioners may from time to time apply the whole or any part of the sinking fund in or towards the discharge of the principal moneys for the discharge of which such fund shall have been established Provided that they pay in each year into the sinking fund and accumulate until the whole of the principal moneys in respect of which it shall have been accumulated have been discharged a sum equivalent to the interest of the principal moneys so paid off or discharged Provided also that whenever and so long as the yearly income arising from any sinking fund shall be equal to the annual interest of the principal moneys then outstanding and to be paid off by means of such fund the Commissioners may in lieu of investing the said yearly income apply the same in payment to such sinking fund of the yearly sums by this Act required to be paid thereto.

Sinking fund
how to be
invested

50. All sums paid into any sinking fund created by the Commissioners under the powers of this Act shall be as soon as may be invested in any manner in which trustees are by law for the time being authorised to invest trust moneys or on any mortgage bond debenture stock corporation stock or other security authorised by or under any Act of Parliament passed or to be passed or under any order or sanction of any Government department or of any municipal corporation in the United Kingdom or of any other local authority within section 34 of the Local Loans Act 1875.

Appointment
of a receiver

51. The Mortgagees of the Commissioners may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by who the application for a receiver is made shall not be less than two thousand pounds in the whole.

Annual return
to be made to
Board of
Trade

52. The clerk shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Board of Trade a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereon have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return the clerk shall be liable to a penalty not exceeding twenty pounds which shall be paid to the Board of Trade and shall be recoverable by the Board in the same manner as penalties which are recoverable under the Public Health Act 1875 in a summary manner may be recovered by the parties aggrieved within the meaning of that Act :

If it appear to the Board of Trade by such return or otherwise that the Commissioners have failed to pay any instalment or set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Board of Trade may if they think fit and after hearing the Commissioners if desiring to be heard by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by writ of Mandamus to be obtained by the Board of Trade out of the Queen's Bench Division of the High Courts of Justice.

Protection for
lenders from
injury

53. A lender of money to the Commissioners under this Act shall not be bound to inquire respecting the observance by them of any of the provisions of this Act or bound to see to the application or be answerable for any loss non-application or misapplication of the money lent or any part thereof.

Application of
revenue

54. The Commissioners shall apply all their rates tolls and revenues for the purpose and in the order Following and not otherwise (that is to say) :-
Firstly In paying the salaries of the clerk harbour master and other officers of the Commissioners office rent and other establishment

expenses :

Secondly In paying year by year the interest on the money borrowed by them :

Thirdly In providing the instalments or annual payments to a sinking fund for the repayment of borrowed money :

Fourthly In the improvement of the harbour and the expenses of watching lighting maintaining and dredging the harbour and providing and maintaining in proper condition all tugs lighters dredgers buoys mooring and other conveniences and in repairing and maintaining all harbour works and generally in carrying the purposes of this Act into execution.

Admiralty moorings

55. No private ships or vessels shall make fast to buoys or moorings belonging to the Admiralty and the space necessary for the use of the Admiralty moorings shall be kept clear when required for Her Majesty's ships.

Approach to Trinity Pier

56. The approach to Trinity Pier shall be kept clear for Her Majesty's ships

Saving rights of Admiralty as to dredging and of Admiralty and Board of Trade under Solent Navigation Act 1881

57. Nothing in this Act shall prevent the Admiralty from dredging or deepening any part of the harbour and the roads if at any time they think fit so to do or from retaining altering or laying down any buoys or moorings therein and nothing in this Act shall affect the exercise by Her Majesty in Council of the powers conferred by the Solent Navigation Act 1881 or the regulations contained in any Order in Council made thereunder.

Saving rights of Edmund Granville Ward

58. Nothing in this Act shall take away lessen or abridge the estate right or title (if any) of Edmund Granville Ward of Northwood Park Cowes his heirs appointees or assigns to wreckage or otherwise in or over the foreshore within the limits of this Act.

For protection of Royal Yacht Squadron

59. The Commissioners shall not at any time construct any building or erection on the foreshore in front of the castle and grounds now occupied by the Royal Yacht Squadron without the consent of the committee of the squadron first had and obtained.

Saving title to foreshore

60. Nothing in this Act shall be deemed or construed to extend to prejudice or affect any right of property or title to or any of the rights privileges or powers exercisable in respect of the foreshore and the right and title to the said foreshore shall remain in the same state as if this Act had not passed.

For protection of steam packet company and others.

61. The Commissioners shall not in the construction of any works by this Act authorised or in the exercise of any powers under this Act take or use or in any manner obstruct or interfere with the free and uninterrupted use of any lands piers works or hereditaments belonging or leased to or in the occupation of Edmund Granville Ward or James Stuart Day of Victoria Road Cowes or their respective heirs appointees or assigns or of the steam packet company or stop or interfere with the efficient working of the ferry between East Cowes and West Cowes.

For protection of railway company

62. Nothing in this Act shall authorise the Commissioners to interfere with any foreshore of the River Medina belonging to the railway company or to interfere with or obstruct the jetty and buoys of that company or the access thereto or

without the consent of the railway company to dredge or deepen any part of the harbour in such a way as to injure the said jetty or to erect or maintain any buoy or mooring post or to execute any other works which may have the effect of altering or interfering with the access to the said jetty.

Saving rights of Cowes Council under 56 Geo.III.c.25.

63. Nothing in this Act shall take away or affect any right now possessed by the Cowes Council under the local and personal Act 56 Geo.III.c.25. intituled “An Act for paving lighting cleansing and otherwise improving the town of West Cowes in the Isle of Wight in the county of Southampton and for establishing a market within the said town” of taking and recovering tolls rates and dues in respect of the use of the landing place or quay at Cowes commonly called or known as the Town Quay.

Saving rights of Admiralty

64. Nothing in this Act shall take away any rights interests powers authorities or privileges of the Admiralty nor shall any works under this Act be commenced within the limits affected by any such rights interests powers authorities or privileges without the assent of the Lords of the Admiralty having been first obtained.

Saving rights of the Crown

65. Nothing contained in this Act shall authorise the Commissioners to take use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to the Queen’s most Excellent Majesty in right of her Crown and under management of the Commissioners of Woods without the consent in writing of the Commissioners of Woods on behalf of Her Majesty first had and obtained for that purpose (which consent such Commissioners are hereby authorised to give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exercisable by the Queen’s Majesty.

Works below high-water mark not to be commenced without consent of Board of Trade

66. The Commissioners shall not under the powers of this Act construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Commissioners shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Commissioners and the amount of such costs and charges shall be a debt due from the Commissioners to the Crown and shall be recoverable accordingly with costs.

Provision against danger to navigation

67. In case of injury to or destruction or decay of the works or any part thereof the Commissioners shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Board of Trade and shall apply to the Board of Trade for directions as to the means to be taken and the Commissioners shall be liable to a penalty not exceeding ten pounds for every calendar month during which the Commissioners omit so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

| | |
|---|---|
| Survey of works by Board of Trade | 68. If at any time the Board of Trade deem it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Commissioners on in over through or across tidal lands or tidal water or of the intended site of any such work the Commissioners shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Commissioners to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Commissioners. |
| Abatement of work abandoned or decayed. | 69. If a work constructed by the Commissioners on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Commissioners and the amount of such expense shall be a debt due from the Commissioners to the Crown and recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Commissioners. |
| Commissioners to exhibit lights | 70. The Commissioners shall at the outer extremity of their works below high water exhibit and keep burning from sunset to sunrise such lights (if any) as the Corporation of Trinity House of Deptford Strond shall from time to time direct : If the Commissioners fail to comply in any respect with the provisions of the present section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds. |
| Lights on during construction | 71. The Commissioners shall at or near the works below high-water mark hereby authorised during the whole time of the constructing altering or extending the same exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade from time to time require or approve: If the Commissioners fail to comply in any respect with the provisions of this section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds. |
| Restriction on taking houses of labouring class | 72. The Commissioners shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by person belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied. For the purpose of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them. |
| Office of Commissioners | 73. The office of the Commissioners shall be at such place in Cowes as the Commissioners shall from time to time determine. |
| Transfer of harbour master &c. | 74. The existing harbour master shall continue in office and shall be transferred to the Commissioners and shall become an officer of that body at such salary as they may fix upon their coming into office The Commissioners shall retain |

the services of the existing dust collector upon such terms as may be agreed.

Saving rights
of the Crown
in the
foreshore

75. Nothing contained in this Act shall authorise the Commissioners 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 right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estate rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty.

Costs of Act

76. The costs charges and expenses of and incidental to the preparing for and promotion of the Cowes Harbour (No 1) Bill by the corporation and the Cowes Harbour (No 2) Bill by the Cowes Council and the arbitration award following on the same and resulting in the promotion of the Bill for this Act and the costs of and incidental to such Bill and to the obtaining and passing of this Act or otherwise in relation thereto as the same may be taxed by the taxing officer of the House of Lords or of the House of Commons shall in the first instance be paid in equal moieties by the corporation out of the borough fund and by the Cowes Council out of the district fund or general district rates but shall be repaid to such corporation and Cowes Council by the Commissioners out of money's to be borrowed under the powers of this Act.

A.D 1897

[Ch. cclviii.]

Cowes Harbour Act, 1897

[60 & 61 Vict.]

The SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

SCALE OF HARBOUR DUES

Merchant Shipping Scale [exclusive of Passenger Vessels Tugboats (except when Carrying Goods or Passengers) and Yachts]

| | Per Voyage only |
|---|--------------------|
| s. d. | |
| For every vessel coming into or anchoring or making fast in the Harbour exceeding ---- | |
| 15 tons but not exceeding 25 tons register - - - | 1 6 |
| 25 tons register but not exceeding 50 tons register - - - | 2 6 |
| 50 tons register but not exceeding 75 tons register - - - | 3 0 |
| 75 tons register but not exceeding 100tons register - - - | 5 0 |

And an additional 5s for every 100 tons register or part thereof above the First 100 tons.

In case of any vessel entering the harbour and discharging not exceeding one half of her cargo one half only of the above dues will be payable but if more than half the cargo be discharged the full dues will be payable.

The above dues to be payable only once for each voyage.
 Every shipowner whose vessels call at Cowes at least once daily (Sunday Good Friday Christmas Day or any bank or other public holiday excepted) throughout the year may compound by payment of two thirds the above dues such payment to be made in advance unless otherwise agreed with the Commissioners.
 Every shipowner whose vessels call at Cowes at least once weekly throughout the year may compound by payment of three fourths the above dues such payment to be made in advance unless otherwise agreed with the Commissioners.

SCHEDULE B.

SCALE OF HARBOUR DUES

Passenger Vessel Scale

For every passenger vessel 1d. per ton register per voyage or at the option of the owner of the vessel a composition payable in advance of 1s per ton register for each vessel per annum

SCHEDULE C

SCALE OF CHARGES FOR THE USE OF MOORING BUOYS POSTS AND MOORINGS THE PROPERTY OF THE COMMISSIONERS.

Merchant Shipping Scale

| | s. | d. |
|---|----|----|
| Vessels not exceeding 200tons register per diem - - - | 1 | 0 |
| Vessels exceeding 200 tons register and not exceeding 400 tons register per diem - - - | 2 | 0 |
| Vessels exceeding 400 tons register and not exceeding 600 tons register per diem - - - | 3 | 0 |
| Vessels exceeding 600 tons register and not exceeding 800 tons register per diem - - - | 4 | 0 |
| Vessels exceeding 800 tons register and not exceeding 1000 tons register per diem - - - | 5 | 0 |
| Vessels exceeding 1000 tons register and upwards per diem - | 7 | 6 |

Yacht Scale

Every yacht using any of the works provided by the Commissioners to pay for Their use as follows: ----

| | s. | d. |
|---|----|----|
| Yachts not exceeding 50 tons register per diem - - - | 1 | 0 |
| Yachts exceeding 50 tons register and not exceeding 100 tons register per diem - - - | 2 | 0 |
| Yachts exceeding 100 tons register and not exceeding 200 tons register per diem - - - | 3 | 0 |
| Yachts exceeding 200 tons register and not exceeding 300 tons register per diem - - - | 4 | 0 |
| Yachts exceeding 300 tons register and upwards per diem - | 5 | 0 |

Yachts when laid up using the stern moorings provided by the Commissioners 6d per register ton per annum or 1d per register ton per month.

SCHEDULE D.

COWES HARBOUR.

Nominations of Traders' Member

We A.B [here insert name and designation] and B.C.[here insert name and designation] hereby nominate

Directions for Voting

The voter shall place a x against the name of each candidate for whom he votes in the column for that purpose and shall sign the voting paper in the presence of a witness who must affix his signature and address in verification of the signature of the voter.

The voter can only vote once for each candidate and shall only for two candidates in all.

The cross placed against the name of each candidate voted for will entitle him to the number of votes specifies in the above voting paper.

The voting paper must be delivered by post or otherwise to the returning officer in a sealed envelope addressed to him so that the same shall be received by him at the harbour office Cowes not later than the day before the day of election and must be entire.

In case of a partnership the voting paper is to be signed by one of the partners in the partnership name and in the case of a company the corporate name and countersigned by the secretary or one of the directors.

In case of a municipal corporation or council the voting paper is to be signed by the mayor or chairman and countersigned by the clerk.

SCHEDULE E.

FORM OF STATEMENT OF GOODS IMPORTED OR EXPORTED BY FREIGHTER TO
THE CLERK OF THE COWES HARBOUR COMMISSIONERS.

[Date]

Sir

Take notice that _____ having during the year ending the
Thirty-first day of October last freighted goods by sea of a tonnage as shown by the particulars
hereunder and ; which I certify to be correct and desire to be entered in the Freighters' Book of the
Commissioners.

Yours truly
Signature.
Address.

| Date Goods freighted | Name of Vessel or Carrier | Description of Goods Freight | Port same exported from or imported to |
|----------------------|---------------------------|------------------------------|--|
| | | | |

PRINTED BY EYRE AND SPOTTISWOODE,
T DIGBY PIGOTT, Esq, C.B., the Queen's Printer of Acts of Parliament

And to be purchased, either directly or through any Bookseller, from
Eyre and Spottiswoode, East Harding Street, Fleet Street, EC ;
Or John Menzies & Co, 12 Hanover Street Edinburgh and
90 West Nile Street Glasgow or
Hodges, Figgis & Co Limited 104 Grafton Street Dublin

A.D 1914

[4 & 5 Geo. 5]

Pier and Harbour Order
Confirmation (No. 1) Act, 1914

[Ch.cxiv.]



CHAPTER cxiv

An Act to confirm a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 relating to Cowes. [31st July 1914]

24 & 25
Vict.c.45

WHEREAS a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 is not of any validity or force whatever until the conformation thereof by Act of Parliament.
And whereas it is expedient that the Provisional Order made by the Board of Trade under the said Act and set out in the schedule to this Act be confirmed by Act of Parliament :
Be it therefore enacted by the King's most Excellent Majesty by and the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same:---

Confirmation
of Order in
schedule

1. The Order set out in the schedule to this Act shall be and the same is hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force.

Short title

2. This Act may be cited as the Pier and Harbour Order Confirmation (No. 1) Act 1914

[CH.cxiv]

*Pier and Harbour Order
Confirmation (No. 1) Act, 1914*

[4 & 5 Geo. 5]

A.D. 1914

SCHEDULE.

COWES HARRBOUR

Cowes

*Order to authorise the Cowes Harbour Commissioners
to construct a Breakwater on the Shrape Mud at East Cowes
and for other purposes*

Short title

Preliminary.
1. This Order may be cited as the Cowes Harbour Order 1914

Commence
ment of Order

2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as the commencement of this Order.

Interpretation

3. In this Order unless the context otherwise requires-----

“The Act of 1887” means the Cowes Harbour Act 1897;

“The Commissioners” means the Cowes Harbour Commissioners incorporated by the Act of 1897;

“The Harbour s Clauses Act 1847” means the Harbours Docks and Piers Clauses Act 1847

“The Works” means the works authorised by this Order.

Undertakers

Undertakers.
4. The Commissioners shall be the Undertakers for carrying this Order into execution.

Incorporation
of Lands
Clauses Acts

Acquisition of Lands.
5. The Lands Clauses Acts (except so much thereof as relates to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking) are hereby incorporated with the Order and for the purposes of that incorporation the term “special Act” in those Acts shall mean this Order.

Power to take
lands by
agreement.

6. For the purposes of the works the Commissioners may purchase by agreement and use all or such parts of the lands shown on the plan deposited for the purposes of this Order as they may think requisite for the purposes of those works.

Works

| | |
|------------------------------------|--|
| Power to construct work | 7. Subject to the provisions of this Order and subject also to such alterations (if any) in the plan and sections deposited with reference to this Order as the Board of Trade may require before completion of the works and Commissioners may on the lands belonging to them or acquired under this Order and in the lines according to the levels and within the limits of deviation shown on the deposited plan and sections make and maintain the following works:--- |
| Description of works | A breakwater or groyne of solid construction on the foreshore at East Cowes commencing at the point of intersection of the line of the north side of Cambridge Road produced with the outer coping line of the esplanade wall and extending in a north-north-westerly (magnetic) direction across the Shrape Mud and terminating at a point nine hundred feet or thereabouts from the point of commencement above described and one thousand five hundred and twenty feet or thereabouts from the eastern face of the Jubilee Pontoon Pier or Fountain Pier measured in an east by north (magnetic) direction |
| Power to deviate | 8. In constructing the works the Commissioners may with the consent in writing of the Board of Trade deviate laterally to any extent within the limits of deviation marked on the deposited plan and may with the like consent deviate vertically to any extent. |
| Consent of Board of Trade to works | 9. No part of the works below high-water mark shall be commenced without the consent in writing of the Board of Trade and those works shall be executed only in accordance with the terms of such consent. |
| Penalty for obstructing works | 10. Any person who wilfully obstructs any person acting under the authority of the Commissioners in setting out the lines of the works or who pulls up or removes any poles or stakes driven into the ground for the purpose of setting out the lines of those works shall for every such offence be liable to a penalty not exceeding five pounds. |
| Powers to cease in certain events | 11. (1) If within two years from the commencement of this Order the works are not substantially commenced the powers given by this Order for executing those works or otherwise in relation thereto shall cease unless the time for the commencement of the works to be extended by the special directions of the Board of Trade. |
| Cowes | (2) If the works after having been substantially commenced are virtually suspended for twelve consecutive months the powers by this Order given for executing those works or otherwise in relation thereto shall cease except as to so much of those works as has then been completed unless those powers are by the special direction of the Board of Trade continued and directed to remain in force for any period not exceeding five years from the commencement of this Order. (3) In either of the above cases a certificate from the Board of Trade to the effect that the works have not been substantially commenced or that they have been virtually suspended for twelve consecutive months shall for the purposes of this Order be conclusive evidence of the facts stated in such certificate. |

Finance.

