

ELIZABETH II



1963 CHAPTER xxvi

An Act to vary certain tolls leviable by the Great Yarmouth Port and Haven Commissioners; to confer further powers upon the Commissioners; and for other purposes. [31st July 1963]

WHEREAS the Great Yarmouth Port and Haven Commissioners (hereinafter referred to as "the Commissioners") were incorporated by the Great Yarmouth Port and Haven Act, 1866, and under the powers conferred upon them by the Great Yarmouth Port and Haven Acts and Orders, 1866 to 1962, are the authority for the conservation and improvement of the port and haven of Great Yarmouth:

And whereas it is expedient to empower the Commissioners to demand and take tolls as in this Act provided:

And whereas it is expedient that the powers in this Act contained should be conferred upon the Commissioners and that the other provisions in this Act contained should be enacted:

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 this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) This Act may be cited as the Great Yarmouth Port and Haven Act 1963.

Short and collective titles.

(2) The Great Yarmouth Port and Haven Acts and Orders, 1866 to 1962, and this Act may be cited together as the Great Yarmouth Port and Haven Acts and Orders 1866 to 1963.

Interpretation.

2.—(1) In this Act, unless there be something in the subject or context repugnant to such construction—

“ Act of 1948 ” means the Great Yarmouth Port and Haven Act, 1948;

“ the Commissioners ” means the Great Yarmouth Port and Haven Commissioners;

“ enactment ” means any enactment, whether public general or local and includes any order, byelaw, regulation or other instrument having effect by virtue of an enactment;

“ hire pleasure boat ” means in any year as defined in subsection (4) of section 4 (Declaration to be made by owner of private pleasure boat) of this Act any pleasure boat which is let, lent, hired or engaged for gift, pay, hire or reward or promise of payment or carries or conveys passengers for a charge or payment in that year;

“ pleasure boat ” means any yacht, sailing boat, motor boat, rowing boat, rowing punt or other vessel, not being a vessel used solely as a tug or wholly or mainly for the carriage of animals, fish or goods, and includes any house-boat or hulk used as a house-boat;

“ port ” means the port of Great Yarmouth as defined by section 4 (Limits of the port of Great Yarmouth) of the Great Yarmouth Port and Haven Act, 1866;

“ private pleasure boat ” means any pleasure boat not being a hire pleasure boat;

“ the river Yare ”, “ the river Bure ” and “ the river Waveney ” have the same respective meanings as in the Great Yarmouth Port and Haven Act, 1866;

“ toll ” has the same meaning as in the Act of 1948.

(2) The definition of “ vessel ” in paragraph (a) of subsection (2) of section 2 (Interpretation) of the Act of 1948 shall include a hover vehicle being a vehicle designed to be supported on a cushion of air.

(3) The expression “ pleasure boat ” in subsection (1) of section 25 (Power to enter and inspect pleasure boats) of the Great Yarmouth Port and Haven Act, 1951, shall have the meaning assigned to that expression in subsection (1) of this section and accordingly subsection (2) of the said section 25 is hereby repealed.

(4) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended, or varied by, or by virtue of, any subsequent enactment, including this Act.

3.—(1) On and after the twenty-fifth day of March, nineteen hundred and sixty-four, the Commissioners may demand, take and

River tolls
on pleasure
boats.

recover any sums not exceeding the several tolls respectively specified in the schedule to this Act for or in respect of—

- (a) all pleasure boats navigating or using or moored in the rivers Yare, Bure or Waveney, or any part of any of such rivers, or navigating or using any part of Oulton Broad or Oulton Dyke; and
- (b) all passengers carried or conveyed for a charge or payment in any hire pleasure boat, not being an open rowing boat or rowing punt, on any part of the said rivers:

Provided that the tolls in respect of passengers shall be and become payable, at the option of the Commissioners, at the place on any of the said rivers where such passengers are landed or embarked or where the pleasure boat first touches after entering any of the said rivers.

(2) The Great Yarmouth Port and Haven Order, 1956 and the Great Yarmouth Port and Haven Order, 1962 shall have effect as if the definition of "river tolls" in subsection (1) of section 3 (Interpretation) of each of those Orders included a reference to the tolls payable under this section and the schedule to this Act.

4.—(1) At the time when or before any toll authorised by this Act in respect of a private pleasure boat or any composition for the time being payable in lieu thereof is paid in any year the owner of the pleasure boat shall, if so required by the Commissioners, make a declaration in a form to be approved by the Commissioners stating that to his best knowledge and belief the pleasure boat will not be let, lent, hired or engaged for gift, pay, hire or reward or promise of payment in that year, or used for the carriage or conveyance of passengers for a charge or payment, and undertaking that if it is so let, lent, hired, engaged or so used within the area within which tolls are payable to the Commissioners he will notify the Commissioners forthwith in writing to that effect.

