

[26 GEO. 5. & *Sea Fisheries (Truro)* [Ch. lxxxv.]
1 EDW. 8.] *Order Confirmation Act, 1936.*



CHAPTER lxxxv.

An Act to confirm a Provisional Order made by A.D. 1936.
the Minister of Agriculture and Fisheries under
the Sea Fisheries Act 1868 for the regulation
by the Corporation of the city of Truro of an
oyster and mussel fishery in part of the Truro
River in the county of Cornwall.

[31st July 1936.]

WHEREAS under the provisions of the Sea Fisheries 31 & 32 Vict.
Act 1868 the Minister of Agriculture and Fisheries c. 45.
has made an Order which needs confirmation by
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 :—

1. The Order which as amended is set out in the Order in
schedule hereto shall be and the same is hereby confirmed schedule
and all the provisions thereof shall have full validity and confirmed.
force.

2. This Act may be cited as the Sea Fisheries Short title.
(Truro) Order Confirmation Act 1936.

A.D. 1936.

SCHEDULE.

TRURO PORT FISHERY ORDER 1936.

Order for the regulation by the Corporation of the city of Truro of the oyster and mussel fishery in part of the Truro River in the county of Cornwall.

3 Edw. 7.
c. 31.
9 & 10 Geo. 5.
c. 91.

THE Minister of Agriculture and Fisheries in pursuance of the powers vested in him by the Sea Fisheries Act 1868 and the Board of Agriculture and Fisheries Act 1903 the Ministry of Agriculture and Fisheries Act 1919 and all other powers enabling him in this behalf hereby makes the following Order:—

Undertakers. 1. The mayor aldermen and citizens of the city of Truro acting by their council (in this Order called "the Corporation") shall be the undertakers of this Order.

Limits of fishery. 2. The following are the description and limits of the fishery comprised in this Order (as shown on the plan deposited with and sealed by the Minister of Agriculture and Fisheries and marked "Truro Port Fishery Order 1936") (namely):—

All those parts of the bed of Truro River containing an area of 1,743 acres or thereabouts bounded as follows (that is to say) on the south and east by the line of low-water of ordinary or medium tides from the point known as Victoria Point in the parish of Saint Clement in the said county of Cornwall to a point called Messick Point in the parish of Saint Just in Roseland in the same county such boundary being adjacent to the several parishes of Saint Clement Rural Merther Saint Michael Penkivel Lamorran Ruan Laniorne Pilleigh and Saint Just in Roseland respectively in the same county on the south by an imaginary line drawn from the said point called Messick Point to a point on the shore approximately 200 yards south of Penarrow Point in the parish of Mylor in the said county at present marked by a pillar on the west by the line of low-water of ordinary or medium tides from the said point at present marked by a pillar to a point called Sunset in the parish of Kea in the same county such last-mentioned boundary being adjacent to the several parishes of Mylor Feock Perranarworthal and Kea respectively in the same county and on the north by an imaginary line drawn from the said point called Sunset to the said point called Victoria Point.

A.D. 1936.

3. Subject to the provisions contained in article 11 of this Order no person shall dredge or fish for or take oysters or mussels within the said fishery during the months of April May June July August and September in any year.

Dredging for oysters or mussels during certain months prohibited.
Power to close portions of fishery.

4. The Corporation may from time to time make byelaws for closing any portion or portions of the said fishery so far as relates to the fishing for oysters or mussels for such periods as they may deem necessary but subject to the conditions following :—

- (1) No portion shall be closed for a longer continuous period than two years :
- (2) No greater extent in the whole than one third of the oyster beds and one third of the mussel beds respectively shall be closed at any one time :
- (3) One month's previous notice at least of the portion or portions to be closed shall be given by an advertisement in the London Gazette and in some local newspaper and by affixing such notice on the town hall at Truro and in some conspicuous place or places in or adjoining the portion or portions of the fishery proposed to be closed :
- (4) A certificate in writing signed by a secretary or by an assistant secretary of the Minister of Agriculture and Fisheries or by any other person authorised by him in that behalf stating whether any portion or portions is or are or is not or are not or have been or have not been duly closed under the provisions of this Order shall be taken as conclusive evidence of the fact stated in such certificate.