Commissioners
may apply
revenue or
borrowed money
to pur-poses of
this Order

12. The Commissioners may apply to the purposes of this Order any their rates tolls and revenues as if the said purposes had been mentioned specifically in the fourth head of section 54 (Application of revenue) of the Act of 1897 and any moneys not exceeding the sum of eight thousand pounds hereafter borrowed by the Commissioners under the authority of that Act provided that consent of the Board of Trade under the Act of 1897 shall not be required to the borrowing of money for the purposes of this Order.

Protection of
lenders

13. Any person advancing money to the Commissioners shall not be bound to require any further or other evidence of the powers of the Commissioners to borrow without the consent of the Board of Trade the money advanced by such person than such as is afforded -----

- (A) By a certificate signed by the clerk of the Commissioners shall not two of the Commissioners that the Commissioners are not exceeding the powers of borrowing without the consent of the Board of Trade conferred on them by this Order; and
- (B) By an inspection of the register of mortgages by section 76 Of the Commissioners Clauses Act 1847 required to be kept By the Commissioners.

Auditor.

14. - (1) Section 28 of the Act of 1897 (Audit of accounts) is hereby Repealed.

(2) The Board of Trade unless they see special reason to the contrary shall appoint a person to be permanent auditor to examine and audit the accounts of the Commissioners and shall fix the payments to be made to him for salary and expenses (if any) and the amount of such salary and expenses (if any) shall be paid by the Commissioners out of money's received by them on revenue account.

(3) The Board of Trade may at any time revoke the appointment of any person as auditor and thereupon unless they see special reason to the contrary shall appoint another person as auditor.

(4) The Commissioners shall on demand by the auditor produce to him all books accounts deeds papers writings and other documents and furnish him with all information in their possession or power and afford him all reasonable facilities for conduction the examination and audit.

(5) If the Commissioners refuse or neglect to comply with any of the provisions of this section they shall be liable to a penalty not exceeding twenty pounds for every month during which they refuse or neglect so to comply.

Life-Saving Apparatus

Provision for
life-saving
apparatus

15. - (1) Sections 16 to 19 inclusive of the Harbour Clauses Act 1847 shall not be incorporated with this Order

(2) The Commissioners shall whenever required by the Board of Trade provide at their own expense and to the satisfaction of the Board of Trade a site near the works and build on that site a house or other proper accommodation for a lifeboat rocket apparatus and other life-saving apparatus.

(3) If the Commissioners fail to comply with this section they shall be liable to a penalty not exceeding ten pounds for every month during which the failure continues.

Life-saving apparatus may be attached to works

16. The Officers of the coastguard and all other persons for the time being actually employed in connection with the lifeboat or the apparatus for saving life may either permanently or temporarily without payment attach or cause to be attached to any part of the works spars and other apparatus for saving life and may also either in course of using or of exercising the apparatus for saving life fire rockets over the works.

Life-buoys to be kept

17. The Commissioners shall at all times keep at convenient places on the works and in obedience to any requirements which may be made by the Board of Trade lifebuoys and lifelines in good order and fit and ready for use.

Lights

Lights during construction of works

18 - (1) Before commencing the works the Commissioners shall apply to the Board of Trade for directions as to the lights to be exhibited and other means to be taken for preventing danger to navigation and shall in all respects obey any directions given upon that application or afterwards from time to time given as to the like matters by the Board of Trade during the construction of the works and compliance with the directions so given shall satisfy and be in place of every other statutory requirement as to lights during the construction of the works.

(2) The Commissioners shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe or comply with any direction so given.

Lights after completion of works

19. - (1) After completion or permanent discontinuance or abandonment of the works the Commissioners shall exhibit at the outer extremity of the works or the completed portions thereof or in such other places as may be required from sunset to sunrise and according to the requirements of the traffic and the season of the year such lights (if any) and shall take such other steps for the prevention of danger to navigation as shall from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that Corporation for such directions.

(2) The Commissioners shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe or comply with any such direction.

As to buoys and lights in case of decay of works

20. - (1) In case of injury to or destruction or decay of i.e works or any part thereof the Commissioners shall lay down such buoys exhibit such lights or take such other means for preventing (so far as may be) danger to navigation as may from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that Corporation for directions as to the means to be taken.

(2) The Commissioners shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe or comply with any such direction.

Miscellaneous

Exclusion of sections 25 and 26 of 10 & 11 Vict. C. 27

21. Sections 25 and 26 of the Harbours Clauses Act 1847 shall not be incorporated with this order.

Application of Act 10 & 11

22. For all the purposes of the Harbours Clauses Act 1847 this Order shall be deemed the special Act.

Vict.c.27

Recovery of penalties

23. All penalties under this Order shall be recovered and applied as penalties are recoverable and applicable under the Harbour Clauses Act 1847.

Saving rights of Crown.

24. Nothing in this Order affects prejudicially any estate right power or privilege or exemption of the Crown and in particular nothing herein contained authorises the Commissioners 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 lands hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade (as the case may be) on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board of Trade are hereby respectively authorised to give).

Works to be in Parish of East Cowes

25. The works shall be deemed to be for all purposes within the parish and urban district of East Cowes in the county of Southampton

Costs of Order

26. All costs charges and expenses of and incident to the preparation and obtaining of this Order and otherwise incurred in reference thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Commissioners out of moneys received by them on revenue account or out of the moneys borrowed under the authority of the Act of 1897 Provided that any moneys borrowed by the Commissioners for the purposes of this section shall be repaid within five years from the commencement of this Order

[9 & 10 Geo. 5.]

*Pier and Harbour Orders
Confirmation Act, 1919*

[Ch. 1xxi.]



CHAPTER 1xxi.

A.D.1919 An Act to confirm certain Provisional Orders made by the Board of Trade under the General Pier and Harbour Act 1861 relating to Cowes and Findochty.

[15th August 1919]

24 & 25 Vict. C.
45.

WHEREAS A Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 is not of any validity or force whatever until the confirmation thereof by Act of Parliament :

And whereas it is expedient that the several Provisional Orders made by the Board of Trade under the said Act and set out in the schedule to this Act be confirmed by Act of Parliament :

Be it therefore enacted by the King'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 :----

Confirmation of
Order in
schedule

1. The several Orders as amended and set out in the schedule to this Act shall be and the same are hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force.

Short title

2. This Act may be cited as the Pier and Harbour Orders Confirmation Act 1919.

A.D. 1919

[Ch. 1xxi]

Pier and Harbour Orders
Confirmation Act, 1919

[9 & 10 Geo. 5]

The **SCHEDULE** of Orders

1. COWES ---- Revival of powers for construction of works authorised
By the Cowes Harbour Order 1914 &c.
2. FINDOCHTY ----- Transfer of harbour to the Town Council &c

A.D.1919 [9 & 10 Geo. 5.] Pier & Harbour Orders [Ch.1xxi]
Confirmation Act, 1919.

COWES HARBOUR.

| | |
|--|---|
| Cowes | <i>Order to retrieve the powers for the construction and to extend the time for The completion of the works authorised by the Cowes Harbour Order 1914 and for other purposes.</i> |
| Short title | 1. This Order may be cited as the Cowes Harbour Order 1919. |
| Commence ment of Order | 2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as "the commencement of this Order." |
| Interpretation | 3. In this Order unless the context otherwise requires ----- "The Act of 1897" means the Cowes Harbour Act 1897; "The Order of 1914" means the Cowes Harbour Order 1914 "The Commissioners" means the Cowes Harbour Commissioners Incorporated by the Act of 1897. |
| Undertakers | 4. The Commissioners shall be the Undertakers for carrying this Order Into execution. |
| Application of borrowing powers | 5. Section 12 (Commissioners may apply revenue or borrowed money to purposes of this Order) of the Order of 1914 shall be read and have effect as if the words "twelve thousand pounds" were substituted for the words "eight thousand pounds" contained therein. |
| Revival of powers for constructions of works under Order 1914 | 6. The powers conferred by the Order of 1914 upon the Commissioners with respect to the acquisition of lands and the construction of works and all the provisions of that Order in relation thereto shall be and the same are hereby revived with the variation contained in the last preceding section and may be exercised and enforced and shall have effect in like manner and subject to the like restrictions and with the same consequences whether as to commencement or cesser of powers of execution or completion of works or otherwise as if such powers and provisions so varied as aforesaid had been contained in this Order. |
| Costs of Order | 7. All costs charges and expenses of and incident to the preparation and obtaining of this Order and otherwise incurred in reference thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Commissioners out of moneys received by them on revenue account or out of moneys borrowed under the authority of the Act of 1897 Provided that any moneys borrowed by the Commissioners for the purposes of this section shall be repaid within five years from the commencement of this Order |

[21 & 22 Geo.5]

Pier and Harbour
Orders (Cowes and Yarmouth (Isle of Wight))
Confirmation Act, 1931

[Ch. 1xxxix]



CHAPTER 1xxxix.

A.D. 1931

An Act to confirm Provisional Orders made by the Minister of Transport under the General Pier and Harbour Act 1861 relating to Cowes and Yarmouth (Isle of Wight).

[31st July 1931]

24 & 25 Vict.
C. 45

WHEREAS A Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 is not any validity or force whatever until the confirmation thereof by Act of Parliament :

And whereas it is expedient that the Provisional Orders made by the Minister of Transport under the said Act as amended and set out in the schedule to this Act be confirmed by Act of Parliament :

Be it therefore enacted by the King'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 :---

Confirmation
of Orders in
schedule.

1. The Orders which as amended are set out in the schedule to this Act shall be and the same are hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force.

Short title

2. This Act may be cited as the Pier and Harbours (Cowes and Yarmouth (Isle of Wight)) Confirmation Act 1931.

[Ch. 1xxxix]

Pier and Harbour
Orders (Cowes and Yarmouth (isle of Wight))
Confirmation Act, 1931

[21 & 22 Geo.5]

A.D. 1931

The **SCHEDULE** of Orders.

1. COWES ----- Alteration of Limits &c
2. Yarmouth (Isle of Wight)----- Constitution of and transfer
To Commissioners &c

A.D.1931 [21 & 22 Geo.5] *Pier and Harbour Orders (Cowes and Yarmouth (Isle of Wight)) Confirmation Act 1931* [Ch. 1xxxix]

SCHEDULE.

----- COWES HARBOUR

| | |
|----------------|---|
| Cowes | <i>Provisional Order to alter the limits of Cowes Roads to authorise the Commissioners for the Harbour of Cowes to demand new and increased rates dues and charges and for other purposes.</i> |
| Short title | 1. This Order may be cited as the Cowes Harbour Order 1931 |
| Commencement | 2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as the commencement of this Order. |
| Interpretation | <p>3. ----(1) In this Order unless the context otherwise requires ---- “the Act of 1897” means the Cowes Harbour Act 1897 ; “the Commissioners” means the Commissioners for the harbour of Cowes incorporated by the Act of 1897 ; “the harbour” means the harbour of Cowes as defined by this Order “the Roads” means “Cowes Roads” as defined by this Order ; “authorised rates” and “authorised rate” means respectively the rates or rate which the Commissioners are for the time being authorised to levy demand and recover in pursuance of the Act of 1897 and this Order.</p> <p>(2) In the application to the Act of 1897 and this Order of the Harbours Docks and Piers Clauses Act 1847 the expressions “packet boat or Post Office packet” and “Post Office bag of letters” used in the last mentioned Act shall mean respectively a vessel employed by or under the Post Office or the Admiralty for the conveyance under contract of postal packets as defined by the Post Office Act 1908 and a mail bag as defined by the same Act :</p> <p>Provided that nothing in the Harbours Docks and Piers Clauses Act 1847 or in the Act of 1897 or in this Order shall extend to exempt from rates duties regulation or control any such vessel as aforesaid if she also conveys passengers or goods for hire.</p> |
| Construction | 4. The Act of 1897 as amended by this Order and this Order shall be construed and read together as one Order except as far as might be inconsistent with or repugnant to the purposes thereof. |
| Undertakers | 5. The Commissioners shall be the Undertakers for carrying out this Order into execution. |

Limits of
harbour and
Roads

6. Section 30 (Limits of harbour and Roads) of the Act of 1897 is hereby repealed and for the purposes of the Act of 1897 and this Order the limits within which the Commissioners shall have authority shall be an area comprised within a line drawn as follows :-----

From a public-house called "The Folly" (on eastern bank of the river Medina) due west to the western bank of the said river thence along the line of high-water mark down the western bank of the river Medina and along the harbour to Cowes Castle thence following the line of high-water mark along the coast to Egypt Point thence to Number 2 Fairway buoy thence to Prince Consort Shoal buoy thence to Old Castle Point buoy thence in a southerly direction to the shore at the point nearest to the said last-mentioned buoy and thence along the line of high-water mark on the eastern bank of the river Medina and along the harbour to the said public house called "The Folly"

So much of the area comprised within the said limits as lies to the southward of a straight line drawn from the outer extremity of Cowes Castle to high-water mark at the outer extremity of Old Castle Point East Cowes shall be called the harbour of Cowes and the remainder of such area shall be called Cowes Roads and within the limits aforesaid the Commissioners shall have sole jurisdiction and be the sole port and harbour authority.

Application of
powers and
byelaws to
Cowes Roads

7. The prescribed limits within the Commissioners may exercise any of their powers under the Act of 1897 and may make and enforce byelaws shall include the Roads as defined in this Order and section 44 (Byelaws) of the Act of 1897 shall be read and have effect accordingly.

New
schedules of
rates

8. ---- (1) As from the commencement of this Order the schedules Nos. 1 2 and 3 to this Order shall be substituted for the schedules A and B to the Act of 1897 and the schedule No 4 to this Order shall be substituted for the schedule C to the Act of 1897 and the Commissioners may demand recover and receive the rates specified in the said schedules 1 2 3 and 4 as if they had been authorised by the Act of 1897.

Cowes

(2) The schedules A B and C to the Act of 1897 are hereby repealed

Power to
appropriate
particular
portions of
harbour &c.

9. The Commissioners may from time to time if they shall deem it expedient so to do and subject to such terms conditions restrictions and regulations and to the payment of such rents or other sums of money as they shall think proper set apart and appropriate any particular portion of the harbour or of any works of the Commissioners and any conveniences connected therewith or approaches leading thereto for the exclusive accommodation and use of any corporation company body firm or person who shall be desirous of having such exclusive accommodation for their trade or business or for the reception of vessels and goods belonging to or employed or convened by them Provided that every corporation company body firm or person to whom such exclusive accommodation as aforesaid shall be afforded and their vessels crews servants and other persons employed by them or under their control shall be subject to the general byelaws rules and regulations of the Commissioners applicable to the harbour and works and the vessels entering or using the same and the crews and other persons employed in and about such vessels.

For protection
of Southern
Railway
Company

10. Nothing in this Order shall authorise the Commissioners to interfere with or obstruct the access to or egress from the wharf jetty and quay in the river Medina belonging to the Southern Railway Company and the Commissioners shall not whether under the powers of the Act of 1897 or this Order or otherwise place erect or maintain or permit to be placed erected or maintained any buoy or mooring post or moor or permit to be moored any vessel in the harbour so as unreasonably to interfere with or render less convenient such access or egress.

Any difference which may arise between the Commissioners and the Southern Railway Company under the provisions of this section shall be referred to and determined by an arbitrator to be appointed on the application of either party after notice in writing to the other by the Board of Trade and subject thereto the provisions of the Arbitration Act 1889 shall apply to any such reference.

Revision of
rates

11.--- (1) If it is represented by application in writing to the Minister of Transport (in this section referred to as "the Minister") (a) by any chamber of commerce or shipping or any representative body of traders or any person who in the opinion of the Minister is a proper person for the purpose or by the Commissioners that in the circumstances then existing the authorised rates or any of them should be revised the Minister if he thinks fit may make an order revising the authorised rates referred to in the application or any of them and may fix the date as from which such order shall take effect and thenceforth such order shall remain in force until the same expires or is revoked or modified by a further order of the Minister made in pursuance of this section Provided that before making an order under this section the Minister shall cause an inquiry to be held with reference thereto in pursuance of the Board of Trade Arbitrations &c. Act 1874 as applied by this section.

(2) Where upon an application for revision of authorised rates or an authorised rate an order has been made or the Minister has decided not to make an order nor further application for a revision of the rates or rate to which the application related shall be made within twelve months from the date of such order or decision as the case may be ;

(3) The provisions of Part 1 of the Board of Trade Arbitrations &c. Act 1847 shall apply for the purpose of this section -----

(a) as if the Minister were referred to herein in lieu of the Board of Trade ;

(b) as if the person or persons duly authorised to hold any inquiry thereunder were the rates advisory committee constituted under the Ministry of Transport Act 1919 or any sub-committee thereof to which the said advisory committee may under section 2 of the Harbour Docks and Piers (Temporary Increase of Charges) Act 1920 have delegated their powers or in the event of the said advisory committee ceasing to exist some persons with similar qualifications to be appointed for the purpose by an order of the Minister under section 2 of the said Act 1874 ; and

(c) as if in section 4 of the said Act 1874 the words "under the seal of the Minister of Transport" were substituted for the words "by writing under the hand of the President or of one of the secretaries of the Board"

(4) An application made to the Minister under this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in

such manner as he may require and the Minister and the body or persons holding an inquiry for the purpose of this section may call for such documents and accounts as they may consider relevant and may hear such witnesses as they shall think fit and shall have power to take evidence on oath and for that purpose may administer oaths.

(5) Section 41 (Revision of rates tolls and charges) of the Act of 1897 is hereby repealed.

Annual accounts to be sent to Ministry of Transport 12. (1) The Commissioners shall within two months after the date to which their annual accounts and balance sheet are made up send a copy of the same to the Ministry of Transport and the sixteenth section of the General Pier and Harbour Act 1861 Amendments Act shall apply to and include any and every such accounts.

