

ELIZABETH II



1970 CHAPTER liii

An Act to re-enact with amendments certain enactments relating to the Brixham, Paignton and Torquay harbours; to extend the limits of the harbours and to provide for one harbour for Tor Bay; to confer powers for the administration, management and control of the harbour upon the mayor, aldermen and burgesses of the county borough of Torbay; and for other purposes.

[23rd July 1970]

WHEREAS—

(1) By virtue of the Torbay Order 1966 (hereinafter referred to S.I. 1967/136. as “the Order of 1966”), the county borough of Torbay (hereinafter referred to as “the borough”) was constituted on the 1st April, 1968:

(2) The borough council of Torquay and the urban district councils of Brixham and Paignton were harbour authorities immediately before 1st April, 1968, and pursuant to the Order of 1966 the council of the borough was made the harbour authority responsible for the three harbours:

(3) It is expedient for the limits of the existing harbours to be amalgamated to form one harbour and at the same time to extend the limits of the harbour and enlarge in various respects the powers of the harbour authority and to make further provision in regard to the administration, management and control of the harbour:

(4) It is expedient that the other provisions contained in this Act should be enacted:

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

1933 c. 51. (6) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

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

PART I

PRELIMINARY

Short title and commencement.

1.—(1) This Act may be cited as the Tor Bay Harbour Act 1970.

(2) Save as otherwise expressly provided the provisions of this Act shall come into force on the 1st April, 1971.

Division of Act into Parts.

2. This Act is divided into Parts, as follows:—

Part I.—Preliminary.

Part II.—Duties and powers of harbour authority.

Part III.—Charges.

Part IV.—Handling and warehousing of goods.

Part V.—Byelaws and regulations.

Part VI.—Miscellaneous and general.

Incorporation of Act. 1847 c. 27.

3.—(1) The provisions of the Harbours Clauses Act 1847 (except sections 6 to 13, 18, 19, 23, 25, 26, 28, 42, 43, 50, 73, 83

to 90, 95, 97, 98 and 101) so far as they are applicable for the purposes of, and are not inconsistent with or varied by this Act, are hereby incorporated with and form part of this Act.

PART I
—cont.

(2) In construing the provisions as so incorporated—

(a) the expression “the special Act” shall mean this Act, the expressions “the promoters of the undertaking” and “the undertakers” shall mean the harbour authority and the expression “the harbour dock or pier” shall mean the harbour;

(b) section 33 shall not be construed as derogating from the power of the harbour authority to discontinue any part of the undertaking;

(c) section 52—

(i) shall extend to empower the harbour master to give directions as to the areas, routes or channels in the harbour which vessels, or particular classes of vessels, are to use or refrain from using for movement or moorings;

(ii) shall not be construed to require the harbour master in emergency to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section, but in pursuance of that section, for all or any of the purposes thereof, the harbour master shall be entitled in emergency to give general directions applicable to all vessels or to particular classes of vessels; and

(d) section 53 shall not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel and such directions may be given orally or otherwise communicated to the master.

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

Interpreta-
tion.

“the Act of 1936” means the Public Health Act 1936; 1936 c. 49.

“the Act of 1960” means the Road Traffic Act 1960; 1960 c. 16.

“the Act of 1964” means the Harbours Act 1964; 1964 c. 40.

“the borough” means the county borough of Torbay;

“charges” includes charges, fares, rates, tolls and dues of every description for the time being payable to the harbour authority under any enactment;

“collector” means collector of charges and includes his duly authorised deputies and assistants;

“the Corporation” means the mayor, aldermen and burgesses of the borough acting by the council;

PART I
—cont.

1952 c. 44.