Subject to the provisions contained in article 11 of this Order no person shall dredge fish for or take any oysters or mussels within the said fishery in contravention of any byelaw of the Corporation whereof notice has been given as aforesaid.

Dredging within closed portions prohibited.

5. The Corporation with the approval of the Minister of Agriculture and Fisheries (hereinafter referred to as "the Minister") may make byelaws and regulations for regulating the fishery generally in terms not inconsistent with this Order. Such byelaws and regulations shall be revised from time to time when and as required by the Minister and any byelaw or regulation not so revised may at any time be cancelled by the Minister and shall then cease to have effect.

Power to make byelaws with approval of Minister.

All byelaws and regulations made by the Corporation which are in force in the fishery immediately before the Truro Port Fishery Order 1876 ceases to have effect shall apply to the fishery until revised or cancelled in pursuance of the provisions of this section.

6. No person shall dredge fish for or take oysters or mussels within the said fishery in any boat not licensed in that behalf by the Corporation. Licences in that behalf shall be granted by

Dredging boats to be licensed.

[Ch. lxxxv.] *Sea Fisheries (Truro)* [26 GEO. 5. &
Order Confirmation Act, 1936. 1 EDW. 8.]

A.D. 1936. the Corporation to any person applying for the same on his
 --- paying the tolls in this Order specified and every such licence
 shall include both oyster fishing and mussel fishing.

Office for granting licences. 7. The office for granting licences shall be the office (for the time being) of the town clerk of the city of Truro who shall be entitled to a fee of two shillings and sixpence for preparing and issuing every such licence.

Tolls and fees payable on licences. 8. There shall be paid in respect of such licences and before they are granted the following tolls :—

For a licence for one season (being a period of six months)—	<i>s. d.</i>
For every registered ton the licensed boat is capable of carrying - - - -	3 0
And for every dredge used in such boat -	10 0
For a licence to fish for three months—	
For every registered ton the licensed boat is capable of carrying - - - -	1 0
And for every dredge used in such boat -	10 0

Provided that every licence for a smack shall include the use of one row boat such row boat to be used when fishing only by the regular crew of the smack and fishing shall not be carried on by the crew of the row boat and smack independently at the same time.

Where a licence has been lost or accidentally destroyed a new licence by way of substitution may be issued on the payment of a fee of one shilling.

The person in charge of any boat (not being a row boat belonging to a smack) fishing within the limits of the fishery shall when required by any water bailiff produce the licence of such boat or else desist from fishing until the same is produced.

Taking of small mussels and oysters prohibited. 9. Save as in this Order expressly provided and subject to the provisions contained in article 11 of this Order no person shall at any time remove from the said fishery or from one portion of the fishing grounds to another any mussels of less size than two inches in length or any oyster which will pass through a circular ring of two and five-eighths inches in diameter.

Power reserved to remove brood of mussels and oysters. 10. For the purpose only of better cultivating the fishery the Corporation or any person or persons duly authorised by them may remove any brood of mussels and any spat or small-sized oysters from one portion of the fishery to another at such times as the Corporation may direct.

11. The Minister may from time to time by a certificate under the hand of one of his secretaries or assistant secretaries or other person authorised by him in that behalf repeal alter or vary any of the prohibitions contained in articles 3 4 and 9 of this Order.

A.D. 1936.

Power reserved to cancel or vary prohibitions.

12. The Corporation may from time to time appoint suspend or remove and again appoint a water bailiff or bailiffs to enforce the provisions of this Order and the byelaws and regulations made under this Order and generally to regulate the fishery.

Power to appoint water bailiff.

Every such water bailiff shall have the following powers that is to say he may enter any smack fishing boat or row boat within the limits of the fishery he may examine the catches dredges nets and fishing implements and gear of any such boat he may seize oysters or mussels illegally taken within the limits of the fishery and he may do all other lawful acts for giving effect to the provisions of this Order and the byelaws and regulations made under this Order.