(2) The Commissioners shall as from the expiration of that period be liable to a penalty not exceeding twenty pounds for every week or part of a week during which they refuse or neglect to comply with the foregoing provisions.

Cowes (3) The accounts of the Commissioners referred to in this section and in section 50 of the Harbour Docks and Piers Clauses Act 1847 respectively shall be made up to the end of the thirty-first day of March in each year.

Costs of Order 13. All costs charges and expenses of and incident to the preparing and obtaining of this Order and otherwise incurred in reference thereto shall be paid by the Commissioners.

SCHEDULES referred to in the foregoing Order

SCHEDULE No 1

RATES ON VESSELS (EXCLUSIVE OF PASSENGER VESSELS
 TUG-BOATS AND YACHTS).

| | Per voyage Only |
|--|--------------------|
| For every vessel coming into anchorage or making ast in the harbour ----- | s. d. |
| of 10 tons but not exceeding 15 tons register each vessel - - - - - | 2 0 |
| | s. d. |
| exceeding 15 tons but not exceeding 25 tons register each vessel - - - - - | 3 0 |
| exceeding 25 tons but not exceeding 50 tons register each vessel - - - - - | 5 0 |
| exceeding 50 tons but not exceeding 75 tons register each vessel - - - - - | 6 0 |
| exceeding 75 tons but not exceeding 100 tons register each vessel - - - - - | 10 0 |
| exceeding 100 tons register for every 100 tons register or part thereof each vessel - - | 10 0 |

In case of any vessel entering the harbour and discharging not exceeding one-half

of her cargo one-half only of the above dues will be payable but if more than half the cargo be discharged the full dues will be payable.

The above dues to be payable only once for each voyage.

Cowes

Every shipowner whose vessels call at Cowes at least once daily (Sunday Good Friday Christmas Day or any bank or other public holiday excepted) throughout the year may compound by payment of two-thirds the above dues such payment to be made in advance.

Every shipowner whose vessels call at Cowes at least once weekly throughout the year may compound by payment of three-fourths the above dues such payment to be made in advance.

 SCHEDULE No 2

RATES ON PASSENGER VESSELS

For every passenger vessel coming into or anchoring or making fast in the harbour 2*d.* per ton register per voyage or at the option of the owner of the vessel a composition payable in advance of 2*s.* per ton register for each vessel per annum.

 SCHEDULE No 3

RATES ON TUG-BOATS

For every tug-boat coming into or anchoring or making fast in the harbour 3*s* 4*d* per voyage or at the option of the owner of the vessel a composition payable in advance of £2 per annum.

 SCHEDULE No 4

RATES FOR THE USE OF MOORING BUOYS POSTS AND MOORINGS IN THE HARBOUR OR THE ROADS AND THE PROPERTY OF THE COMMISSIONERS

PART A. ----- VESSELS OTHER THAN YACHTS

| | s | d |
|--|---|---|
| essels not exceeding 200 tons register per diem - - - - | 2 | 6 |
| essels not exceeding 200 tons register and not exceeding 400 tons per diem - | 3 | 0 |
| essels not exceeding 400 tons register and not exceeding 600 tons per diem - | 4 | 0 |
| essels not exceeding 600 tons register and not exceeding 800 tons per diem - | 5 | 0 |
| essels not exceeding 800 tons register and not exceeding 1,000 tons per diem - | 6 | 0 |
| essels exceeding 1,000 tons register per diem - - - - - - - - | 7 | 6 |

PART B ----- YACHTS

| | s | d |
|--|---|---|
| achts not exceeding 20 tons register per diem - - - - - | 1 | 0 |
| achts exceeding 20 tons register and not exceeding 35 tons per diem - - - - - | 2 | 0 |
| achts exceeding 35 tons register and not exceeding 50 tons per diem - - - - - | 2 | 6 |
| achts exceeding 50 tons register and not exceeding 100 tons per diem - - - - - | 3 | 0 |
| achts exceeding 100 tons register and not exceeding 200 tons per diem - - - - - | 4 | 6 |
| achts exceeding 200 tons register and not exceeding 300 tons per diem - - - - - | 5 | 6 |
| achts exceeding 300 tons register and not exceeding 500 tons per diem - - - - - | 6 | 6 |
| achts exceeding 500 tons register - - - - - | 7 | 6 |

PART C ----- VESSELS USING STERN MOORINGS

For each vessel using the stern moorings provided by the Commissioners when laid up upon any recognised mud berth for a period of four months and not exceeding one year -----

| | £ | s | d |
|---|---|----|---|
| essels not exceeding 100 tons register - - - - - | 4 | 10 | 0 |
| essels exceeding 100 tons and not exceeding 150 tons register- - - - - | 4 | 17 | 6 |
| essels exceeding 150 tons and not exceeding 200 tons register- - - - - | 5 | 5 | 0 |

| | £ | s | d |
|--|---|----|---|
| essels exceeding 200 tons and not exceeding 250 tons register- - - - - | 5 | 12 | 0 |
| essels exceeding 250 tons and not exceeding 300 tons register- - - - - | 6 | 0 | 0 |
| essels exceeding 300 tons and not exceeding 350 tons register- - - - - | 6 | 7 | 6 |
| essels exceeding 350 tons and not exceeding 400 tons register- - - - - | 6 | 15 | 0 |
| Vessels exceeding 400 tons and not exceeding 450 tons register- - - - - | 7 | 2 | 0 |
| essels exceeding 450 tons and not exceeding 500 tons register- - - - - | 7 | 10 | 0 |
| essels exceeding 500 tons and not exceeding 550 tons register- - - - - | 7 | 17 | 6 |
| essels exceeding 550 tons and not exceeding 600 tons register- - - - - | 8 | 5 | 0 |
| essels exceeding 600 tons and not exceeding 650 tons register- - - - - | 8 | 12 | 6 |
| essels exceeding 650 tons and not exceeding 700 tons register- - - - - | 9 | 0 | 0 |
| essels exceeding 700 tons register for every 50 tons | | | |

register or part thereof above the first 700 tons
 In addition to £9 for the first 700 tons - - - - 7 6

One half only of the foregoing charges shall be payable for any vessel using the mooring for less than four months.

PART D ----- RESERVATION OF BERTHS

RATES FOR THE RESERVATION OF BERTH FOR MOORINGS IN A
 SELECTED POSITION

| | £ | s | d |
|---|---|----|---|
| pen boats per annum - - - - - | | 1 | 0 |
| essels not exceeding 2½ tons register per annum - | | 2 | 6 |
| essels exceeding 2½ tons and not exceeding 5 tons per annum - - - - - | | 5 | 0 |
| essels exceeding 5 tons and not exceeding 25 tons per annum - - - - - | | 7 | 6 |
| essels exceeding 25 tons and not exceeding 50 tons per annum - - - - - | | 10 | 0 |
| essels exceeding 50 tons and not exceeding 100 tons per annum - - - - - | 1 | 0 | 0 |
| essels exceeding 100 tons and not exceeding 200 tons per annum - - - - - | 1 | 10 | 0 |

| | £ | s | d |
|---|---|---|---|
| Vessels exceeding 200 tons and not exceeding 300 tons per annum - - - - - | 2 | 0 | 0 |
| Vessels exceeding 300 tons and not exceeding 400 tons per annum - - - - - | 3 | 0 | 0 |
| essels exceeding 400 tons and not exceeding 500 tons per annum - - - - - | 4 | 0 | 0 |
| essels exceeding 500 tons and not exceeding 600 tons per annum - - - - - | 5 | 0 | 0 |
| essels exceeding 600 tons and not exceeding 700 tons r per annum - - - - - | 6 | 0 | 0 |
| essels exceeding 800 tons register per annum | 7 | 0 | 0 |

A.D. 1936

[26 Geo. 5. &
1 EDW. 8]

Pier and Harbour
Order (Coves) Confirmation
Act. 1936

[Ch. 1xxx.]



CHAPTER 1xxx.

An Act to confirm a Provisional Order made by the Minister of
Transport under the General Pier and Harbour Act 1861 relating to
Coves

[31st July 1936]

24 & 25 Vict.
c.45

WHEREAS a Provisional Order made by the Minister of Transport under the
General Pier and Harbour Act 1861 is not of any validity or force whatever until
the confirmation thereof by Act of Parliament :

And whereas it is expedient that the Provisional Order made by the Minister
of Transport under the said Act as amended and set out in the schedule to this
Act be confirmed by Act of Parliament :

Be it therefore enacted by the King's most Excellent Majesty by and with the
consent of the Lords Spiritual and Temporal and Commons in this present
Parliament assembled and by the authority of the same as follows :-

Confirmation
of Oder in
schedule

1. The Order which as amended and set out in the schedule to this Act shall
be and the same is hereby conformed and all the provisions thereof in manner and
form as theta are set out in the said schedule shall from and after the passing of this
Act have full validity and force.

Short title

2. This Act may be cited as the Pier and Harbour Order (Coves)
Confirmation Act 1936.

A.D. 1936

[Ch. 1xxx.]

*Pier and Harbour
Order (Cowes) Confirmation
Act, 1936*

*[26 Geo. 5. &
1 Edw. 8]*

SCHEDULE

COWES HARBOUR

Oder to authorise the Commissioners for the Harbour of Cowes to construct works to borrow money to demand new and increased rates and charges to enable the Cowes Urban District Council to contribute to the revenues &c. of the Commissioners to alter the constitution of the Commissioners and for other purposes

PART 1

PRELIMINARY

- | | |
|--|---|
| Short title | 1. This Order may be cited as the Cowes Harbour Order 1936 |
| Commence ment | 2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as "the commencement of this Order" |
| Interpretation 60 & 61 Vict.c.cclviii | 3. In this Order unless the context otherwise requires ----- "Act of 1897" means Cowes Harbour Act 1897 ; "Commissioners" means the Commissioners for the Harbour of Cowes incorporated by the Act of 1897 ; "Council" means the Cowes Urban District Council ; "Harbour" means the Harbour of Cowes and Cowes Roads as defined by the Order of 1931 ; |
| 10 & 11 Vict c. 27 | "Harbour Clauses Act 1847" means the Harbours Docks and Piers Clauses Act 1847 ; "Minister" means the Minister of Transport ; |
| 21 & 22 Geo. 5. C 1xxxix | "Order of 1931" means the Cowes Harbour Order 1931 ; "Seaplane" includes a flying boat and any other aircraft designed to manoeuvre on the water ; "Undertaking" means the undertaking of the Commissioners in connection with the harbour ; "Vessel" includes any ship lighter vessel barge keel barque raft craft hulk rowing motor or other boat or pleasure craft and any other kind of craft or vessel whatsoever used or not used in navigation and whether propelled by oars steam or otherwise or not capable of propulsion or of being steered and any seaplane on the surface of the water ; "Works" means the works authorised by this Order or as the case may be |

any part thereof.

Application of Harbours Clauses Act 1847

4. In the application to this Order of the Harbours Clauses Act 1847 the expression "vessel" shall have the meaning assigned to it by this Order.

Provided that the expression "vessel" in section 28 of the Harbours Clauses Act 1847 shall include -----

- (a) Any floating dock or seaplane belonging to or employed in the service of His Majesty ; and
- (b) Any vessel of exceptional construction or method of propulsion belonging to or employed in the service of His Majesty :

Provided further that nothing in the Harbour Clauses Act 1847 or in this Order shall authorise the harbour master or other officer of the Commissioners to require a seaplane or any part thereof to be dismantled or any alteration modifying in any way its structure or equipment or otherwise affecting its airworthiness to be made.

This Order shall be deemed to be a special Act within the meaning of the Harbour Clauses Act 1847.

Construction of Order

5. The Act of 1897 and the Order of 1931 as amended by this Order and this Order shall be construed and read together as one Order except so far as may be inconsistent with or repugnant to the purposes thereof.

Undertakers

6. The Commissioners shall be the undertakers for carrying this Order into execution.

Incorporations of Lands Clauses Acts

7. The Lands Clauses Act (except so much thereof as relates to the purchase of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking) are hereby incorporated with this Order and for the purpose of the incorporation the term "Special Act" in those Acts shall mean this Order.

PART II

LANDS AND WORKS

Power to take lands by agreement

8. For the purposes of the works the Commissioners may purchase by agreement and use all or such parts of the lands shown on the deposited plans as they may think requisite.

Power to grant easement

9. Persons empowered by the Lands Clauses Act to sell and convey or release lands may subject to the provisions of those Acts and of this Order grant to the Commissioners for the purpose of this Order any easement right or privilege (not being an easement right or privilege of water in which other persons than the grantors have an interest) in over or affecting any such lands and the provisions of the said Acts with respect to Lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such easement rights and privileges respectively.

Power to retain sell &c. lands

10 --- (1) Notwithstanding anything in the Lands Clauses Acts to the contrary the Commissioners may retain hold and use for such time as they may think fit or may sell let lease exchange or otherwise dispose of in such manner and for such consideration and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form and lands and

premises or any interest therein vested in them as part of the undertaking or acquired by them under this Order which may not be required for the purposes thereof and may sell exchange or dispose of any rents reserved on the sale exchange lease or other disposition of such lands and premises and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange :

Provided that the Commissioners shall not (unless the Minister otherwise directs) sell lease exchange or otherwise dispose of any such lands or any interests therein except at the best price or on the best terms which can be obtained for the same but a purchaser or lessee shall not be concerned to inquire whether the direction of the minister be necessary or has been obtained.

(2.) Nothing in this section contained shall release the Commissioners or any person purchasing or acquiring any lands from them under this section from any rents covenants restrictions reservations terms or conditions made payable by or contained in any conveyance lease or other deed or instrument by which any such lands were or may hereafter be conveyed or leased to or otherwise acquired by the Commissioners or any person from or through whom the Commissioners may have derived or may hereafter derive title to the same but all such rents covenants restrictions reservations terms and conditions shall remain and be of as full force and effect and may be recovered exercised enjoyed and enforced in like manner and to the same extent as if this Order had not been passed.

Power to
construct works

11. Subject to the provisions of this Order and subject also to such alterations (if any) on the deposited plans and the deposited sections as the Board of Trade may require before completion of the work the Commissioners may on lands belonging to or acquired by them under this Order and in the lines and according to the levels and within the limits of deviation shown on the deposited plans and sections make and maintain the following works :-----

Work No 1 A breakwater of solid construction wholly in the parish and urban district of Cowes commencing on the east side of the rivers Medina at the point of intersection of the line of the north side of Cambridge Road produced with the outer coping line of the esplanade wall and extending thence in a north-westerly direction across the Shrape Mud and terminating at a point four hundred yards or thereabouts from the eastern face of the Jubilee Pontoon Pier or Fountain Pier measured in a north-easterly direction :

Work No 2 A training bank or wall of solid construction on the bed of the river Medina wholly in the parish and urban district of Cowes commencing at a point forty-three yards or thereabouts measured in a westerly direction from the north-western end of the hard leading from Medina Road on the east side of the river Medina adjoining the south side of the aircraft works of Saunders-Roe Limited extending thence in a northerly direction three hundred and ninety-seven yards or thereabouts from the point of commencement above described and terminating one hundred and fifty-three yards or thereabouts from the eastern face of the Jubilee Pontoon Pier or Fountain Pier measured in an easterly direction.

Power to deviate

12. In construction the works the Commissioners may deviate laterally from the lines thereof as show on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and may deviate vertically from the levels of the said works as shown on the deposited sections to any extent not exceeding

| | |
|---|--|
| Consent of Board of Trade to works | <p>twelve feet upwards or to any extent downwards Provided that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.</p> <p>13. No part of the works below high-water mark shall be commenced without the consent in writing of the Board of Trade and those works shall be executed only in accordance with the terms of such consent.</p> |
| Penalty for obstructing works. | <p>14. Any person who wilfully obstructs and person acting under the authority of the Commissioners in setting out the lines of the works or who pulls up or removes any poles or stakes driven into the ground for the purpose of setting out the lines of the works shall for every such offence be liable to a penalty not exceeding five pounds.</p> |
| Powers to cease in certain events | <p>15. (1) If Work No. 1 is not completed within five years and if Work No. 2 is not completed within ten years from the commencement of this Order then on the expiration of these respective periods the powers given by this Order for executing Works Nos. 1 and 2 respectively or otherwise in relation thereto shall cease except as to so much thereof as is then completed.</p> <p>(2) If Work No 1 is not substantially commence within two years and if Work No 2 is not substantially commenced within seven years from the commencement of this Order or such extended times as the Minister may in the circumstances by order direct the powers shall cease.</p> <p>(3) If the execution of Work No 1 or Work No 2 respectively after having been substantially commenced is virtually suspended for twelve executive months the said powers shall cease except as to so much of the works as is then completes unless the Minister by order direct that the said powers continue and remain in force but subject to the foregoing provision as to the completion in any event within five years and ten years as the case may be from the commencement of this Order.</p> <p>(4) A certificate of the Minister to the effect that the works have been substantially commenced or that they have been virtually suspended for twelve consecutive months shall for the purposes of this section be conclusive evidence of the facts stated in such certificate.</p> |
| Dredging maintenance and improvement of undertaking | <p>16. (1) The Commissioners may improve the harbour by dredging and deepening the same and the accesses thereto and may maintain alter improve and extend the harbour and the works connected therewith and also the works authorised by this Order and may also from time to time construct erect and maintain alter improve and extend embankments piles caissons walls slips landing places approaches jetties piers wharves quays slips steps warehouses offices sheds and other buildings cranes weighing machines machinery buoys moorings lights beacons groynes sluices roads sewers drains watercourses gas and water pipes electricity light and power and other works apparatus and conveniences.</p> <p>(2) Before exercising the powers conferred by this section within a distance of fifty yards of any submarine cable placed and maintained by the Postmaster-General across the river Medina between East Cowes and West Cowes the Commissioners shall give to the Postmaster-General seven days' notice in writing in respect of their intention to exercise such powers.</p> <p>(3) Any electric light and power and other works apparatus and conveniences constructed or erected under the provisions of this Order or shall be so constructed erected maintained and used as to prevent any interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Post-master General or with telegraphic communication by means of any such line.</p> <p>(4) The powers of this section shall not be exercised so as to damage or injuriously affect the quay in the river Medina belonging to the Southern Railway</p> |

41 & 42 Vic. C.
76.