- “ the council ” means the council of the borough;
- “ daily fine ” means a fine for each day on which an offence is continued after conviction;
- “ duties of customs or excise ” include any tax, levy, surcharge or any other sum to the collection of which the general provisions of the Customs and Excise Act 1952 relating to customs or excise have been applied by statute;
- “ the electricity board ” means the South Western Electricity Board;
- “ enactment ” means any Act, whether public general or local, and any order or other instrument made thereunder and any provision in any Act or in any such order or instrument;
- “ fish ” includes molluscs and crustaceans;
- “ the gas board ” means the South Western Gas Board;
- “ the generating board ” means the Central Electricity Generating Board;
- “ goods ” includes fish, livestock and animals of all descriptions;
- “ harbour ” means the limits of the harbour within the meaning of section 5 (Limits of harbour) of this Act which limits are bounded by a dark blue line delineated on the signed map, and, so far as the same is not within that area, also includes the harbour estate;
- “ the harbour authority ” means the Corporation;
- “ harbour estate ” means the piers, wharves, quays, berths, roads, sheds and other works and conveniences, and the lands, buildings and property of every description, and of whatever nature, which are for the time being vested in or occupied by the Corporation as harbour authority and used for the purpose of the harbour undertaking;
- “ harbour master ” means the harbour master appointed by the harbour authority and includes his authorised deputies and assistants and any person authorised by the harbour authority to act in that capacity;
- “ the harbour undertaking ” means the undertaking of the Corporation authorised by this Act;

- “ Harbours Clauses Act 1847 ” means the Harbours Docks and Piers Clauses Act 1847; PART I
—cont.
1847 c. 27.
- “ hovercraft ” has the same meaning as in the Hovercraft Act 1968; 1968 c. 59.
- “ hydrofoil vessel ” means a vessel, however propelled, designed to be supported on foils;
- “ land ” includes land covered with water;
- “ level of high water ” means the level of mean high water springs;
- “ low water ” means mean low water springs;
- “ magistrates’ court ” has the same meaning as in the Magistrates’ Courts Act 1952; 1952 c. 55.
- “ master ” in relation to a vessel, means any person having or taking the command, charge or management of the vessel;
- “ the Minister ” means—
- (a) in relation to the area described in Part II of Schedule 1 to this Act and such parts of the harbour estate as are situate within the former urban district of Brixham and are adjacent to or used in connection with the said area, the Minister of Agriculture, Fisheries and Food;
- (b) in any other case, the Minister of Transport;
- “ mooring ” includes any buoy, post, chain, pillar or like apparatus or convenience used for the mooring of vessels;
- “ owner ” when used with reference to any vessel includes the owner, agent, master, charterer or other person in charge of the vessel, and when used with reference to goods includes the owner, agent, consignor, shipper, consignee or other person in charge of the goods and their respective agents in relation thereto;
- “ pleasure craft ” means any vessel of not more than 100 tons gross used wholly or mainly for recreation or for the carriage of passengers for reward and includes pleasure boats;

PART I
—cont.

“ seaplane ” includes a flying boat and any other aircraft designed to manoeuvre on the water but does not include a hovercraft;

“ the signed map ” means the map signed in quintuplicate by Sir Knox Cunningham the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred, one copy of which map has been deposited in each of the following offices:—

(a) the office of the Clerk of the Parliaments, House of Lords;

(b) the Private Bill Office of the House of Commons;

(c) the principal office of the harbour authority;

(d) the office of the Ministry of Transport;

(e) the office of the Ministry of Agriculture, Fisheries and Food;

“ tidal work ” means so much of any work belonging to the harbour authority as is on, under or over tidal waters or tidal lands below the level of high water and existing at the commencement of this Act;

“ town clerk ” means the town clerk of the borough;

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

“ vessel ” has the meaning assigned thereto by subsection (2) of this section;

“ the water board ” means the South West Devon Water Board;

“ works ” means works of every description other than moorings laid down for pleasure craft.

(2) In this Act and the enactments incorporated therewith “ vessel ” means every description of vessel, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water and—

(a) without prejudice to the generality of the foregoing, includes a hovercraft on, in or over the water; and

(b) except for the purpose of levying rates, includes a seaplane on or in the water.

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

5.—(1) The limits of the harbour shall comprise the areas in Parts I and II of Schedule 1 to this Act.

PART I
—cont.

(2) Copies of the signed map deposited in pursuance of this Act in the principal office of the harbour authority certified by the town clerk to be true shall be received in all courts of justice and elsewhere as evidence of the contents of the signed map.

Limits of
harbour.

(3) So much of the land within the limits of the harbour referred to in subsection (1) of this section as is not within the borough shall for all purposes be deemed to be within the borough, the parish of Torquay and the petty sessional division of Torbay and to be within the Torwood Ward.

PART II

DUTIES AND POWERS OF HARBOUR AUTHORITY

6.—(1) It shall be the duty of the harbour authority, subject to the provisions of this Act, to provide, conserve, maintain and improve the harbour and the services and facilities afforded therein, or in connection therewith, as the harbour authority consider necessary or desirable and to take such action as they consider incidental to the provision of the harbour and such services and facilities.