Declaration
to be made by
owner of
private
pleasure boat.

(2) Where a pleasure boat in respect of which a declaration under subsection (1) of this section has been made in any year is let, lent, hired or engaged for gift, pay, hire or reward or promise of payment or used for the carriage or conveyance of passengers for a charge or payment in that year the Commissioners may demand, take and recover from the owner of the pleasure boat such further sum as would have been payable by the owner if the pleasure boat had been charged in that year as a hire pleasure boat instead of a private pleasure boat.

(3) If any person makes a declaration in any year in accordance with subsection (1) of this section in respect of a pleasure boat and such pleasure boat is subsequently let, lent, hired or engaged for gift, pay, hire or reward or promise of payment or used for the carriage or conveyance of passengers for a charge or payment in

that year and such person fails to notify the Commissioners thereof in accordance with his undertaking in that declaration he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(4) In this section the expression "year" means a year commencing on the 25th day of March and ending on the next ensuing 24th day of March.

Appointment
of
representatives
of owners of
private and
hire pleasure
boats to
rivers
committees.

5.—(1) (a) On or before the twenty-fifth day of March, nineteen hundred and sixty-four and on or before the same day in every third year thereafter the Commissioners shall, after consulting with such body or bodies as shall appear to the Commissioners to represent for the time being (i) owners of private pleasure boats and (ii) owners of hire pleasure boats, appoint two persons to act as members (in this section referred to as "additional members") of the committees of the rivers Yare, Bure and Waveney created by section 38 (As to separate committees with respect to rivers Yare, Bure and Waveney) of the Great Yarmouth Port and Haven Act, 1911, or, where such separate committees have been amalgamated in pursuance of section 5 (Power to amalgamate committees with respect to rivers Yare, Bure and Waveney) of the Act of 1948, of the separate committee created by such amalgamation.

(b) One additional member shall be appointed from among persons nominated by the body or bodies representing the owners of private pleasure boats consulted by the Commissioners and the other additional member shall be appointed from among persons nominated by the body or bodies representing the owners of hire pleasure boats consulted by the Commissioners :

Provided that if in either case no person is so nominated the Commissioners shall appoint such person as they think fit to represent the owners of private pleasure boats or the owners of hire pleasure boats as the case may be.

(2) An additional member shall act as such for a period of three years commencing on the twenty-fifth day of March in the year of his appointment and shall be eligible for reappointment for any succeeding period of three years. An additional member shall have the same rights and duties in relation to the work of the said rivers committees as the other members thereof.

(3) The Commissioners may terminate the appointment of an additional member for conduct which in their opinion renders him unfitted to be an additional member and he shall thereupon cease to be a member of the said rivers committees.

(4) If an additional member dies, or resigns or becomes incapacitated or has his appointment terminated in pursuance of subsection (3) of this section, or for some other reason ceases to act as a member of the said rivers committees, the Commissioners shall,

as soon thereafter as conveniently may be, and after consultation with the appropriate body or bodies referred to in subsection (1) of this section, appoint in accordance with the provisions of that subsection a further person to act as an additional member in his place for the remainder of the period of his appointment :

Provided that the Commissioners shall not be required to appoint a further person if the remainder of such period is less than six months.

6.—(1) Subject to the provisions of subsection (2) of this section, every pleasure boat being navigated or used within the limits of the port shall be deemed to be in charge of one person who shall be in every case the registered owner of such boat under the byelaws of the Commissioners for the time being in force or the person duly appointed or permitted by him to be in charge of, or the person hiring, such boat.

Every pleasure boat to be deemed to be in charge of one person.

(2) Any person having possession of a pleasure boat without the knowledge or consent of the registered owner shall be deemed to be in charge of such boat.

7. The person for the time being in charge of any pleasure boat being navigated within the limits of the port shall be responsible for the navigation of such boat in accordance with the Acts and Orders from time to time relating to the Commissioners and the byelaws made by the Commissioners and for the time being in force, and if any complaint is made to the Commissioners as to the navigation of such pleasure boat the person in charge shall upon the application in writing to him by the clerk to the Commissioners give all information in his power to the clerk as to the person who at any particular time had the control of the navigation of such boat.

Person in charge of boat to be responsible for navigation.

If the person in charge refuses or fails to give such information as would enable the clerk to the Commissioners to identify the person who at any particular time had the control of the navigation of such boat he shall be guilty of an offence unless he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the name and address of the person who had the control of the navigation of such boat and shall for every such offence be liable on summary conviction to a fine not exceeding twenty pounds.