Company or to interfere with or obstruct the access to or egress from the said quay.

(5) Nothing in this Order shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1936 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section :

Provided that the powers of the Commissioners under this section shall be exercisable subject to the provisions of the section of this Order of which marginal note is "Crown rights" and in particular and without prejudice to that general limitations any consent given to the exercise of such powers by the Commissioners of Crown Lands or the Board of Trade on behalf of His Majesty may be given subject to such restrictions and conditions including the payment by the Commissioners to the Commissioners of Crown Lands or to the Board of Trade of royalties rents or sums of money in respect of materials raised from any place below high-water mark and sold by the Commissioners under this section or in respect of any place below high-water mark upon which materials may be deposited as may be fixed by the Commissioners of Crown Lands or the Board of Trade as the case may be.

45 & 46 Vict. c.
56

PART III

MISCELLANEOUS

Rates for
services and
accommodation
not otherwise
provided for.

17. The Commissioners may (so far as the rates specified in the schedule to the Order of 1931 do not extend) demand and recover such reasonable rates or other consideration as they may determine for the use of any mooring posts cranes buoys works and conveniences belonging to or provided by the Commissioners or in respect of any services rendered by them in connection with the harbour.

Tonnage rates

18. The Commissioners may charge for every vessel exceeding 100 tons register coming into or anchoring or making fast in the harbour for every 100 tons register or part thereof twenty shillings authorised by section 7 (New schedule of rates) and Schedule No. 1 (Rates on vessels (exclusive of passenger vessels tugboats and yachts) of the Order of 1931 and the said section Schedule No. 1 shall be read and construed accordingly Provided that unless and except so far as the Minister may hereafter otherwise allow the provisions of this section shall cease to have effect on the expiration of five years from the date of the passing of the Act confirming this Order.

Rates on
seaplanes &c.

10 & 11
Geo.5.c.80

19. (1) Subject to the provisions of the Air Navigation Act 1920 and any Act amending or extending that Act or of any order made in pursuance thereof and to the provisions of this Order the Commissioners may demand levy collect and receive in respect of seaplanes entering or using the harbour such reasonable rates as may from time to time be approved by the Minister after consultation with the Secretary of State for Air which rates shall be in lieu of the rates leviable by the Commissioners under this Order on and in respect of vessels.

(2) The Commissioners may demand levy collect and receive on and in respect of floating docks or vessels of exceptional construction or method or propulsion entering or using or departing from the harbour such reasonable rates as may from time to time be fixed by the Commissioners Provided that nothing in this subsection shall apply to the Cowes Ferry undertaking of the council.

Power to borrow

20

REPEALED HRO 2001

| | |
|--|--|
| <p>Council may contribute towards payment of principal and interest on money borrowed by Commissioners in respect of Work No. 1</p> <p>15 & 16 Geo 5c 90</p> | <p>21 The council may from time to time contribute towards the payment of principal and interest on money which may be borrowed by the Commissioners in respect of the cost of constructing Work No. 1. Provided as follows :-----</p> <p>(i) The time during which the council may so contribute shall not exceed a period of twenty years from the date of the first borrowing by the Commissioners for the purpose of Work No. 1</p> <p>(ii) The amount which the council may so contribute shall not in any financial year exceed the sum of three hundred and sixty pounds or the product of a rate of one penny in the pound on the net rateable value of the urban district of Cowes for that year within the meaning of the Rating and Valuation Act 1925 whichever is the less;</p> <p>(iii) If in respect of any year during the said period of twenty years there would be a balance on net revenue account in the audited accounts of the Commissioners (if such balance were calculated on the basis of eliminating from such audited accounts for that year any payments made by the Commissioners whether in respect of repayment of principal and payment of interest on money borrowed for or otherwise in connection with Work No. 2) exceeding five hundred pounds the amount which the council may contribute as aforesaid for that year shall be reduced by an amount equal to the sum by which such balance (calculated as aforesaid) exceeds five hundred pounds.</p> |
| <p>Representation of Council on Commissioners</p> | <p>22. (1) Subject to the provisions of this Order section 5 (Constitution of Commissioners) of the Act of 1897 as amended by the Isle of Wight Review Order 1933 is hereby amended so as to provide that the members of the Commissioners to be appointed by the council shall be increased from four to six and that the total number of the Commissioners shall be increased to twenty-one.</p> <p>(2) The power of the council to appoint the additional members to be appointed by them in pursuance of this section shall not come into operation unless and until the first contribution had been made by the council to the Commissioners in pursuance of the section of this Order of which the marginal note is "Council may contribute towards payment of principal" and interest on money borrowed by Commissioners in respect "of Work No 1"</p> |
| <p>Lights during construction of works</p> | <p>23. (1) Before commencing the works the Commissioners shall apply to the Board of Trade for directions as to the lights to be exhibited and other means to be taken for preventing danger to navigation and shall in all respects obey any directions given upon that application or afterwards from time to time given as to the like matters by the Board of Trade during the construction of the works and compliance with the directions so given shall satisfy and be in place of every other statutory requirement as to lights during the construction of the works,</p> <p>(2) The Commissioners shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse to observe or comply with any directions so given.</p> |
| <p>Lights after completion of works</p> | <p>24. After completion or permanent discontinuance or abandonment of the works the Commissioners shall exhibit at the outer extremity of the works or the completed portions thereof or in such other places as may be required from sunset to sunrise and according to the requirements of the traffic and the season of the year such lights (if any) and shall take such other steps for the prevention of danger to navigation as shall from time to time be directed by the Corporation of Trinity House of Deptford Strond and shall apply to that Corporation for such directions if the Commissioners fail to comply in any respect with the provisions of this section they shall be liable to a penalty not exceeding twenty pounds and in the case of a</p> |

continuing offence to an additional penalty not exceeding two pounds for every day on which after conviction thereof they so fall.

As to buoys and lights in case of decay of works

25. (1) In case of injury to or destruction or decay of the works or any part thereof the Commissioners shall lay down such buoys exhibit such lights or take such other means for preventing (so far as may be) danger to navigation as may from time to time be directed by the Corporation of Trinity House of Deptford Strond and shall apply to that Corporation for directions as to the means to be taken.

(2) If the Commissioners fail to comply in any respect with the provisions of this section they shall be liable to a penalty not exceeding ten pounds and in the case of continuing offence to an additional penalty not exceeding one pound for every day during which they omit after conviction thereof so to Apply or refuse or neglect to obey any direction given in reference to the means to be taken.

Survey of works by Board of Trade

26. If at any time the Board of Trade deem it expedient for the purposes of this Order to order a survey and examination of so much of the works as are constructed on in over through or across tidal lands or tidal waters or of the intended site of the work the Commissioners shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Commissioners to the Crown and shall be recoverable as a Crown debt or summarily.

Abatement of work abandoned or decayed

27. If any of the works constructed on in over through or across tidal lands or tidal waters are abandoned or suffered to fall into decay the Board of Trade may abate and remove the same or any part of them and restore the site thereof to its former condition at the expense of the Commissioners and the amount of such expense shall be a debt due form the Commissioners to the Crown and be recoverable as a Crown debt or summarily

Exclusion of sections 16 to 19 & 25 & 26 & 84 to 87 of 10 & 11 Vict.c.27

28. Sections 16 to 19 and 25 and 26 and 84 to 87 of the Harbours Clauses Act 1847 shall not be incorporated with this Order.

Recovery of penalties

29. All penalties under this Order shall be removed and applied as penalties are recoverable and applicable under the Harbour Clauses Act 1847.

30. **REPEALED HRO 2001**

31. (1) **REPEALED HRO 2001**

(2) The Minister may at any time revoke the appointment of any person as auditor and thereupon shall unless he sees special reason to the contrary appoint another person as auditor.

(3) The Commissioners shall on demand by the auditors produce to him all books accounts deeds papers writings and other documents and furnish him with all information in their possession or power and afford him all reasonable facilities for conducting the examination and audit.

(4) If the Commissioners refuse or neglect to comply with any of the provisions of this section they shall be liable to a penalty not exceeding twenty pounds for every month during which they neglect or refuse so to comply.

Byelaws

32. (1) The byelaws which may from time to time be made by the Commissioners in the exercise of the powers in that behalf conferred on them by the Act of 1897 and by section 83 of the Harbour Clauses Act 1847 may provide for the enforcing of a penalty not exceeding forty shillings for the breach or non-observance of any of the byelaws.

23 & 24
Geo.5.c.51

(2) Notwithstanding the provisions of the Harbour Clauses Act 1847 relating to the procedure for the making and confirming of byelaws by the Commissioners the provisions of subsections (3) to (6) of section 250 and section 252 of the Local Government Act 1933 shall apply to all byelaws except such as relate solely to the Commissioners and their officers or servants to be made by the Commissioners in respect of the undertaking and in the application of such last-mentioned provisions the Minister shall be the confirming authority :

Provided that -----

- (a) In the case of any byelaws which the Minister in consultation with the Board of Trade shall deem primarily to concern the interests of navigation the provisions of subsections (1) and (2) of this section shall apply as if the said Board were substituted for the Minister :
- (b) The confirming authority shall consult the Secretary of State for Air before confirming any byelaw which relates to seaplanes.
- (c) Confirmation of any such byelaws by the Minister of the Board of Trade respectively shall be sufficient evidence of compliance with the provisions of this section.

Repeals 4 & 5
Geo.5.c.cxiv.
9 & 10 Geo.5.c.
lxxi

33. The Pier and Harbour Order Confirmation (No. 1) Act 1914 and the Cowes Harbour Order 1914 confirmed thereby and the Pier and Harbour Orders Confirmation Act 1919 so far as it relates to the Cowes Harbour Order 1919 and the Cowes Harbour Order 1919 confirmed thereby are hereby respectively repealed.

Inquiries by
Minister

34. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under the Act of 1897 or this Order and subsections (2) and (5) of section 290 of the Local Government Act 1933 shall apply to such inquiries as if they were an inquiry held in pursuance of subsection (1) of that section and the Commissioners were a local authority.

Crown Rights

35. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Commissioners 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 estuary or any land hereditaments subjects or right of whatsoever description belonging to His

Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or of the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Cost of Order.

36. All costs charges and expenses of and incident to the preparation and obtaining of this Order and otherwise incurred in reference thereto shall be paid by the Commissioners out of moneys received by them on revenue account or out of moneys borrowed under the authority of the Act of 1897 or of this Order Provided that any moneys borrowed by the Commissioners for the purposes of this section shall be repaid within five years from the commencement of this

**CHAPTER xxxii**

An Act to confirm a Provisional Order made by the Minister of Transport and Civil Aviation under the General Pier and Harbour Act 1861 relating to Cowes

[30th July 1954]

WHEREAS as Provisional Order made by the Minister of Transport and Civil Aviation under the General Pier and Harbour Act 1861 is not of any validity or force whatever until confirmation thereof by Act of Parliament.

And whereas it is expedient that the Provisional Order made by the Minister of Transport and Civil Aviation under the said Act as set out in the schedule to this Act be confirmed by Act of Parliament.

Be it therefore 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 :-----

1. The Order as set out in the schedule to this Act shall be and the same id hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force.
2. This Act may be cited as the Pier and Harbour Order (Cowes) Confirmation Act 1954.

Confirmation of
Order in
schedule

Short title

SCHEDULE

COWES HARBOUR

Provisional Order to authorise the Commissioners for the Harbour of Cowes to demand new and increased rates dues and charges and for other purposes.

1. (1) This Order may be cited as the Cowes Harbour Order 1954.
- Short title and citation (2) The Act of 1897 the Order of 1931 and the Order of 1936 and this Order may be cited together as the Cowes Harbour Acts and Orders 1897 to 1954.
2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as the commencement of this Order.
- Commencement
3. In this Order unless the context otherwise requires :----
- Interpretation "Act of 1897" means the Cowes Harbour Act 1897 ;
- "authorised rates" means the rates which the Commissioners are for the time being authorised to levy demand receive and recover under or by virtue of this Order or any order made under section 9 (Revision of rates) of this Order.
- "Commissioners" means the Commissioners for the Harbour of Cowes incorporated by the Act of 1897 ;
- "harbour" means the harbour of Cowes and Cowes Roads as defined by the Order of 1931 ;
- "Minister" means the Minister of Transport and Civil Aviation ;
- "Order of 1931" means the Cowes Harbour Order 1931 ;
- "Order of 1936" means the Cowes Harbour Order 1936 ;
- "undertaking" means the undertaking of the Commissioners in connection with the harbour.
4. The Commissioners shall be the undertakers for carrying this Order into execution.
- Undertakers
5. (1) In the application to this Order of the Harbour Docks and Piers Clauses Act 1847 the expression "special Act" shall mean this Order.
- Application of Harbours Clauses Act 1847 (2) Sections 12 and 13 16 to 19 and 84 to 87 of the Harbours Docks and Piers Clauses Act 1847 shall not be incorporated with this Order.
6. The limits within which power to levy rates may be exercised by the Commissioners shall comprise the harbour.
- Rating limits
7. Subject to the provisions of this Order the Commissioners may demand recover and receive -----
- Power to levy boats (a) In respect of vessels described in the First Second and Third Schedules to this Order entering the harbour any sums not exceeding the several rates payments or compositions specified in the said schedules : and

- (b) In respect of vessels using the mooring buoys posts and moorings in the harbour any sums not exceeding the several rates specified in the Fourth Schedule to this Order.

Provided that -----

- (1) No rate for entering the harbour shall be leviable for or in respect of vessels entering the harbour on their way to any other port and not anchoring mooring or taking the ground or loading or unloading any cargo or landing or embarking any passengers within the limits of the harbour or using any of the works or conveniences of the Commissioners ;
- (2) Nothing contained in this Order shall authorise the Commissioners to levy any rates on vessels passing through the harbour bound to or coming from any place in the river Medina southwards of "The Folly" and not loading or unloading any cargo within the limits of the harbour.
- (3) Nothing contained in this Order shall authorise the Commissioners to levy any rates in respect of fishing vessels entering or using the harbour.

Powers to owners of vessels to compound for rates or dues

8. The Commissioners shall at all times be called upon to do by the owner of any vessel entering or using the harbour accept from such owner in lieu of the rates or dues specified in the First Second and Third Schedules respectively to this Order the payments or compositions respectively mentioned in such schedules such payments or compositions to be made payable in advance unless otherwise agreed with the Commissioners. :

Provided that nothing in this section shall preclude the Commissioners from accepting by way of payment or composition in respect of any vessels referred to in this section lesser sums than the sums respectively specified in the said First Second or Third Schedules.

9. (1) If it is represented by application in writing to the Minister -----

Revision of rates

- (a) By any chamber of commerce or shipping or any representative body of traders or shipowners ; or
- (b) By any local authority or body representative of the users of the harbour ; or
- (c) By any person who in the opinion of the Minister has a substantial interest and is a proper person to make an application ; or
- (d) By the Commissioners

That in the circumstances then existing the authorised rates should be revised in whole or in part the Minister if he thinks fit may make an order revising all or any of the authorised rates referred to in the application and may fix the date as from which such order shall take effect and thenceforth such order shall remain in force until the same expires or is revoked or modified by a further order of the Minister made in pursuance of this subsection.

(2) An application made to the Minister under subsection (1) of this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in such manner as he may require.

(3) Where upon an application under subsection (1) of this section for an increase or decrease of the authorised rates or any of them an order has been made or the Minister has decided not to make an order no further application for an increase or decrease (as the case may be) of any of the rates to which the

application related shall be made within twelve month from the date of such order or decision as the case may be.

(4) Before making an order under subsection (1) of this section the Minister shall consult with such bodies authorities or persons as aforesaid as appear to him to be appropriate including the Commissioners where they are not the applicants and for the purpose of ascertaining such bodies authorities or persons may require public notice of the application to be given and where an objection to an application is made by the Commissioners or by any such body authority or person and is not withdrawn the Minister unless it appears to him that the objection is of a trivial nature shall cause an inquiry to be held in reference to the application.

(5) Subject to the proviso to this subsection the Minister shall not by an order under subsection (1) of this section make any such revision of the authorised rates as in his opinion would so far as can be estimated be likely to result in the annual revenue of the Commissioners being insufficient or more than sufficient to enable the Commissioners with efficient management of the undertaking to make adequate provision for paying all proper expenses of and connected with the working management and maintenance of the undertaking including interest on loan capital (regard being had by him to say any capital which he Commissioners may reasonably be expected to expend) making good depreciation providing for any contributions which the Commissioners may reasonably and properly carry to any reserve fund contingency fund or sinking fund and meeting all other costs charges and expenses if any properly chargeable to revenue.

Provided that in any case where the Minister is satisfied that there are special circumstances affecting the undertaking taking into account the financial condition of the undertaking during such period preceding the date on which an application is made under subsection (1) of this section as the Minister considers to be appropriate the Minister may revise the authorised rates in such manner as he thinks just and reasonable with due allowance for such special circumstances notwithstanding that such revision is likely to result in the revenue of the Commissioners being insufficient to enable the Commissioners to make adequate provision for all of the matters referred to in the foregoing provisions of this subsection.

(6) The provisions of section 290 of the Local Government Act 1933 shall apply to any inquiry which the Minister may cause to be held under this section as if it were and inquiry held in pursuance of subsection (1) of that section and as if the Commissioners were a local authority.

(7) The power of the Minister to make an order under subsection (1) of this section shall be exercisable by statutory instrument.

10. (1) The following provisions of the Act of 1897 the Order of 1931 and the Order of 1936 are hereby repealed :-----

Repeals

The Act of 1897 ---

Section 39 (Power to levy rates) ;

Section 40 (Power to owners of vessels to compound for rates of dues)

The Order of 1931 -----

Section 8 (New schedules of rates) :

Section 11 (Revision of rates) ;

The Schedules

The Order of 1936 -----
 Section 18 (Tonnage rates)

(2) Section 17 (Rates for services and accommodation not otherwise provided for) of the Order of 1936 shall be read and have effect as if in place of the words "Order of 1931" in the said section there were inserted the words "Cowes Harbour Order 1954"

Costs of Order 11. All costs charges and expenses of and incident to the preparation and obtaining of this Order and otherwise incurred in reference thereto shall be paid by the Commissioners out of moneys received by them on revenue account or out of moneys borrowed under the authority of the Act of 1897 or of the Order of 1936 Provided that any moneys borrowed by the Commissioners for the purposes of this section shall be repaid within five years from commencement of this Order.