General
duties and
powers.

(2) For those purposes, and without prejudice to the generality of the foregoing, the harbour authority shall have power to—

- (a) take such action and do all things which in their opinion are expedient, necessary or desirable for the proper development or operation of their harbour undertaking;
- (b) improve, maintain, regulate, manage, mark and light the harbour.

(3) Particular powers conferred or particular duties laid upon the harbour authority by this Act shall not be construed as derogating from each other or from the generality of subsections (1) and (2) of this section.

Harbour
authority to
be local
lighthouse
authority.
1894 c. 60.

7. The harbour authority shall within the harbour be a local lighthouse authority for the purposes of the Merchant Shipping Act 1894.

8.—(1) The harbour authority, by means of an order made by the harbour authority and submitted to and confirmed by the Minister, may be authorised to purchase land within the borough compulsorily for the purposes of the harbour undertaking.

Purchase of
land for
harbour
undertaking.

(2) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply to the compulsory purchase of land under

1946 c. 49.

PART II
—cont.

this section and accordingly shall have effect as if this section were an enactment contained in a public general Act and in force immediately before the commencement of that Act.

(3) (a) In this section “land” includes easements and rights in respect of land and the harbour authority may be authorised under this section to acquire compulsorily such easements or rights only as they may require without purchasing any other interest in the land.

1946 c. 49.

(b) In relation to the compulsory acquisition of any such easements or right the Acquisition of Land (Authorisation Procedure) Act 1946, and the enactments incorporated therewith shall have effect as if references (whatever the terms used) to the land comprised in the compulsory purchase order were construed where the context so requires as references to the land in respect whereof the easement or right is acquired, and references to the obtaining or taking possession of the land so comprised were construed as references to the exercise of the easement or right.

(4) Where the harbour authority have acquired an easement or right only in any land under this section—

(a) they shall not be required or (except by agreement) entitled to fence off or sever that land from the adjoining land;

(b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this Act had not been passed.

(5) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the harbour authority to acquire the land the harbour authority shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house:

Provided that nothing in this subsection shall apply to land forming part of a street.

(6) A notice to treat given under this section for an easement or right shall be endorsed with notice of the effect of subsection (5) of this section.

(7) In this section “the Minister” means—

(a) in relation to the compulsory purchase of land for the purposes of that part of the harbour undertaking which relates to the area described in Part II of Schedule 1 to this Act, the Minister of Agriculture, Fisheries and Food;

(b) in any other case, the Minister of Transport.

PART II
—cont.

9. Subject to the provisions of this Act and to section 9 of the Act of 1964, the harbour authority may extend or alter any tidal work:

Extension
and alteration
of tidal works

Provided that nothing in this section shall authorise the harbour authority to deviate laterally or vertically beyond the limits of deviation specified in the enactment authorising the tidal work in question.

10. The harbour authority may from time to time purchase, contract for or hire and may maintain and use tugs and may sell or dispose of any such tugs.

Power to
undertake
towage
services.

11.—(1) (a) The harbour authority may from time to time license such number of tugs belonging to any person for such period and on such terms and conditions as they think fit.

Power to
license tugs.

(b) The harbour authority may charge a fee not exceeding five pounds for the granting of a licence under paragraph (a) of this subsection.

(2) It shall not be lawful for any person, except the harbour authority, to use for hire or reward or employ any tug or other vessel for moving vessels within the harbour unless there is in force in relation thereto a licence granted under paragraph (a) of subsection (1) of this section.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence.

12. The harbour authority may let upon hire (with or without the services of their employees) on such terms as they think fit any vessel, plant, equipment or other property belonging to them and forming part of the harbour undertaking.

Power to hire
out plant.

13. Subject to section 68 (Crown rights) of this Act and to section 9 of the Act of 1964, the harbour authority may lay down, maintain and operate in, under and over the harbour such works and equipment as they consider necessary to assist navigation.

Works in the
harbour.

14.—(1) Subject to section 68 (Crown rights) of this Act and to section 9 of the Act of 1964, the harbour authority may deepen, widen, dredge, scour, cut and improve the bed and foreshore of the harbour, or in or near any seaward approaches thereto, and for this purpose may blast any rock therein.