8. If any person holding a certificate of registration of a pleasure boat under the byelaws of the Commissioners for the time being in force be convicted of any offence against the byelaws of the Commissioners relating to navigation or registration, after having been previously convicted of any offence against the same, such certificate shall forthwith cease to be of any force, and it shall be in the discretion of the Commissioners whether or not they will grant a fresh certificate to such person. And if there be two convictions of offences against those byelaws arising out of the navigation of any one and the same pleasure boat in respect of

Offences against byelaws.

which there is a certificate for the time being in force such certificate shall forthwith cease to be of any force and it shall be in the discretion of the Commissioners whether or not they will grant a fresh certificate in respect of such pleasure boat:

Provided that—

- (i) any conviction that took place more than five years previously to the second or subsequent conviction shall be disregarded for the purposes of this section ; and
- (ii) where by reason of the provisions of this section a certificate of registration of a pleasure boat has ceased to be of any force and the Commissioners have refused to grant a fresh certificate in respect of such pleasure boat any person deeming himself aggrieved by such refusal may appeal to a magistrates' court and if the court decides having regard to all the circumstances of the case that such refusal is unreasonable the Commissioners shall forthwith upon payment by such person of such registration fee and toll as may be due re-register such pleasure boat.

9.—(1) If, after receiving and considering any complaint made to the Commissioners respecting the navigation or use on the rivers Yare, Bure or Waveney of any pleasure boat, or if, after receiving and considering a report from any of their officers, servants or agents authorised generally or in any particular case by the Commissioners to examine, and who shall have examined, such pleasure boat, and after affording the owner thereof an opportunity of being heard, the Commissioners are of the opinion that in the interest of the safety of navigation in, or of the amenity of, the said rivers such pleasure boat should not be registered or continue to be registered with them, the Commissioners may, notwithstanding anything contained in the Acts and Orders from time to time relating to the Commissioners or any byelaws of the Commissioners for the time being in force, refuse to register such pleasure boat or may cancel the certificate of registration thereof and thereupon such certificate shall cease to be of any force.

(2) Any such owner deeming himself aggrieved by any such refusal or cancellation may appeal therefrom to a magistrates' court for any area which includes any part of the Port and if the court decides that such refusal or cancellation is unreasonable the Commissioners shall forthwith upon payment by such person of such registration fee and toll as may be due register or re-register such pleasure boat.

As to appeals.

10.—(1) The time within which any appeal to a magistrates' court under the provisions of section 8 (Offences against byelaws) or section 9 (Power to refuse or cancel registration of pleasure boats) of this Act may be brought shall be twenty-one days from the date on which notice of the refusal or decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

Power to
refuse or
cancel
registration
of pleasure
boats.

(2) In any case where such an appeal lies, the document notifying to the person concerned the decision of the Commissioners in the matter shall state the right of appeal to a magistrates' court and the time within which such an appeal may be brought.

(3) Where a person aggrieved by any order, determination or other decision of a magistrates' court under the provisions of the said section 8 or the said section 9 is not by any other enactment authorised to appeal to a court of quarter sessions, he may appeal to such a court.

(4) Where upon an appeal under the said section 8 or the said section 9 a court varies or reverses any decision of the Commissioners it shall be the duty of the Commissioners to give effect to the order of the court and, in particular, to grant or issue any necessary certificate and to make any necessary entry in any register.

11.—(1) In case any complaint shall be made to the Commissioners as to the navigation of any pleasure boat registered under the byelaws of the Commissioners for the time being in force then the registered owner of such boat under those byelaws shall upon the application in writing to him by the clerk to the Commissioners for that purpose give all information in his power to the clerk as to the person who at any particular time was in charge of such boat.

Owner of pleasure boat to afford information as to person in charge.

(2) If any such registered owner refuses or fails to give such information as would enable the clerk to the Commissioners to identify the person who at any particular time was in charge of such boat he shall be guilty of an offence unless he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the name and address of such person and shall for every such offence be liable on summary conviction to a fine not exceeding twenty pounds.

12.—(1) Section 84 of the Harbours, Docks and Piers Clauses Act, 1847 in its application to the Commissioners shall have effect as if for the words "five pounds" there were substituted the words "twenty pounds" and as if after the words "for each breach of such byelaws" there were inserted the words "and in the case of a continuing offence a fine not exceeding two pounds for each day on which the offence is continued after conviction thereof".

Byelaws.

(2) Section 11 (Byelaws) of the Great Yarmouth Port and Haven Act, 1907 shall have effect as if for the words "five pounds" there were substituted the words "twenty pounds".

13. Sections 28, 99 and 100 of the Harbours, Docks and Piers Clauses Act, 1847 are hereby incorporated with and form part of this Act.