FIRST SCHEDULE

RATES ON VESSELS (EXCLUSIVE OF PASSENGER VESSELS TUG-BOATS AND YACHTS)

| | | Per voyage only | |
|--|---|-----------------|----|
| | | s. | d. |
| For every vessel coming into anchorage or making | | | |
| a | fast in the harbour ----- | | |
| | not exceeding 10 tons register each vessel | 7 | 6 |
| | exceeding 50 tons but not exceeding 75 tons register | | |
| | each vessel - - - - - | 9 | 0 |
| | exceeding 75 tons but not exceeding 100 tons register | | |
| | each vessel - - - - - | 15 | 0 |
| | exceeding 100tons but not exceeding 100 tons register | | |
| | or part thereof each vessel - - - - - | 30 | 0 |

In case of any vessel entering the harbour and discharging not exceeding one-half of her cargo only of the above dues will be payable but if more than half her cargo be discharged the full dues will be payable.

The above dues to be payable only once for each voyage.

Every shipowner whose vessels call at Cowes at least once daily (Sunday Good Friday Christmas Day or any bank or other public holiday excepted) throughout the year may compound by payment of two-thirds the above dues such payment to be made in advance.

Every shipowner whose vessels call at Cowes at least once weekly throughout the year may compound by payment of three-fourths the above dues such payment to be made in advance.

The amount of any composition under this schedule shall be paid by the shipowner during the month of January in each year and such payment shall be two-thirds or three-fourths as the case may be of the total dues which would have been payable in

the twelve months immediately preceding had full dues been paid any composition so entered into by the shipowner shall be calculated upon the records kept by the Commissioners.

SECOND SCHEDULE

RATES ON PASSENGER VESSELS

For every passenger vessel coming into or anchoring or making fast in the harbour 3d. per ton register voyage.

The owner of every such passenger vessel may at this option compound by payment in advance during January in each year of 9 shillings per ton register for each vessel per annum.

THIRD SCHEDULE

RATES ON TUG-BOATS

For every tug-boat coming into or anchoring or making fast in the harbour 5s 0d. per voyage or at the option of the owner of the vessel a composition payable in advance of £3 per annum.

FOURTH SCHEDULE

RATES FOR THE USE OF MOORING BUOYS POSTS AND MOORINGS IN THE HARBOUR THE PROPERTY OF THE COMMISSIONERS

PART A VESSELS OTHER THAN YACHTS

| | s. | d. |
|---|----|----|
| Vessels not exceeding 200 tons register per diem - - - - - | 4 | 0 |
| Vessels not exceeding 200 tons register and not exceeding 400 tons per diem - - - - - | 4 | 6 |
| Vessels not exceeding 400 tons register and not exceeding 600 tons per diem - - - - - | 6 | 0 |
| Vessels not exceeding 600 tons register and not exceeding 800 tons per diem - - - - - | 7 | 6 |
| Vessels not exceeding 800 tons register and not exceeding 1,000 tons per diem - - - - - | 9 | 0 |
| Vessels exceeding 1,000 tons register per diem - - - - - | 11 | 6 |

PART B ----- YACHTS

s. d.

| | | |
|--|----|---|
| Yachts not exceeding 10 tons register per diem - - - - - | 1 | 6 |
| Yachts exceeding 10 tons register and not exceeding 20 tons per diem - - - - - | 2 | 6 |
| Yachts exceeding 20 tons register and not exceeding 35 tons per diem - - - - - | 3 | 0 |
| Yachts exceeding 35 tons register and not exceeding 50 tons per diem - - - - - | 4 | 0 |
| Yachts exceeding 50 tons register and not exceeding 100 tons per diem - - - - - | 5 | 0 |
| Yachts exceeding 100 tons register and not exceeding 200 tons per diem - - - - - | 7 | 0 |
| Yachts exceeding 200 tons register and not exceeding 300 tons per diem - - - - - | 9 | 0 |
| Yachts exceeding 300 tons register and not exceeding 500 Tons per diem - - - - - | 10 | 0 |
| Yachts exceeding 500 tons register per diem - - - - - | 11 | 0 |

PART C ----- VESSELS USING STERN MOORINGS

For each vessel using the stern moorings provided by the Commissioners when laid up upon any recognised mud berth for a period of four months and not exceeding one year -----

| | £ | s | d |
|---|----|----|---|
| Vessels not exceeding 100 tons register - - - - - | 6 | 15 | 0 |
| Vessels exceeding 100 tons and not exceeding 150 tons register- - - - - | 7 | 7 | 6 |
| Vessels exceeding 150 tons and not exceeding 200 tons register- - - - - | 7 | 17 | 6 |
| Vessels exceeding 200 tons and not exceeding 250 tons register- - - - - | 8 | 10 | 0 |
| Vessels exceeding 250 tons and not exceeding 300 tons register- - - - - | 9 | 0 | 0 |
| Vessels exceeding 300 tons and not exceeding 350 tons register- - - - - | 9 | 10 | 0 |
| Vessels exceeding 350 tons and not exceeding 400 tons register- - - - - | 10 | 2 | 6 |
| Vessels exceeding 400 tons and not exceeding 450 tons register- - - - - | 10 | 15 | 0 |
| Vessels exceeding 450 tons and not exceeding 500 tons register- - - - - | 11 | 5 | 0 |
| Vessels exceeding 500 tons and not exceeding 550 tons register- - - - - | 11 | 17 | 6 |
| Vessels exceeding 550 tons and not exceeding 600 tons register- - - - - | 12 | 7 | 6 |
| Vessels exceeding 600 tons and not exceeding 650 tons register- - - - - | 13 | 0 | 0 |
| Vessels exceeding 650 tons and not exceeding 700 tons register- - - - - | 13 | 10 | 0 |
| Vessels exceeding 700 tons register for every 50 tons register or part thereof above the first 700 tons In addition to £13 10s 0d for the first 700 tons - - - | 11 | 0 | |

One half only of the foregoing charges shall be payable for any vessel using the mooring for less than four months.

PART D ----- RESERVATION OF BERTHS

RATES FOR THE RESERVATION OF BERTH FOR MOORINGS IN A
SELECTED POSITION

| | £ | s | d |
|--|----|----|---|
| Open boats per annum - - - - - | 1 | 6 | |
| Vessels not exceeding 2½ tons register per annum | 4 | 0 | |
| Vessels exceeding 2½ tons and not exceeding 5 tons per annum - - - - - | 7 | 6 | |
| Vessels exceeding 5 tons and not exceeding 25 tons per annum - - - - - | 11 | 6 | |
| Vessels exceeding 25 tons and not exceeding 50 tons per annum - - - - - | 15 | 0 | |
| Vessels exceeding 50 tons and not exceeding 100 tons per annum - - - - - | 1 | 10 | 0 |
| Vessels exceeding 100 tons and not exceeding 200 tons per annum - - - - - | 2 | 5 | 0 |
| Vessels exceeding 200 tons and not exceeding 300 tons per annum - - - - - | 3 | 0 | 0 |
| Vessels exceeding 300 tons and not exceeding 400 tons per annum - - - - - | 4 | 10 | 0 |
| Vessels exceeding 400 tons and not exceeding 500 tons per annum - - - - - | 6 | 0 | 0 |
| Vessels exceeding 500 tons and not exceeding 600 tons per annum - - - - - | 7 | 10 | 0 |
| Vessels exceeding 600 tons and not exceeding 700 tons per annum - - - - - | 9 | 0 | 0 |
| Vessels exceeding 700 tons register per annum | 10 | 10 | 0 |

O oooo O



1970 No. 329

HARBOUR, DOCKS, PIERS AND FERRIES

The Cowes Harbour (Amendment of Local Act) Order 1970

Made - - - 24th February 1970

Laid before Parliament 11th March 1970

Coming into Operation 12th March 1970

The Minister of Transport, in exercise of the powers conferred upon him by section 60 of the Harbours Act 1964(a) and of all other enabling powers and on the application of the Commissioners for the Harbour of Cowes, it appearing to him that section 48 of the Cowes Harbour Act 1897(b) is inconsistent with section 43 of the said Act of 1964 and that there is no other harbour authority concerned for the purposes of consultation under subsection (3) of the said section 60, hereby makes the following Order:-

Commencement, citation and interpretation

1.--(1) This Order shall come into operation on the 13th March 1970 and may be cited as the Cowes Harbour (Amendment of Local Act) Order 1970.

(2) The Interpretation Act 1889(c) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament

Amendment of Cowes Harbour Act 1897

2 The following proviso shall be inserted at the end of section 48 of the Cowes Harbour Act 1897:

“Provided that this section shall not apply in relation to any loan made by the Minister of Transport to the Commissioners in respect of which the Minister of Transport has power under section 43(1) of the Harbours Act 1964 to give directions as to the times and methods of paying off any such loan”

Given under the Official Seal of the Minister of Transport the 24th February 1970

(L.S)

Fred Mulley
Minister of Transport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends section 48 of the Cowes Harbour Act 1897 in so far as it is inconsistent with the Powers of the Minister of Transport, under section 43(1) of the Harbours Act 1964, to give direction to a harbour authority as to the times and methods of paying off loans made by him to such authority under section 11 of that Act.

(a) 1964 c 40

(b) 1897 c. cclviii

(c) 1889 c 63



1971 No. 806

HARBOUR, DOCKS, PIERS AND FERRIES

The Cowes Harbour Revision Order 1970

Made - - - 22nd December 1970

Laid before Parliament 18th March 1970

Coming into Operation 9th May 1971

The Secretary of State for the Environment in exercise of his powers under section 14 of the Harbours Act 1964(a), and of all other powers enabling him in that behalf, and on the application of the Commissioners for the Harbour of Cowes, hereby makes the following Order:

Citation and commencement

1. (1) This Order may be cited as the Cowes Harbour Revision Order 1970 And shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(b).

(2) The Cowes Harbour Acts and Orders 1897 to 1954(c), the Cowes Harbour (Amendment of Local Act) Order 1970(d) and this Order may be cited together as the Cowes Harbour Act and Orders 1897 to 1970.

Amendment to the Cowes Harbour Order 1936

2. As from the coming into operation of this Order the Cowes Harbour Order 1936 shall have effect subject to the following amendments:-

- (1) In section 3 (Interpretation)
 - (a) After the definition of "Harbours Clauses Act 1847" there shall be inserted the following definition, namely, "hovercraft" has the same meaning as in section 4 of the Hovercraft Act 1968"(e); and
 - (b) at the end of the definition of "vessel" there shall be added the words "and includes any hovercraft";
- (2) in subsection (1) of section 32 (Byelaws) in place of the words "forty shillings" there shall be substituted "£50".

Signed by authority of the Secretary of State

22nd December 1970

K.T. Barnett
An Under Secretary in the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Order)

This Order ---

- (1) amends the definition of "vessel" in the Cowes Harbour Order 1936 so as to include a hovercraft defined by the Hovercraft Act 1968;
- (2) increases from forty shillings to £50 the maximum penalty for breach or non-observance of byelaws made by the Cowes Harbour Commission under section 83 of the Harbours Docks and Piers Clauses Act 1847 or the Cowes Harbour Act 1897.

- (a) 1964 c 40 (b) 9 & 10 Geo. 6 c 18 1965 c 43
[c] 1897 c cclviii; see 1931 c lxxxix; see 1936 c lxxx; see 1954 c xxxii
(d) S.I. 1970/329 [e] 1968 c 59



1988 No. 72

HARBOURS, DOCKS, PIERS AND FERRIES

The Cowes Harbour Revision Order 1988

**REPEALED BY COWES HARBOUR
CONSTITUTION ORDER 2001**

than one director of any body corporate is nominated at any election, only the nomination of the partner or director first nominated shall be valid.”.

Qualification of electors of traders' members

7.—(1) For section 11(1) and (2)(A) and (B) of the 1897 Act (qualification of electors of traders' members) there shall be substituted the following:—

“(1) Any person, partnership or body corporate—

(a) importing or exporting goods to or from the harbour by means of ships; or

(b) being the registered owner of commercial ships registered in the United Kingdom elsewhere than at the port of Cowes and used to import or export goods to or from the harbour;

in respect of which, during the 12 months ending the 31st October immediately preceding the election, dues have been paid in respect of—

(i) at least one single cargo of 500 tonnes or more; or

(ii) the carrying on at least one journey of 100 passengers or more,

shall be qualified to vote for each traders' member according to the scale in subsection (2) below.

(2) The scale is—

(a) one vote for the first such 500 tonnes of cargo or 100 passengers carried; and

(b) in the case of cargoes, an additional vote for every 2000 tonnes of cargo carried, in addition to the first 500 tonnes but ignoring tonnages comprised in cargoes of less than 500 tonnes; and

(c) in the case of passengers, one additional vote for every 200 passengers carried in addition to the first 100 passengers but ignoring any passengers carried in a journey involving fewer than 100 passengers,

up to a maximum of six votes.

(2A) Any person, partnership or body corporate being the registered owner of commercial ships registered at, or trading wholly or mainly to or from, the harbour of Cowes of a gross registered tonnage of 25 tons or upwards in respect of which dues have been paid to the Commissioners during the 12 months ending the 31st October immediately preceding the election shall be qualified to vote for each traders' member

according to the following scale, that is to say:—

(a) one vote in respect of the first 25 tons of registered tonnage, and

(b) an additional vote for every 150 tons above the first 25 tons,

up to a maximum of six votes.”.

(2) In section 13 of the 1897 Act (list of electors of traders' members to be made out) for the words “companies municipal corporations and councils” and “company municipal corporation and council” there shall be substituted respectively the words “and bodies corporate” and “and body corporate”.

(3) In section 15 of the 1897 Act (revision of lists of electors of traders' members) for the words “company municipal corporation or council”, wherever they occur, there shall be substituted the words “or body corporate”.

(4) In section 18 of the 1897 Act (revised lists to be conclusive evidence of rights to vote) for the words “companies municipal corporations or councils”, in both places where they occur, there shall be substituted the words “or bodies corporate”.

Occasional vacancies among Commissioners

8. As from the 7th December 1988, in section 21 of the 1897 Act (mode of supplying occasional vacancies), in subsection (3) for the words from “the Admiralty” to “Association” there shall be substituted the words “the ferry service operator, the operators of Medina wharf or the Royal Yachting Association”.

Chief Executive of Commissioners

9. The clerk to the Commissioners shall on and after the coming into operation of this Order be known as the Chief Executive of the Commissioners; and references to the clerk in any local enactment or in any document shall be construed accordingly.

Repeals

10. The enactments specified in the Schedule to this Order are hereby repealed to the extent specified in the third column of that Schedule.

Signed by authority of the Secretary of State

J. W. S. Dempster
An Under Secretary in the
Department of Transport

15th January 1988

Article 10

SCHEDULE ENACTMENTS REPEALED

| <i>Chapter</i> | <i>Enactment</i> | <i>Extent of repeal</i> |
|----------------------------------|---------------------------------|--|
| 60 and 61 Vict. c.cclviii. | The Cowes Harbour Act 1897. | In section 5, the words from "who shall not be a member" to "the said towns". In section 7, subsection (5) and in subsection (7), the words from "fail to make" to "elect Commissioners", in the first place where they occur, and the word "subsequent". Section 12. |
| 26 Geo. 5 & 1 Edw. | The Pier and Harbour (Cowes) | Section 22 of the Cowes Harbour Order 1936. |
| 8 c.lxxx. | Confirmation Act 1936. | |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the constitution of the Commissioners for the Harbour of Cowes so that henceforth they shall consist of—

- (a) The Queen's Harbour Master at Portsmouth for the time being;
- (b) Five to be appointed by the Medina borough council from among themselves in accordance with rules made by them from time to time;
- (c) Two to be appointed by the Cowes town council from among themselves in accordance with rules made by them from time to time;
- (d) Four elected traders' members;



1989

No 1941

HARBOURS, DOCKS, PIERS AND FERRIES

The Cowes Harbour Revision Order 1989

Made

2nd October 1989

Coming into force

3rd October 1989

The Secretary of State for Transport, in exercise of the powers conferred by section 14 of the Harbours Act 1964⁽¹⁾ and now vested in him⁽²⁾ (being the appropriate Minister under section 14(7) of that Act for the purpose of making this Order) and of all other powers enabling him in that behalf, and on the application of the Commissioners for the Harbour of Cowes, hereby makes the following Order:—

PART IPRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Cowes Harbour Revision Order 1989 and shall come into force on 3rd October 1989.

(2) The Cowes Harbour Acts and Orders 1897 to 1988 and this Order may be cited together as the Cowes Harbour Acts and Orders 1897 to 1989.

Interpretation

3. In this Order, unless the context otherwise requires— “the 1897 Act” means the Cowes Harbour Act 1897⁽³⁾; “the Commissioners” means the Commissioners for the Harbour of Cowes incorporated by the 1897 Act; “dredging licence” means a licence granted under

article 6 of this Order; "gas undertakers" means any public gas supplier within the meaning of Part I of the Gas Act 1986(4); "gas work" means any main, pipe, apparatus, building, structure or other work of any nature belonging to the gas undertakers or for the maintenance of which they are responsible; "works licence" means a licence granted under article 5 of this Order.

PART II BORROWING POWERS

Power to borrow

3.—(1) For section 46 of the 1897 Act (Power to borrow) there shall be substituted the following section—

Power to borrow

REPEALED BY C.H.O 2001

Cowes Harbour Order 1936(5) is hereby repealed.

PART III CONTROL OF WORKS AND DREDGING

Restriction of works and dredging

4.—(1) Subject to paragraph (4) below, no person other than the Commissioners shall—

- (a) construct, alter, renew or extend any works; or
- (b) dredge; on, under or over tidal waters or tidal land below the level of high water in the harbour unless he is licensed to do so, in the case of works by a works licence and in the case of dredging by a dredging licence, or except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of article 5 or, as the case may be, article 6 of this Order.

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

(3) Nothing in this article shall apply to any activity specifically authorised under any enactment.