Power to
dredge.

PART II
—cont.

(2) Any material taken up or collected in the course of such operations shall (in so far as it is not the property of the harbour authority before being taken up) become the property of the harbour authority on taking up and may be used, sold, removed, deposited or otherwise disposed of as the harbour authority may think fit:

Provided that no such material shall be laid down or deposited in any place below the level of high water, except in such position as the Board of Trade may approve and subject to such conditions or restrictions as they may impose.

(3) Before exercising the powers of subsection (1) of this section within fifty yards of—

- (a) any land or works of the British Railways Board; or
- (b) any electric line, main, pipe or other work vested in the electricity, gas, generating or water board;

the harbour authority shall give to the British Railways Board, or the board concerned, not less than twenty-eight days' notice in writing of their intention so to do, stating the position and depth of the proposed dredging, and in exercising the said powers the harbour authority shall comply with the reasonable requirements of the board concerned for the protection of any such electric line, main, pipe or other work:

Provided that this subsection shall not apply in relation to any electric line, main, pipe or other work unless the British Railways Board or the board concerned have supplied the harbour authority with a plan showing the position in which the said electric line, main, pipe or other work is laid in or under the harbour.

(4) No material taken up and collected in the exercise of the said powers shall, without the consent of the British Railways Board or the board concerned, be deposited so as to obstruct or impede any work of, or connected with, the inspection or repair of any such electric line, main, pipe or other work, or so as to affect the efficient operation thereof.

(5) The harbour authority may purchase, contract for or hire and may maintain and use vessels, plant and equipment for the purpose of exercising the powers conferred by this section and may sell or dispose of any such vessel, plant or equipment.

Powers with respect to disposal of wrecks.
1894 c. 60.

15.—(1) In their application to the harbour authority, sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the harbour authority with respect to, and with respect to anything in or on, any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to

navigation in the harbour or in or near any approach thereto) shall have effect—

- (a) subject to the provisions of section 16 (Protection of Crown interests in wrecks) of this Act; and
- (b) in relation to a vessel sunk, stranded or abandoned before as well as after the making of this Act.

(2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting their liability, the harbour authority may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under the said section 530 or the said section 532 any expenses reasonably incurred by them under those sections in relation to that vessel which are not reimbursed out of the proceeds of sale, if any, within the meaning of those sections.

(3) Except in a case which is in the opinion of the harbour authority a case of emergency, subsection (2) of this section shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying, the harbour authority have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so; and if before the notice expires the harbour authority receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under paragraph (b) of subsection (2) of the said section 16 he shall be at liberty to do so, and the harbour authority shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the harbour authority.

(4) Notice under subsection (3) of this section to the owner of any vessel may be served by the harbour authority either by delivering it to him or by sending it to him by the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom or, if the owner or any such place of business or abode is not known to the harbour authority or is not in the United Kingdom, by displaying the notice at the principal office of the harbour authority for the period of its duration.

(5) In this section the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof.

PART II
—cont.Protection of
Crown interests
in wrecks.

1894 c. 60.

1906 c. 48.

16.—(1) Without prejudice to section 741 of the Merchant Shipping Act 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906, the powers conferred on the harbour authority by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in paragraph (b) of subsection (2) of this section, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—
 - (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
 - (ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The harbour authority shall give notice in writing to the Secretary of State for Defence and to the Board of Trade of any decision of the harbour authority to exercise in relation to any vessel referred to in paragraph (b) of subsection (1) of this section any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of the harbour authority a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State for Defence and the Board of Trade before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the harbour authority a direction by the Secretary of State for Defence or the Board of Trade that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where, in any such case as aforesaid, the harbour authority proceed to exercise those powers without the consent and before

the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if before the expiration of the period aforesaid, such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of section 15 (Powers with respect to disposal of wrecks) of this Act:

PART II
—cont.

Provided that—

- (i) the harbour authority shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of subsection (1) of this section, but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the said section 15 to have been duly served under paragraph (b) of this subsection;
- (ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Board of Trade for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the harbour authority by the said section 530, the harbour authority shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894, raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section, in accordance with such directions, if any, as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property the harbour authority shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the harbour authority under that section.

(4) Any limitation on the powers of the harbour authority in relation to any vessel arising by virtue of subsection (1) or subsection (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on Trinity House by section 531 of the said Act of 1894.