Incorporation of provisions of Harbours, Docks and Piers Clauses Act, 1847.

Repeal.

14. As from the twenty-fifth day of March, nineteen hundred and sixty-four the following enactments are hereby repealed:—

The Great Yarmouth Port and Haven Order, 1950—

Paragraphs (b), (c) and (d) of section 7 (River tolls on vessels animals fish and goods) and so much of the proviso to the said section as relates to passengers;

Paragraphs 3, 4 and 5 of the schedule;

The Great Yarmouth Port and Haven Act, 1951—

Section 24 (Increase of certain tolls in schedule to Order of 1950);

The Great Yarmouth Port and Haven (Revision of Charges) Order, 1960—

The whole Order.

Costs of Act.

15. All costs, charges and expenses of and incident to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Commissioners.

SCHEDULE

Section 3

1. *Tolls chargeable in respect of pleasure boats—*

(a) For every private pleasure boat, not being a hover vehicle or an open rowing boat or rowing punt, navigating or using or moored in the rivers Yare, Bure or Waveney, or any part of any of such rivers, or navigating or using any part of Oulton Broad or Oulton Dyke—

	£	s.	d.
If propelled by mechanical power—			
For the first ton or part thereof	3	0	0
For the second ton or part thereof	1	10	0
For each additional ton or part thereof	1	0	0
Provided that the maximum toll shall not exceed £22. 10s. 0d. per annum.			

If propelled otherwise than by mechanical power or used as a houseboat—

For the first ton or part thereof	2	0	0
For the second ton or part thereof	1	0	0
For each additional ton or part thereof	10	0	0
Provided that the maximum toll shall not exceed £12 per annum.			

(b) For every private pleasure boat, being an open rowing boat or rowing punt, navigating or using or moored in the rivers Yare, Bure or Waveney, or any part of any of such rivers, or navigating or using any part of Oulton Broad or Oulton Dyke

per annum 1 0 0

(c) For every hire pleasure boat, not being a hover vehicle or an open rowing boat or rowing punt, navigating or using or moored in the rivers Yare, Bure or Waveney, or any part of any of such rivers, or navigating or using any part of Oulton Broad or Oulton Dyke—

The respective tolls specified in sub-paragraph (a) of this paragraph increased by twenty-five per centum in each case.

(d) For every hire pleasure boat, being an open rowing boat or rowing punt, navigating or using or moored in the rivers Yare, Bure or Waveney, or any part of any of such rivers, or navigating or using any part of Oulton Broad or Oulton Dyke—

The respective tolls specified in sub-paragraph (b) of this paragraph increased by twenty-five per centum in each case.

(e) For every pleasure boat, being a hover vehicle, navigating or using or moored in the rivers Yare, Bure or Waveney, or any part of any of such rivers, or navigating or using any part of Oulton Broad or Oulton Dyke—

Such charges as may be approved by the Minister.

(For the purposes of this paragraph a year shall be deemed to commence on the 25th day of March and end on the next ensuing 24th day of March, and the above tolls shall be due and payable on the day in each year on which the pleasure boat shall for the first time be navigated, used or moored in that year on any part of the rivers Yare, Bure or Waveney or on any part of Oulton Broad or Oulton Dyke.)

2. *Tolls chargeable in respect of passengers—*

For every hire pleasure boat, not being an open rowing boat or rowing punt, navigating or using any part of the rivers Yare, Bure or Waveney and carrying or conveying passengers thereon, in addition to the tolls set out in sub-paragraph (c) of paragraph 1 of this schedule—

£ s. d.

In respect of every passenger so carried or conveyed .. 2½

(This toll shall be due and payable once only in respect of the same passenger carried or conveyed on the same day on the same vessel on any part of any of the said rivers.)

Table of Statutes referred to in this Act

Short title	Session and chapter
Harbours, Docks and Piers Clauses Act, 1847 ..	10 & 11 Vict. c. 27.
Great Yarmouth Port and Haven Act, 1866 ..	29 & 30 Vict. c. ccxlvii.
Great Yarmouth Port and Haven Act, 1907 ..	7 Edw. 7 c. xlii.
Great Yarmouth Port and Haven Act, 1911 ..	1 & 2 Geo. 5 c. xcix.
Great Yarmouth Port and Haven Act, 1948 ..	11 & 12 Geo. 6 c. xlvi.
Great Yarmouth Port and Haven Act, 1951 ..	14 & 15 Geo. 6 c. xxvii.

PRINTED BY METCALFE & COOPER LIMITED FOR
PERCY FAULKNER, C.B.

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

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 1s 0d net

PRINTED IN ENGLAND



Great Yarmouth Port and Haven Act 1963

CHAPTER xxvi.

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