(4) Subject to paragraphs (5) to (7) below, this article shall not affect—

- (a) the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system;
- (b) the carrying out of any operations by the National Rivers Authority, any water undertaker or any sewerage undertaker in the exercise of their functions under the Public Health Act 1936 (6), the Water Resources Act 1963(7), the Water Act 1973(8), the Land Drainage Act 1976(9) or the Water Act 1989(10);
- (c) the construction, alteration, renewal or extension by the gas undertakers of any gas work from time to time authorised under or by virtue of any enactment or any consent, wayleave or other instrument given or made under any enactment;
- (d) the carrying out of any work or dredging which, although not authorised as mentioned in

sub-paragraph (c) above, is necessary in case of emergency for the protection of or to ensure the efficient operation of any gas work.

(5) Where any undertakers mentioned in paragraph (6) below intend to carry out any operations or works in the harbour they shall give reasonable notice of their intention to the Commissioners (unless, in an emergency, it is impracticable to do so) and shall supply the Commissioners with such particulars of the operations or works as the Commissioners may reasonably require.

(6) The undertakers referred to in paragraph (5) above are—

(a) The National Rivers Authority, any water undertaker and any sewerage undertaker; and

(b) any gas undertakers.

(7) Any activity to which paragraph (4) above relates shall be carried out subject to any directions which may from time to time be given by the Commissioners to the person or body concerned, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of such operations or works, and, in the case of works carried out in an emergency, subject to the giving of information thereof to the Commissioners by the person or body concerned without delay.

(8) Any person who contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) In any proceedings for an offence under paragraph (8) above it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(10) If in any case the defence provided by paragraph (9) above involves the allegation that the commission of the offence was due to an act or default of another person, the person charged shall not, without the leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that person as was then in his possession.

Licensing of works

5.—(1) The Commissioners may, upon such terms and conditions as they think fit, grant to any person, subject to article 9 of this Order, a licence to construct, alter, renew

or extend works in the harbour under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, altered, renewed or extended.

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

- (a) be accompanied by such plans, sections and particulars of the works to which the application relates as the Commissioners may reasonably require; and
- (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted; and, in granting a licence, the Commissioners may require modifications in the plans, sections and particulars so submitted.

(3) The Commissioners may require an applicant for a works licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of dealing with the application; and different fees may be specified in relation to different cases or classes of case.

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

(5) Sections 66 to 71 of the 1897 Act (which contain various requirements with respect to works) shall apply in relation to works authorised by a works licence as they apply in relation to works authorised by that Act.

(6) In the carrying out of operations in pursuance of a licence under this article, the holder of the licence shall not—

- (a) interfere with, damage or otherwise injuriously affect—
 - (i) any submarine cable placed or maintained by the operator of a telecommunications code system or the Southern Electricity Board;
 - (ii) any water main, sewer or sewage outfall pipe placed or maintained by the National Rivers Authority, any water undertaker or any sewerage undertaker; or
 - (iii) any gas work; or

(b)do anything which will obstruct or impede any work relating to the inspection or repair of any such cable, main, work, sewer or outfall pipe;without the consent of the person or body concerned.

Licensing of dredging

6.—(1) The Commissioners may, upon such terms and conditions as they think fit, grant to any person, subject to article 9 of this Order, a licence to deepen, dredge, scour, cleanse, alter or improve the bed, foreshore and channels of the harbour.

(2) Application for a dredging licence shall be made in writing to the Commissioners and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operation to be carried out in pursuance of the licence, and in granting any such licence the Commissioners may require modifications in the plans, sections and particulars so submitted.

(3) Article 5(2) and (3) of this Order shall apply in relation to a dredging licence as they apply in relation to a works licence.

(4) If within three months from the receipt of an application under paragraph (2) above the Commissioners do not grant a dredging licence, they shall be deemed to have refused the application.

(5) No such materials shall be laid down or deposited in any place below the level of high water except in such a position as may be approved by the Secretary of State and subject to such conditions or restrictions as he may impose.

(6) Paragraph (6) of article 5 of this Order shall apply in relation to the carrying out of operations in pursuance of a dredging licence as it applies in relation to the carrying out of operations in pursuance of a works licence.

Appeals in respect of works or dredging licences

7.—(1) An applicant for a works licence or a dredging licence who is aggrieved by—

(a)a refusal of the Commissioners to grant a licence; or

(b)any terms or conditions subject to which the licence is granted; or

(c)any modifications required by the Commissioners in the plans, sections and particulars submitted by the applicant;may within 28 days from the date on which the Commissioners notify the applicant of their decision, or the date on which the Commissioners are, under article 5(4) or 6(4) of this Order, deemed to have refused the application, appeal to the Secretary of State.

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

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

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

(a) dismiss the appeal; or

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

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

Further protection of gas undertakers

8.—(1) For the protection of the gas undertakers the following provisions of this article shall, unless otherwise agreed in writing between the Commissioners and the gas undertakers, apply and have effect.

(2) Subject to paragraph (4) below, before granting a works licence or a dredging licence, the Commissioners shall in any case where the proposed works or dredging would be at, over, under or near to any gas work situated on or under tidal waters or tidal lands below the level of high water in the harbour or in such a position as to be likely to affect or endanger any such work, or in any case where reasonably so requested by the gas undertakers, submit to the gas undertakers concerned detailed particulars of the proposed works or dredging, as the case may be, and furnish them with such further particulars with respect thereto as the gas undertakers may reasonably require, and such licence shall only be granted subject to such conditions as may be reasonably necessary to safeguard the gas work including, without prejudice to the generality of the foregoing, conditions empowering the gas undertakers from time to time to inspect the works or dredging to which the licence relates and to take any steps necessary to prevent damage to the gas work or to ensure that the gas work can operate efficiently and to recover from the holder of the licence the reasonable cost of any works carried

out by the gas undertakers for those purposes.

(3) Subject to paragraph (4) below, if in any case any difference arises between the Commissioners and the gas undertakers with respect to the particulars required to be furnished to the gas undertakers by the Commissioners or with respect to the conditions which the gas undertakers require to be attached to a works licence or a dredging licence, such difference shall be determined by a single arbitrator to be agreed between the Commissioners and the gas undertakers concerned or in default of agreement to be appointed on the application of either party after notice in writing to the other party by the President of the Institution of Civil Engineers.

(4) Paragraphs (2) and (3) above do not apply where the licence in question is to be granted in accordance with article 7(5) of this Order.

(5) If within three weeks of the receipt by the gas undertakers from the Commissioners of the particulars of any proposed works or dredging the gas undertakers do not require any further particulars to be furnished or in any case where further particulars are required, within two weeks of the receipt thereof by the gas undertakers, the gas undertakers do not intimate that they require conditions to be attached to the licence for such works or dredging, the gas undertakers shall be deemed to have acquiesced in the granting thereof.

(6) Upon the grant of any works licence or dredging licence the Commissioners shall supply to the gas undertakers a copy of the licence and any conditions subject to which it is granted.

Crown rights

9.—(1) Nothing in this Order shall affect 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 Order shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any part 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 department.

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

Savings for Trinity House

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

Signed by the authority of the Secretary of State

H B Wendan-Smith
An Under Secretary in the

Department of Transport
2nd October 1989

EXPLANATORY NOTE

This note is not part of the Order)

This Order amends the borrowing powers of the Commissioners for the Harbour of Cowes contained in section 46 of the Cowes Harbour Act 1897 and, in particular, empowers the Commissioners to borrow sums not exceeding £1 million.

The Order also empowers the Commissioners to grant licences in respect of the carrying out of works and dredging within the harbour.

The applicants for the Order are the Commissioners for the Harbour of Cowes.

(1)

1964 c. 40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c. 56) section 18 and Schedule 6, paragraphs 2 to 4 and 14.

(2)

See section 57(1) of the Harbours Act 1964 and S.I. 1981/238.

(3)

1897 c.cclviii.

(4)

1986 c. 44.

(5)

See 1936 c.lxxx.

(6)

1936 c. 49.

(7)

1963 c. 38.

(8)

1973 c. 37.

(9)

1976 c. 70.

(10)

1989 c. 15.



2001 No. 2183

HARBOURS, DOCKS, PIERS AND FERRIES

The Cowes Harbour (Constitution) Revision Order 2001

Made 14th June 2001
Coming into force 18th June 2001

Whereas the Commissioners for the Harbour of Cowes have applied for a revision order under section 14 of the Harbours Act 1964 (1):

And whereas objections to the application made pursuant to paragraph 3(2)(a) of Schedule 3 to the said Act have been withdrawn.

Now, therefore the Secretary of State for Transport, Local Government and the Regions (being the appropriate Minister under subsection (7) of the said section 14(2), in exercise of the powers conferred by that section and now vested in him(3), and of all other powers enabling him in that behalf, hereby make the following order:-

Citation and commencement

1.—(1) This Order may be cited as the Cowes Harbour (Constitution) Revision Order 2001 and shall come into force on 18th June 2001

(2) The Cowes Harbour Acts and Orders 1897 to 1989 and this Order may be cited together as the Cowes Harbour Acts and Orders 1897 to 2001.

Incorporation of section 60 of the Commissioners Clauses Act 1847

2. Section 60 of the Commissioners Clauses Act 1847(4) shall be incorporated with this Order.

Interpretation

3. In this Order—

“the Commissioners” means the Cowes Harbour Commissioners or, in respect of any period prior to the new constitution date, the Commissioners for the Harbour of Cowes;

“the new constitution date” means 1st July 2001.

Constitution of Commissioners

4.—(1) On and after the new constitution date, the Commissioners for the Harbour of Cowes shall be known as the Cowes Harbour Commissioners and shall, subject to article 7 below, consist of—

(a) nine persons appointed by the Commissioners; and

(b) the Chief Executive for the time being of the Commissioners.

(2) Each Commissioner appointed under paragraph (1)(a) above shall be a person who appears to the Commissioners to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Commissioners of their functions including in particular (but without prejudice to the generality of the foregoing) special knowledge, experience or ability in one or more of the following matters—

(a) water related leisure activities;

(b) shipping or other forms of transport;

(c) financial management;

(d) the laws relating to England;

(e) safety or personnel management;

(f) commercial marketing or information technology;

(g) environmental matters affecting harbours; and

(h) any other skills and abilities considered from time to time by the Commissioners to be relevant to the discharge by them of their functions;

and the Commissioners shall secure, so far as reasonably practicable, that the Commissioners appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by them of their functions.

(3) In making an appointment under paragraph (1) above or article 9 below, the Commissioners shall act in accordance with any guidance issued by the Secretary of State from time to time with respect to the exercise of such functions.

Appointment and terms of office of first Commissioners

5.—(1) The first appointments under article 4(1)(a) above shall be made on, or as soon as reasonably practicable after, 18th June 2001.

(2) The Commissioners shall appoint the person who is, at the date when they make the first appointments under paragraph (1) above, the chairman of the Commissioners to be one of the first of such appointed Commissioners and he shall hold office as a Commissioner from the new constitution date until 30th April 2004; and on and after the new constitution date shall be the chairman of the Commissioners.

(3) Of the remaining first such appointed Commissioners—

(a) three shall hold office from the new constitution date until 30th April 2002;

(b) three shall hold office from the new constitution date until 30th April 2003;

(c) two shall hold office from the new constitution date until 30th April 2004;

as the Commissioners shall specify when they make each of those appointments.

Terms of office of subsequent Commissioners

6. A Commissioner appointed under article 4(1)(a) above (other than a Commissioner appointed under article 5 above) shall, unless appointed to fill a casual vacancy and subject to articles 8 and 10 of, and paragraph 10 of Schedule 2 to, this Order, hold office for a period of three years from 1st May next following his appointment.

Power to co-opt additional Commissioners

7. The Commissioners referred to in article 4(1) above may at any time co-opt not more than two persons to serve as Commissioners for such period not exceeding twelve months as the co-opting Commissioners may specify at the time of co-option.

Declaration to be made by Commissioners

8. No person shall act as a Commissioner until he has made the declaration set out in Schedule 1 to this Order (or a declaration to that effect); and a person shall cease to be a Commissioner if he fails to make that declaration within three months of the date of his appointment.

Casual vacancies

9.—(1) A casual vacancy arising in the office of a Commissioner appointed by the Commissioners shall, unless it is not reasonably practicable to do so, be filled by the appointment of a Commissioner by the Commissioners in accordance with article 4(2) and (3) above.

(2) A Commissioner appointed to fill a casual vacancy under this article shall, subject to articles 8 and 10 of, and paragraph 10 of Schedule 2 to, this Order, hold office during the remainder of the term for which the Commissioner whom he replaces was appointed.

Disqualification of Commissioners

10. If the Commissioners are satisfied that a Commissioner—

- a) has without the permission of the Commissioners been absent from the meetings of the Commissioners—
 - (i) for a period during which three such meetings have been held; or
 - (ii) for a period of three consecutive months, whichever of these periods is the longer; or
- (b) has become bankrupt or made an arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness from discharging the functions of a Commissioner; or
- (d) is otherwise unable, unwilling or unfit to discharge the functions of a Commissioner;

the Commissioners may declare his office as a Commissioner to be vacant and thereupon his office shall become vacant.

Indemnity insurance for Commissioners

11. The Commissioners may enter into, and pay premiums for, a contract of insurance to indemnify the Commissioners jointly or severally against personal liability arising from any act or omission of the Commissioners or of any of them; not being an act or omission which the Commissioner or Commissioners in question knew to be a breach of his or their duty or, concerning which, he or they were reckless as to whether it was such a breach.

Incidental provisions relating to Commissioners

12. On and after the new constitution date the provisions of Schedule 2 to this Order shall have effect with respect to the Commissioners.

Publication of Commissioners' annual statement of accounts

13. As soon as reasonably practicable after their annual statement of accounts is prepared, the Commissioners shall—

- a) make available a copy of the statement for a period of three months at the offices of the Commissioners for inspection free of charge by members of the public and shall, subject to the payment of a reasonable charge, supply a copy of the statement to any person who requests to be supplied with a copy; and
- b) send a copy of the statement to the Isle of Wight Council.

Borrowing powers

REPEALED BY C.H.O. 2012

RPI adjustment of borrowing limits

16.—(1) On each anniversary of the new constitution date the sums mentioned in article 15 above shall be adjusted in line with any movement (calculated to one decimal place) in RPI which occurred during the year ended on 31st December immediately preceding the anniversary in question.

(2) Any adjustment referred to in paragraph (1) above, shall be recorded in the next following annual statement of accounts prepared by the Commissioners.

(3) In paragraph (1) above, "RPI" means the general index of retail prices for all items published in the monthly publication of the Office for National Statistics known as "Monthly Digest of Statistics", or any successor from time to time of that index.

Advisory bodies

17.—(1) The Commissioners shall establish one or more advisory body or bodies which the Commissioners shall consult on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.

(2) The Commissioners shall make arrangements for every such advisory body to meet not less than twice a year.

(3) The Commissioners shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by such an advisory body whether or not that advisory body has been consulted by the Commissioners on the matter, recommendation or representation so referred or made.

(4) The advisory body or bodies established pursuant to this article shall consist of such number or numbers of persons appointed by the Commissioners as the Commissioners shall from time to time consider appropriate.

(5) Appointments to an advisory body established under this article shall be made by the Commissioners in accordance with a scheme prepared by them for that purpose and the scheme shall provide for the appointment of persons who, in the opinion of the Commissioners, are representative of persons having an interest in the functioning of the harbour.

(6) Any such advisory body may determine its own quorum and procedure and shall appoint a chairman.

(7) An individual member of any such advisory body may, on giving notice in writing to the chairman of that body, send a substitute to any meeting of the body.

(8) A member of such an advisory body shall hold office for the period of three years from the date of his appointment and at the end of that period shall be eligible for reappointment.

(9) A member of such an advisory body may resign his office at any time by notice in writing given to the chairman of the Commissioners.

(10) In this article, "the harbour" means the harbour of Cowes and Cowes Roads as defined in section 3, of the Cowes Harbour Order 1931(a).

Repeals and revocations

18. On the new constitution date the enactments mentioned in the first and second columns of Schedule 3 to this Order (which include spent enactments) shall be repealed or revoked to the extent specified in the third column of that Schedule.

Signed by the authority of the
Secretary of State for Transport,
Local Government and the Regions

Stephen Reeves
Head of Ports Division
Department for Transport,
Local Government and the Regions

14th June 2001

SCHEDULES

Article 8

SCHEDULE 1 FORM OF DECLARATION BY COMMISSIONERS

COWES HARBOUR COMMISSIONERS

COWES HARBOUR ACTS AND ORDERS 1897 TO 2001

DECLARATION

I, [FULL NAME] do solemnly declare

- (1) that I will faithfully and impartially, according to the best of my skill and judgement, execute all the powers and authorities vested in me as a Cowes Harbour Commissioner by virtue of the Cowes Harbour Acts and Orders 1897 to 2001;
- (2) that I have read and understood the note entitled "Notes for Guidance of Commissioners on the Disclosure of Financial and Other Interests" and "Duties of Commissioners" and that I will comply with the requirements as to the disclosure of such interests, laid down by paragraph 16 of Schedule 2 to the Cowes Harbour (Constitution) Revision Order 2001, and in particular that:
 - (a) I have disclosed to the Chief Executive details of every financial or other interest such as is mentioned in those notes;
 - (b) I will in future notify the Chief Executive of any alteration in those interests, or any new interest, such as is mentioned in those notes, which I may acquire.