For such purposes he shall be deemed to be a constable and shall have within the fishery the same powers and privileges and be subject to the same liabilities as a constable duly appointed has and is subject to at common law or by statute.

Any person considered by a water bailiff to have offended against any of the provisions of this Order or against any byelaw or regulation made thereunder shall when required by such water bailiff state correctly his name and place of abode.

Any person refusing or omitting when required to state correctly his name and place of abode or wilfully continuing to offend after having been required by a water bailiff to desist may be apprehended by any water bailiff or any person acting by order of a water bailiff and conveyed before a justice of the peace to be dealt with according to law.

13. The whole of the money received by the Corporation from licences tolls fees or otherwise under this Order shall after the repayment to the general rate fund of the city of all expenses incurred in and incidental to the obtaining of this Order be applied to the maintenance and improvement of the fishery in accordance with the provisions of this Order and under the powers and provisions of the Sea Fisheries Act 1868 or in repayment to the Corporation of such sums as they may expend in putting or endeavouring to put the fishery into a more profitable state.

Tolls and fees to be applied in maintaining and improving fishery or in repayment of advances by Corporation.

14. The limits of the said fishery shall be marked out in manner described in article 2 of this Order or in such other manner as the Minister with the consent of the Board of Trade may from time to time direct.

Marking of limits.

[Ch. lxxxv.] *Sea Fisheries (Truro)* [26 GEO. 5. &
Order Confirmation Act, 1936. 1 EDW. 8.]

A.D. 1936.

Works not to be commenced without sanction of Minister and Board of Trade.

15. No buildings erections embankments or other works shall at any time be commenced or executed within the limits above described without the previous sanction and approval in writing of the Minister and the Board of Trade.

Undertakers to give accounts of expenditure and income and other information.

16. The Corporation shall render annually to the Minister on the thirty-first day of August in every year accounts of their expenditure and income under this Order and all other information required by the Minister with reference to the subject of this Order in such form as the Minister may from time to time require and shall allow the Minister or any person appointed by him to inspect the fishery and all books accounts and other documents in the possession of the Corporation relative to the fishery and shall give to the Minister or such person all such information relating thereto as he may require.

Power to grant several oyster and mussel fishery within the prescribed limits reserved.

17. The Minister may at any time make a grant or grants of a several oyster and mussel fishery of any ground within the limits comprised within this Order and all the powers and provisions contained in this Order shall be subject to the power of the Minister to make such grant and to any alterations which may be consequent on such grant or on any order made in pursuance of such grant.

Duration of Order.

18. This Order shall continue in operation for sixty years from its confirmation by Act of Parliament and no longer.

Power to revise tolls with consent of Minister.

19. The Corporation may but not without the consent of the Minister from time to time revise the tolls leviable under this Order either by increasing or diminishing the amount thereof or by varying the mode and times in and for which the same are levied or otherwise. Provided that public notice of such revised tolls shall be given either by advertisement or otherwise in such manner as the Minister shall direct.

Crown rights.

20. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to 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 the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Saving rights of Harbour Commissioners.

21. Nothing in this Order contained shall prejudice or affect the powers conferred on the Falmouth Harbour Commissioners by the Falmouth Harbour Order 1870 or any other rights or powers vested in or exercisable by them.

[26 GEO. 5. & *Sea Fisheries (Truro)* [Ch. lxxxv.]
1 EDW. 8.] *Order Confirmation Act, 1936.*

22. Nothing in this Order contained or in the byelaws or regulations made thereunder shall preclude the members of the local fisheries committee of the Cornwall sea fisheries district and their servants or agents from having access at all reasonable times to the area within the limits of the fishery or to preclude the fishery officer of the said local fisheries committee from entering any smack fishing boat or row boat within the limits of the fishery and examining the catches dredges nets and fishing implements and gear of any such boat.

A.D. 1936.
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Rights of inspection by Cornwall sea fisheries committee and their servants or agents.

23. This Order may be cited as the Truro Port Fishery Order 1936.

Short title.

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