Made and signed in Cowes in the Isle of Wight, on the
..... day of }
..... } (signature)

Witnessed by the Chief Executive
..... }
as a Cowes Harbour Commissioner } (signature)

Note:— Where the declaration is to be made by the Chief Executive, the Form shall be amended so that, for references to "the Chief Executive", there are substituted references to "the Chairman"

SCHEDULE 2
INCIDENTAL PROVISIONS RELATING TO COMMISSIONERS

Appointment of chairman and vice-chairman of Commissioners

1. There shall be a chairman of the Commissioners who shall be appointed by those of the Commissioners who are appointed under article 4(1)(a) or 9 above from among their number.
2. The first chairman appointed under article 5(2) above shall, subject to paragraph 7 below, and unless he resigns his office as chairman or ceases to be a member, continue in office as chairman until his initial term of office as a Commissioner has expired.
3. Subject to paragraph 7 below, every chairman subsequently appointed under paragraph 1 above shall, unless he resigns his office as chairman or ceases to be a Commissioner, hold office for a period of three years.
4. There shall be a vice-chairman of the Commissioners who shall be appointed by those of the Commissioners who are appointed under article 4(1)(a) or 9 above from among their number.
5. The first vice-chairman holding office after the new constitution date shall be appointed as soon as practicable after that date and, subject to paragraph 7 below, shall, unless he resigns his office as vice-chairman or ceases to be a Commissioner, continue in office as vice-chairman until his initial term of office as a Commissioner has expired.
6. Subject to paragraph 7 below, every vice-chairman subsequently appointed under paragraph 4 above shall, unless he resigns his office as vice-chairman or ceases to be a Commissioner, hold office for a period of three years.
7. If those of the Commissioners who are appointed under article 4(1)(a) or 9 above are satisfied that the chairman or vice-chairman should cease to hold his office as such, they may terminate his office as such and appoint another Commissioner to be the chairman or vice-chairman during the remainder of the term for which the former chairman or vice-chairman was appointed.
- 8.—(1) On a casual vacancy occurring in the office of chairman or vice-chairman of the Commissioners, the vacancy shall be filled by those of the Commissioners who are appointed under article 4(1)(a) or 9 above at a meeting held as soon as practicable after the vacancy occurs.

(2) A Commissioner appointed under this paragraph to fill a casual vacancy in the office of chairman or vice-chairman shall, unless he resigns that office or ceases to be a Commissioner, hold that office during the remainder of the term for which the chairman or vice-chairman whom he replaces was appointed.

Meetings of Commissioners

- 9.—(1) The first meeting of the Commissioners after the new constitution date shall be convened as soon as practicable by the Chief Executive for such date as he may fix; and he shall make arrangements for notice of that meeting to be sent by post to each of the other Commissioners.

(2) The Commissioners shall meet at least six times in every year.

Vacation of office by Commissioners

10. A Commissioner (other than the Chief Executive) may resign his office at any time by notice in writing given to the chairman of the Commissioners or, if that Commissioner is the chairman, the vice-chairman.

Reappointment of Commissioners

11.—(1) Subject to the provisions of this Schedule, a vacating Commissioner shall be eligible for reappointment as a Commissioner unless he has been disqualified from office under article 10 above.

(2) A vacating appointed Commissioner shall not be eligible for reappointment as a Commissioner where, immediately before the date in question, he has held office for three consecutive terms unless he is the chairman of the Commissioners.

(3) A chairman of the Commissioners who is an appointed Commissioner shall not be eligible for reappointment as a Commissioner where, immediately before the date in question, he has held office as a Commissioner for four consecutive terms.

(4) For the purposes of this paragraph, “term” does not include—

(a) a term referred to in article 5(3)(a) or (b) above;

(b) the remainder of a term during which the Commissioner was appointed to fill a casual vacancy under article 9 above; or

(c) any term served by the Commissioner prior to the new constitution date.

(5) In this paragraph “appointed Commissioner” means a Commissioner appointed under article 4(1)(a) or (b) above.

Reappointment of chairman

12.—(1) A chairman of the Commissioners shall not be eligible for reappointment as the Chairman where, immediately before the date in question, he has served as chairman for three consecutive terms.

(2) For the purposes of this paragraph, “term” does not include—

(a) a term served by the Commissioner as chairman under paragraph 2 above where that term is less than 3 years;

(b) the remainder of a term during which the Commissioner was appointed to fill a casual vacancy in the office of chairman under paragraph 8 above; or

(c) any term served by the Commissioner as chairman prior to the new constitution date.

Committees

13. The Commissioners may, consistently with their duties and subject to such conditions as they think fit, delegate any of their functions (other than the functions set out in subparagraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964(a) to a committee of the Commissioners.

Proceedings of Commissioners and committees

14. The acts and proceedings of the Commissioners, or of any committee of the Commissioners, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as a Commissioner, or as chairman or vice-chairman, of the Commissioners or committee.

15. The quorum required for a meeting of the Commissioners shall be five.

16.—(1) If a Commissioner has any interest, direct or indirect—

(a) in any contract or proposed contract to which the Commissioners are or would be a party or is a director of a company or body with which the contract or proposed contract is made or proposed to be made; or

(b) in any other matter with which the Commissioners are concerned, he shall declare that interest.

(2) If a Commissioner is present at a meeting of the Commissioners or of any committee of the Commissioners at which a contract or other matter in which he has an interest is to be considered he shall—

(a) as soon as is practicable after the commencement of that meeting disclose his interest;

(b) not vote on any question with respect to that contract or matter; and

(c) withdraw from the meeting—

(i) at any time if the Commissioners present by resolution require him to do so; and

(ii) while a decision on that contract or matter is being made.

(3) This paragraph shall not apply to any interest—

(a) which a Commissioner has in respect of the payment to the Commissioners of harbour dues;

(b) which arises in respect of the provision of harbour services or facilities affecting the trading community in general;

(c) which a Commissioner has as an employee of a public utility undertaking or as a shareholder, not being a director of a company, unless he possesses more than five per cent of the issued share capital of that company; or

(d) which the Commissioners present at the meeting by resolution declare to be too remote.

17. The person for the time being holding office as vice-chairman shall have and may exercise in the absence or incapacity of the chairman all the functions of the chairman.

18. If at any meeting of the Commissioners neither the chairman nor the vice-chairman are present the Commissioners present at the meeting shall choose one of their number to be the chairman of the meeting.

19.—(1) Every question at a meeting of the Commissioners or of a committee of the Commissioners shall be decided by a majority vote of the Commissioners present and voting

(2) If at any meeting of the Commissioners or of a committee of the Commissioners there is an equality of votes on any question the chairman of the meeting shall have a second or casting vote which he may exercise for or against the status quo.

Authentication of seal and other documents

20.—(1) The application of the seal of the Commissioners shall be authenticated by the signature of the chairman of the Commissioners or some other Commissioner authorised by the Commissioners to authenticate the application of the seal, and of the Chief Executive of the Commissioners or some person authorised by the Commissioners to act in his place in that behalf.

(2) The Commissioners may authorise a person to act instead of the Chief Executive under this paragraph whether or not the Chief Executive is absent or incapable of acting.

(3) Any notice, licence or other document given or issued by the Commissioners shall, unless the contrary intention is expressed, be sufficiently authorised if signed by the Chief Executive of the Commissioners or a duly authorised officer of the Commissioners.

Remuneration of Commissioners

21. The Commissioners may pay to the chairman and other Commissioners such salary, allowances and expenses as the Commissioners from time to time determine.

General

22. Subject to the provisions of this Schedule, the procedure and business of the Commissioners and of any committee of the Commissioners shall be regulated in such manner as the Commissioners may from time to time determine.

23. The Commissioners shall appoint a Chief Executive and such other persons as from time to time they think necessary or desirable for and incidental to the performance of their functions and pay to them such remuneration as the Commissioners think fit.

SCHEDULE 3 REPEALS AND REVOCATIONS

| <i>Chapter or number</i> | <i>Short title</i> | <i>Extent of repeal or revocation</i> |
|--------------------------|---|--|
| 1897 c. cc1viii | The Cowes Harbour Act 1897. | In section 2, the words from "The Commissioners Clauses Act" to the words "section 84)". Sections 5 to 29 and 46. |
| 1936 c. 1xxx | Pier and Harbour Order (Cowes) Confirmation Act 1936. | Sections 20, 30 and 31 of the Cowes Harbour Order 1936. |
| S.I. 1985/1504 | The Harbour Authorities (Constitution) Order 1985. | Article 4. |
| S.I. 1988/72 | The Cowes Harbour Revision Order 1988. | The whole Order. |
| S.I. 1989/1941 | The Cowes Harbour Revision Order 1989. | Article 3. |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order renames and reconstitutes the Cowes Harbour Commissioners as from 1st July 2001. It provides for the Commissioners to consist of a body of ten Commissioners with experience in relevant matters. Nine persons will be appointed by the Commissioners. The Chief Executive will also hold office as a Commissioner. Under the terms of the Order the appointed Commissioners will retire in rotation.

The Order also includes other provisions with respect to the Commissioners' constitution including provisions for the co-option of up to two additional Commissioners and for the protection of the Commissioners from personal liability in the discharge of their functions. The Order increases the Commissioners' borrowing powers, amends existing statutory requirements as to the Commissioners' accounts and repeals or revokes certain statutory provisions.



STATURORY INSTRUMENTS

2012 No. 000

HARBOURS, DOCKS, PIERS AND FERRIES

The Cowes Harbour Revision Order 2012

Made - - - - - *10th December 2012*
Laid before Parliament *2012*
Coming into force - - - *7th January 2013*

CONTENTS

PART 1 PRELIMINARY

1. Citation and commencement
2. Interpretation
3. The harbour limits

PART 2 CHARGES

4. Charges for services and facilities
5. Payment of charges
6. Deposit for charges
7. Liens for charges
8. Refusal to pay charges for landing place
9. Recovery of charges
10. Harbour master may prevent sailing of vessels

PART 3
HARBOUR REGULATION

11. General directions as to use of the harbour, etc.
12. Procedure for giving, amending or revoking general directions
13. Publication of general directions
14. Special directions as to use of the harbour, etc.
15. Failure to comply with directions
16. Enforcement of special directions
17. Master's responsibility in relation to directions

PART 4
MISCELLANEOUS AND GENERAL

18. Harbour services and facilities
19. Service of notices and other documents
20. Power to grant tenancies and to dispose of land
21. Commercial activities
22. Liability for safety of goods
23. Removal of goods
24. Removal of vehicles and boats
25. Obstruction of officers
26. Borrowing powers
27. Revocation of byelaws
28. Crown rights
29. Saving for Trinity House

The Cowes Harbour Commissioners have applied in accordance with section 14(2)(a) of the Harbours Act 1964(a) for a harbour revision order under section 14.

The Secretary of State, as the appropriate Minister for the purposes of that section, has by an order(b) under section 42A of the Act(c) delegated the functions of the appropriate Minister under section 14(d) to the Marine Management Organisation(e).

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b) and in exercise of the powers conferred by section 14(1) and (3), makes the following Order.

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Cowes Harbour Revision Order 2012 and shall come into force on 7th January 2013.

(2) The Cowes Harbour Acts and Orders 1897 to 2001 and this Order may be cited together as the Cowes Harbour Acts and Orders 1897 to 2012.

Interpretation

2. In this Order—

“the 1847 Act” means the Harbours, Docks and Piers Clauses Act 1847(f);

-
- (a) 1964 c.40; section 14 was amended by the Transport Act 1981 (c.56), Schedule 6, paragraphs 2 to 4(1) and 14 and Schedule 12 (Part II), by the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 1, by S.I. 2006/1177, regulation 2 and the Schedule (Part I), by the Planning Act 2008 (c.29), Schedule 2, paragraphs 8 and 9, by S.I. 2009/1941, Schedule 1, paragraph 12 and by the Criminal Justice Act 1982 (c.48), sections 37 and 46. Section 54 (orders and regulations) was amended by the Transport Act 1981 (c.56), Schedules 6 and 12 (Part II) and by the Marine and Coastal Access Act 2009 (c.23), Schedule 21, paragraph 3(2).
 - (b) S.I. 2010/674.
 - (c) Section 42A was inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009 (c.23), Schedule 21, paragraph 3(1).
 - (d) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).
 - (e) The Marine Management Organisation was established by the Marine and Coastal Access Act 2009 (c.23), section 1.
 - (f) 1847 c.27.

“the 1897 Act” means the Cowes Harbour Act 1897^(a);

“the 1931 Order” means the Cowes Harbour Order 1931^(b);

“the 1936 Order” means the Cowes Harbour Order 1936^(c);

“the 2001 Order” means the Cowes Harbour (Constitution) Revision Order 2001^(d);

“the Commissioners” means the Cowes Harbour Commissioners under the Cowes Harbour Acts and Orders 1897 to 2012;

“general direction” means a direction under article 11;

“the harbour” means Cowes Harbour as comprised within the harbour limits;

“the harbour limits” means the limits of the harbour specified in article 3;

“the harbour master” means the person appointed as such by the Commissioners and includes his deputies and assistants and any other person for the time being authorised by the Commissioners to act, either generally or for a specific purpose, in the capacity of harbour master;

“the harbour premises” means the quays, piers, landing places and all other works, lands and buildings for the time being vested in, or occupied or administered by, the Commissioners as part of the harbour;

“the high water mark” means the level of mean high water spring tides;

“jet bike” means any watercraft propelled by a water-jet engine or other mechanical means of propulsion and steered —

(a) by means of a handlebar operated linkage system (with or without a rudder at the stern);
or

(b) by the person riding the craft using his body weight for the purpose; or

(c) by a combination of the methods referred to in (a) and (b);

“special direction” means a direction under article 14;

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

“vessel” means a ship, boat, raft or water craft of any description and includes non-displacement craft, a jet bike, seaplane and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle, used or capable of being used as a means of transportation on water; and

“WGS 84” means the World Geodetic System, revised in 1984 and further revised in 2004.

The harbour limits

3.—(1) The limits of the harbour within which the Commissioners exercise jurisdiction as a harbour authority and the powers of the harbour master are exercisable are—

- (a) the limits of the area within a line drawn from a parish boundary marker at 50 degrees 44.022N 01 degrees 16.862W by the north side of a public house called “The Folly” (on the eastern bank of the river Medina), thence on a bearing of 272 degrees to the western bank of that river to a position at 50 degrees 44.025N 01 degrees 17.112W, thence along the line of the high water mark down the western bank of the river Medina and along the harbour to Cowes Castle, thence following the line of the high water mark along the coast to a position in the vicinity of Egypt Point at 50 degrees 46.033N 01 degrees 18.837W, thence to a position in the vicinity of the north west limit of the Cowes Fairway at 50 degrees 46.312N 01 degrees 18.102W, thence to a position in the vicinity of Prince Consort Buoy at 50 degrees 46.413N 01 degrees 17.557W, thence to a position 50

(a) 1897 c.cclviii.

(b) Confirmed by the Pier and Harbour Orders (Cowes and Yarmouth (Isle of Wight)) Confirmation Act, 1931 c.lxxxix.

(c) Confirmed by the Pier and Harbour Order (Cowes) Confirmation Act, 1936 c.lxxx.

(d) S.I. 2001/2183; see article 4 for the constitution of the Cowes Harbour Commissioners.

degrees 46.147 N 01 degrees 16.557 W, thence in a southerly direction to the shore in the vicinity of Old Castle Point at 50 degrees 45.970N 01 degrees 16.557W and thence along the line of the high water mark on the eastern bank of the river Medina to a parish boundary marker at 50 degrees 44. 022N 01 degrees 16.862W by the north side of a public house called "The Folly" (all coordinates in degrees, minutes and decimals of minutes and based on WGS 84 datum); and include—

(b) the extent of those parts of the harbour premises not within that area.

(2) Article 6 (limits of harbour and roads) of the 1931 Order is revoked.

PART 2

CHARGES

Charges for services and facilities

4. In addition to their power to demand ship, passenger and goods dues under section 26 (discretion of harbour authorities as to ship, passenger and goods dues) of the Harbours Act 1964, the Commissioners may demand, take and recover such reasonable charges for services and facilities requested by any party and provided by or on behalf of the Commissioners at the harbour as they may from time to time determine.

Payment of charges

5.—(1) The charges which the Commissioners are authorised to demand, take and recover in respect of vessels and goods under article 4 or any other enactment shall be payable before the removal from the harbour of any vessel or goods in respect of which they are payable, and may be demanded, taken and recovered by such persons, at such places, at such times and under such terms and conditions as the Commissioners may from time to time specify in their published list of charges.

(2) Charges payable to the Commissioners—

(a) in respect of a vessel, shall be payable by the owner or master of the vessel; and

(b) in respect of goods, shall be payable by the owner, consignee or shipper of the goods.

(3) Where charges payable to the Commissioners may be recovered by them from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

(4) Without prejudice to the generality of paragraph (1), the terms and conditions as to the payment of charges which the Commissioners may specify may include the time when a charge falls due for payment and may require such information to be given to the Commissioners by the owner or master of a vessel or a person using a service or facility of the Commissioners as the Commissioners may require in connection with the assessment or collection of a charge.

Deposit for charges

6.—(1) The Commissioners may, if they think fit, require a person who incurs, or is about to incur, a charge to deposit with them, or to guarantee, such sum of money as is, in the opinion of the Commissioners, reasonable having regard to the amount or probable amount of the charge.

(2) Where such a person fails to deposit or guarantee the sum of money required the Commissioners may detain at the harbour the vessel or goods in respect of which the charge has been or will be incurred, until the requirement has been complied with or the charge has been paid.

Liens for charges

7.—(1) A person who by agreement with the Commissioners collects charges on their behalf and who pays, or gives security for the payment of, charges in respect of goods in his possession shall have a lien on those goods for the amount paid or security given in respect of the goods.

(2) An operator of a wharf or quay or carrier who is not himself liable for the payment of charges may pay, or by agreement with the Commissioners give security for the payment of, charges in respect of goods in his custody, and in that event he shall have a like lien on the goods for the amount paid or security given in respect of the goods as he would have in respect of his charges for safe custody or, as the case may be, carriage of the goods.

Refusal to pay charges for landing place

8. The harbour master may prevent a vessel from using a landing place provided by the Commissioners, if the master of the vessel refuses to pay the charges for such use.

Recovery of charges

9. In addition to any other remedy given by this Order and by the 1847 Act as incorporated in the Cowes Harbour Acts and Orders 1897 to 2012 the Commissioners may recover any charges payable to them as a debt in any court of competent jurisdiction (including in a case where the master of a vessel in respect of which a charge is payable to the Commissioners refuses or neglects to pay the same or any part thereof, whether or not the Commissioners' collector has gone on board the vessel and demanded the charge pursuant to section 44 (recovery of tonnage rates by distraint of ship and tackle) of the 1847 Act).

Harbour master may prevent sailing of vessels

10. The harbour master may prevent the removal or sailing from the harbour of any vessel until evidence has been produced to him of the payment of any charges payable in respect of the vessel or of passengers thereon or of the goods imported or exported therein.

PART 3

HARBOUR REGULATION

General directions as to use of the harbour, etc.

11.—(1) The Commissioners may, in accordance with the requirements of article 12, give or amend directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation, the safety of persons and the protection of property, flora and fauna in the harbour.

(2) A direction under this article may, as designated in the direction, apply—

- (a) to all vessels or a class of vessels; or
- (b) all persons or a class of persons; or
- (c) to the whole of the harbour or to a part; or
- (d) at all times or at certain times or at certain states of the tide,

and every direction under this article must specify the extent of its application in relation to the matters referred to in subparagraphs (a), (b), (c) and (d).

(3) The Commissioners may revoke a direction given under paragraph (1).

Procedure for giving, amending or revoking general directions

12.—(1) Subject to paragraph (7), if the Commissioners propose to give, amend or revoke a general direction, they must—

- (a) give notice in writing of the proposal to all member organisations of the advisory committee, the Chamber of Shipping and the Royal Yachting Association and to such other persons as they consider appropriate in respect of the proposal (in this article called “the designated consultees”);
- (b) consult with the designated consultees upon the proposal, including allowing a period of not less than 6 weeks from the date notice has been given by the Commissioners to those consultees for each of them to make written representations to the Commissioners on the proposal;
- (c) have regard to any representations made by the designated consultees during that consultation;
- (d) give notice in writing to the designated consultees, following the consultation, as to whether the Commissioners propose to proceed with the proposal and, if so, specifying whether they are making any modifications to the proposal and their reasons for so doing; and
- (e) if the Commissioners propose to proceed with the proposal and any of the designated consultees has made representations against the proposal, invite each designated consultee who has made such representations, within 28 days from the date of the notice given to him under sub-paragraph (d) or such longer period as may be specified in that notice, to confirm in writing if he maintains an objection to the proposal.

(2) Where the Commissioners have complied with the requirements of paragraph (1) in relation to the proposal, they may proceed with the proposal if—

- (a) none of the designated consultees have made representations against it; or
- (b) none of the designated consultees, having made representations against it, give notice to the Commissioners under paragraph (1)(e) maintaining an objection to the proposal; or
- (c) an objection to the proposal has been maintained but the requirements specified in paragraph (3) have been complied with.

(3) Where a designated consultee has given notice to the Commissioners under paragraph (1)(e) that he maintains an objection to the proposal—

- (a) the issue must be referred to an independent person (“the adjudicator”) to be agreed between the parties to the reference, that is between the Commissioners and each of the designated consultees maintaining an objection to the proposal (“the parties”) or, failing agreement, appointed, on the application of the Commissioners or any such designated consultee, by the President of the London Maritime Arbitrators Association;
- (b) the adjudicator must, so far as is reasonably practicable within three months of the referral, first provide a reasonable opportunity for each of the parties to make representations to or be heard by the adjudicator and then he must make a report in writing to the Commissioners with findings and reasoned recommendations on the issue, a copy of which must also be provided by the adjudicator to the each of the other parties; and
- (c) the Commissioners must decide whether to exercise the power to give, amend or revoke the direction having regard to the report and recommendations contained in the report of the adjudicator (but shall not be bound to give effect to the recommendations) and, once they have so decided, they must give notice in writing to the designated consultees of their decision and of the reasons for that decision.

(4) If the Commissioners wish to exercise the power to give or amend a direction in a form materially different from both the form notified to the designated consultees under paragraph (1)(d) and that recommended by the adjudicator under paragraph (3)(b), they must proceed, unless the designated consultees otherwise agree in writing, as if the proposal is a new proposal to which paragraph (1) applies.

(5) Except as provided in paragraph (3), an adjudicator appointed under that paragraph may determine the procedure for the making of representations and the conduct of any hearing under that paragraph.

(6) The costs incurred by the adjudicator and by each of the parties on any referral under paragraph (3) are to be paid by such one or more of the parties to the referral as the adjudicator may direct.

(7) Subject to paragraph (8), paragraphs (1) to (6) do not apply where the Commissioners propose in the interests of navigational safety to give, amend or revoke a direction under article 11—

- (a) in an emergency; or
- (b) for the purpose of making temporary provision for an intended activity or operation in the harbour which is expected to commence less than 4 months after the Commissioners are notified of, or otherwise becomes aware of, it and to last not more than 28 days and if the Commissioners consider it appropriate to make such provision, after taking into account other activities and operations in the harbour which may be affected by it.

(8) Where pursuant to paragraph (7) the Commissioners proceed to give, amend or revoke a direction without complying with paragraphs (1) to (6), they must—

- (a) give notice of the direction or amendment or revocation of the direction as soon as is practicable to those persons who would otherwise have been designated consultees had paragraph (1)(a) applied; and
- (b) if the Commissioners propose that—
 - (i) the direction or the amendment of a direction is to continue in force after the expiry of the period of three months from the date of that notice; or
 - (ii) in the case of the revocation of a direction, the revoked direction is not to be given again after the expiry of that period,

apply procedures analogous to those specified in paragraphs (1)(b) to (e) and (2) to (6) to the proposal.

(9) In paragraph (1)(a) “the advisory committee” means the Commissioners’ Advisory Committee, appointed by the Commissioners in accordance with article 17 (advisory bodies) of the 2001 Order.

Publication of general directions

13.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction must, except in an emergency, be published by the Commissioners once, as soon as practicable, in a newspaper circulating in the locality of the harbour and must state a place at which copies of the direction, amendment or revocation may be inspected.

(2) In an emergency, notice of the giving of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the Commissioners to be appropriate.

Special directions as to use of the harbour, etc.

14.—(1) The harbour master may give a direction for any of the purposes in subparagraphs (a) to (i) applying to a vessel within the harbour limits or for any of the purposes in subparagraph (a) applying to all vessels or vessels of a particular class within the harbour limits or to persons within the harbour limits specified in the direction—

- (a) requiring compliance with a requirement made in or under—
 - (i) a general direction;
 - (ii) any provision of the Cowes Harbour Acts and Orders 1897 to 2012; or
 - (iii) any byelaw or other local enactment applying to the harbour or to the Commissioners;
- (b) regulating or requiring the movement, berthing, mooring or unmooring of the vessel;
- (c) requiring the removal from any part of the harbour of the vessel if —
 - (i) it is on fire;
 - (ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink, or to constitute a danger to life or property;
 - (iii) it is making an unlawful use of the harbour or interfering with the reasonable use or enjoyment of the harbour by other vessels or persons or the carrying on of business in the harbour;
 - (iv) its removal is necessary to enable maintenance or repair work to be carried out in the harbour or to premises adjacent to the harbour; or
 - (v) its removal is considered by the harbour master to be necessary in order to ensure the safety of persons or the protection of property, flora or fauna in the harbour or of any part of the harbour referred to in paragraph (2);
- (d) regulating the loading, discharging, storing and safeguarding of the cargo, fuel, water or stores of the vessel and the dispatch of its business at the harbour;
- (e) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (f) regulating the speed of the vessel;
- (g) regulating the use of the motive power of the vessel;
- (h) prohibiting or restricting the use of fires or lights; or
- (i) as to the discharge or use of ballast.

(2) A direction under this article may be given in the interests of the conservation of any part of the harbour where that part has been designated, or otherwise has been given special protection or status, under any enactment by reason of its natural beauty, fauna, flora, or archaeological or geological or physiographical features or any other natural features.

(3) A direction under this article may be given in any manner considered by the harbour master to be appropriate and must be addressed to the master where the direction applies to a vessel or vessels.

(4) Where a direction under this article is given to a person or persons the harbour master must, whenever possible, specify the person or persons to whom the direction is addressed, either by name or by a description sufficient to enable the person or persons in question to be readily identified.

(5) The harbour master may revoke or amend a direction given under this article.

Failure to comply with directions

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

(2) In any proceedings for an offence under paragraph (1) it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Enforcement of special directions

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

(2) If there is no one on board a vessel to attend to a special direction, and after reasonable inquiry has been made the master cannot be found, the harbour master may proceed as if the direction had been given and not complied with.

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

Master's responsibility in relation to directions

17. The giving of a general direction or a special direction applying to a vessel or vessels shall not diminish, or in any other way affect, the responsibility of the master of a vessel to which the direction relates in relation to the vessel, to persons on board the vessel, to the cargo or any other person or property.

PART 4

MISCELLANEOUS AND GENERAL

Harbour services and facilities

18.—(1) The Commissioners shall have power to provide, maintain, operate and improve such harbour services and facilities in, or in the vicinity of, the harbour as they may consider necessary or desirable and to take such action as they consider incidental to the provision of such services and facilities.

(2) No provision of the Cowes Harbour Acts and Orders 1897 to 2012 shall prejudice or derogate from the generality of paragraph (1).

Service of notices and other documents

19.—(1) Without prejudice to the discretion of the harbour master under article 14(3) and subject to the following provisions of this article, a notice or other document to be served for the purposes of this Order, must be in writing and may be served by post.

(2) Where the person on whom a notice or other document is to be served for the purposes of this Order is a body corporate, the notice or other document is duly served if it is served on the secretary or clerk of that body.

(3) Where a person on whom a notice or other document is to be served has agreed in writing that service may be by email, or other electronic means, the Commissioners may employ this method of service until such time as the person informs them in writing that he is no longer willing to receive notices or other documents by email or by other electronic means.

(4) For the purposes of section 7 (references to service by post) of the Interpretation Act as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or other document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, his last known address at the time of service.

(5) Where for the purposes of this Order a notice or other document is to be served on a person whose name and address cannot be ascertained after reasonable inquiry—

- (a) in the case of a notice or other document to be served on any person as having an interest in, or as the occupier of, any land, it may be served by—
 - (i) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and

- (ii) either leaving it in the hands of a person who is, or appears to be, resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land;
 - (b) in the case of a notice or other document relating to a vessel (including a wreck), it may be handed to a member of the crew or served by exhibiting it in a conspicuous position on or near the vessel, unless it would not be reasonably practicable to exhibit the notice or other document in this manner, or if the notice or other document would not be likely to be seen if it were so exhibited; and
 - (c) in the case of any other notice or other document or a notice or other document that is not capable of being served pursuant to paragraph (5)(b) it may be served by displaying it at the office of the harbour master while it is in force.
- (6) This article shall not be taken to exclude the employment of service by any other means.

Power to grant tenancies and to dispose of land

20.—(1) The Commissioners may, for the purposes of, or in connection with, the management of the harbour, lease or grant the use or occupation of, or any right or interest in or over, any lands, works, buildings, machinery, equipment or other property forming part of the harbour undertaking for such period, at such rents and other considerations and on such terms and conditions as may be agreed between the Commissioners and the person taking the same.

(2) The Commissioners may also dispose of, or grant the use or occupation of, any property vested in them and held by them for the purposes of the harbour which is no longer required for those purposes.

Commercial activities

21. If it conduces to the efficient and economical performance by the Commissioners of the management of the harbour they may—

- (a) carry on a trade or business of any kind including a trade or business carried on in conjunction with another person; or
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a company for investing in, using or developing for any purpose land, or for carrying on any trade or business of any kind, in the harbour.

Liability for safety of goods

22. The Commissioners shall not be responsible for the safe keeping of goods deposited in any part of the harbour premises not specifically set apart by the Commissioners for the purpose of warehousing.

Removal of goods

23.—(1) If any goods are left on or in any part of the harbour premises the Commissioners may require the owner of the goods to remove them; and if the goods are not removed within six hours after such requirement or, in any case where it is not reasonably practicable to identify or contact the owner of the goods, within six hours after leaving a notice on the goods requiring their removal, the Commissioners may cause them to be removed to their own or any other public warehouse or store; and such removal shall be carried out at the expense and risk of the owner.

(2) When goods are so removed and placed in store on behalf of the Commissioners, they shall be subject to a lien for the expenses of, and incidental to, the removal, and for any charges payable to the Commissioners by the owner in respect of the goods.

(3) The Commissioners may, if they think fit, after giving seven days' notice to the owner of the goods when the owner can be identified and contacted, and must, if so required by the owner of the goods, sell or otherwise dispose of the goods in such manner as they think fit and reimburse

themselves out of the proceeds of sale, and the Commissioners must hold any surplus of such proceeds on trust for the person entitled thereto.

(4) In this article "goods" includes vehicles and equipment.

Removal of vehicles and boats

24.—(1) If-

- (a) a vehicle or boat is left without the permission of the Commissioners—
 - (i) in any place where it is likely to obstruct or interfere with the use of the harbour premises; or
 - (ii) in any part of the harbour premises where the parking of vehicles or boats is prohibited by notice erected by the Commissioners; or
- (b) it appears to the Commissioners that the vehicle or boat has been abandoned in any part of the harbour premises,

the Commissioners may, at the risk of the owner, remove the vehicle or boat or cause it to be removed.

(2) Any notice erected under paragraph (1)(a)(ii) must be conspicuously posted in or close to the place to which it relates.

(3) Where the Commissioners in exercise of the powers of this article remove a vehicle or boat or cause it to be removed, they must as soon as practicable report that fact to a constable or to a police station and the expenses of, and incidental to, the removal of the vehicle or boat shall be recoverable from the person responsible.

(4) For the purposes of paragraph (3) "the person responsible" means—

- (a) the keeper of the vehicle or the owner of the boat at the time when it was put in the place from which it was removed under paragraph (1), or
- (b) if he shows that he was not concerned in, and did not know of, its being put there, the person who put the vehicle or boat in that place.

(5) If the Commissioners in exercise of the powers of this article remove a vehicle or boat to a place not readily visible from the place whence it is so removed they must, if and as soon as it is reasonably practicable to do so, send to the keeper of the vehicle at his last known address, his registered address or the address where the vehicle is ordinarily kept or, as the case may be, to the owner of the boat at his last known address or the address where the boat is ordinarily kept, notice that they have exercised the powers of this article and of the place to which the vehicle or the boat has been removed.

(6) The Commissioners may, if they think fit, after giving seven days notice to the keeper of the vehicle or, as the case may be, the owner of the boat when the keeper or the owner can be identified and contacted, sell or otherwise dispose of the vehicle or boat in such manner as they think fit and reimburse themselves out of the proceeds of sale, and the Commissioners must hold any surplus of such proceeds on trust for the person entitled thereto.

(7) A notice stating the general effect of paragraph (1) must be displayed in a prominent position at each place where a road accessible to vehicles enters any part of the harbour premises.

(8) In this article references to the keeper of the vehicle and his registered address are to the person for the time being registered as the keeper of the vehicle and his address recorded in the register in accordance with regulations under the Vehicle Excise and Registration Act 1994(a)

Obstruction of officers

25.—(1) Any person who—

(a) 1994 c.22.

- (a) intentionally obstructs an officer of the Commissioners acting in pursuance of any provision of the Cowes Harbour Acts and Orders 1897 to 2012; or
- (b) without reasonable excuse fails to comply with a requirement properly made by such an officer; or
- (c) without reasonable excuse fails to give such an officer any information which he may require for the purpose of the performance of his functions,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Any person who in giving information to such an officer, makes a statement which he knows to be false shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Borrowing powers

26.—(1) Subject to paragraph (2), the Commissioners may from time to time borrow upon the security of their assets for the time being or of their revenues or both their assets and their revenues, by any methods they see fit—

- (a) such sums of money as they think necessary not exceeding a multiple of one and a quarter times the total assets less total liabilities of the Commissioners as shown by the most recent audited financial statements of the Commissioners; and
- (b) with the consent of the Secretary of State, such further sums of money as they may require.

(2) In calculating the aggregate sums of money borrowed by the Commissioners under paragraph (1), there shall be excluded any sums borrowed for the purpose of repaying within twelve months of the date of borrowing any sums for the time being outstanding by way of principal on any amount previously borrowed.

(3) Moneys borrowed by the Commissioners under this article must be applied only to purposes to which capital money is properly applicable.

(4) For the purposes of paragraph (3), but without prejudice to the generality of that paragraph, purposes to which capital money is properly applicable include—

- (a) the payment of any interest, falling due within five years immediately following the date of borrowing, on any sum of money borrowed by the Commissioners under this article; and
- (b) the repayment, within twelve months from the date of borrowing, of any sum for the time being outstanding by way of principal on any amount previously borrowed.

(5) Article 14 (borrowing powers) of the 2001 Order is revoked and in article 16(1) of that order for “articles 14 (1)(a) and 15” there shall be substituted “article 15”.

Revocation of byelaws

27.—(1) The Commissioners may from time to time make byelaws solely for the revocation of byelaws previously made under the 1897 Act, the 1931 Order or the 1936 Order in accordance with the procedure in this article rather than the procedure to which those previously made byelaws were subject.

(2) Byelaws made under this article must be made under the common seal of the Commissioners, and shall not have effect until the requirements of this article have been satisfied.

(3) Upon the byelaws having been made, notice of the same must be given in one or more local newspapers circulating in the area to which the byelaws apply.

(4) For at least one month after the making of byelaws, a copy of the byelaws must be deposited at the offices of the Commissioners and must at all reasonable hours be available for public inspection without payment.

(5) The Commissioners must have regard to all representations received during the period when the byelaws have been made available for public consultation, in order to decide whether to confirm the byelaws, with or without amendments, and may fix the date on which the byelaws are due to come into operation and if no date is so fixed the byelaws shall come into operation one month from the date of their confirmation.

(6) A copy of the byelaws, when confirmed by the Commissioners, must be printed and deposited at the offices of the Commissioners, and must at all reasonable hours be available for public inspection without payment.

Crown rights

28.—(1) Nothing in this Order 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 Order shall authorise any person 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 paragraph (1) may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate.

Saving for Trinity House

29. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.

Signed by authority of the Marine Management Organisation

Date

Chief Executive Officer
An authorised employee of the Marine Management Organisation

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the limits of Cowes Harbour (article 3) in place of the limits in article 6 of the Cowes Harbour Order 1931 (confirmed by the Pier and Harbour Orders (Cowes and Yarmouth (Isle of Wight)) Confirmation Act, 1931 (c.lxxxix).

The Order also confers further powers on the Cowes Harbour Commissioners and their harbour master in respect of charges for services and facilities (Part 2), general and special directions for the regulation of the harbour (Part 3), harbour services and facilities (article 18), the granting of tenancies and the disposal of land (article 20), commercial activities (article 21), the removal of goods, vehicles and boats (articles 23 and 24), borrowing (article 26) and the revocation of byelaws (article 27).

A full impact assessment has not been produced for this instrument as the Marine Management Organisation considers the impact on business or the private or voluntary sectors to be minor.