17.—(1) In the case of injury to, destruction, or decay of a tidal work, or any part thereof, the harbour authority shall forthwith notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct. Provision against danger to navigation.

(2) If the harbour authority fail to notify Trinity House as required by this section or to comply in any respect with a direction

PART II
—cont.

given under this section they shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Abatement
of works
abandoned
or decayed.

18.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Board of Trade may by notice in writing require the harbour authority at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Board think proper.

(2) Where a work consisting partly of a tidal work and partly of works of the harbour authority on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Board of Trade may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the harbour authority, they have failed to comply with the requirements of the notice the Board of Trade may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the harbour authority as a simple contract debt.

Survey of
tidal works.

19. The Board of Trade may at any time if they deem it expedient order a survey and examination of a tidal work or of the site upon which the harbour authority propose to construct a tidal work, and any expenditure incurred by the Board of Trade in any such survey and examination shall be recoverable from the harbour authority as a simple contract debt.

Permanent
lights on tidal
works.

20.—(1) After the completion of a tidal work the harbour authority shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for preventing danger to navigation, as Trinity House shall from time to time direct.

(2) If the harbour authority fail to comply in any respect with a direction given under this section they shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Prohibition
on pollution,
etc., in
harbour.

21.—(1) A person who puts or causes or suffers to fall into the harbour any article or any solid matter except in pursuance of statutory powers or unless he can show that he has a lawful

excuse for so doing shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding one hundred pounds and to a daily fine not exceeding twenty pounds.

(2) A person who contravenes subsection (1) of this section in relation to the harbour and the master of a vessel from which such a contravention has occurred shall be liable to make good damage sustained by the harbour authority or by a vessel arising from such contravention.

(3) When an offence against subsection (1) or subsection (2) of this section is committed from a vessel, the master or owner of the vessel may be proceeded against.

(4) The harbour authority may remove anything which is in the harbour in contravention, or as a result of a contravention, of this section.

22.—(1) The harbour authority may grant upon such terms and conditions as they may think fit licences for pleasure craft to be let for hire or to be used for carrying passengers for hire within the harbour, and to the boatmen or persons assisting in the charge or navigation of such craft, and may charge annual fees for such licences, for a craft a fee not exceeding the sum of twenty-five shillings, and for a boatman or other person a fee not exceeding the sum of five shillings.

Power to
license
pleasure
craft.

(2) Any such licence may be granted for such period as the harbour authority may think fit, and may be suspended or revoked by the harbour authority whenever they shall deem such suspension or revocation to be necessary or desirable in the interests of the public:

Provided that the existence of the power to suspend or revoke the licence shall be plainly set forth in the licence itself.

(3) No person shall—

(a) let for hire a pleasure craft not so licensed, or at any time during the suspension of the licence for the craft;
or

(b) carry, or permit to be carried, passengers for hire in a pleasure craft unless the craft, and the boatman in charge thereof and the navigator, are so licensed, or at any time during the suspension of the licence for the craft or the boatman or navigator:

Provided that this subsection shall not be taken to require a person to be licensed as a boatman who takes on hire a pleasure craft for purposes other than for profit.

(4) A licence under this section shall not be required for any craft which has a passenger certificate issued by the Board of Trade and valid for the voyage intended or, in the case of hovercraft, a certificate of safety valid for the voyage intended.

PART II
—cont.

(5) No person shall carry or permit to be carried in any pleasure craft a greater number of passengers for hire than shall be specified in the licence applying to such craft, and every owner of any such craft shall, before permitting the same to be used for carrying passengers for hire, paint or cause to be painted, in letters and figures not less than one inch in height and three-quarters of an inch in breadth, on a conspicuous part of the said craft, his own name and also the number of persons which it is licensed to carry, in the form "Licensed to carry persons".

(6) Any person who shall act in contravention of the provisions of this section shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding fifty pounds or for a second or subsequent offence to a fine not exceeding one hundred pounds.

(7) Any person deeming himself aggrieved by the withholding, suspension or revocation of any licence under the provisions of this section may appeal to the magistrates' court held after the expiration of two clear days after such withholding, suspension or revocation:

Provided that the person so aggrieved shall give twenty-four hours' written notice of such appeal, and the ground thereof, to the town clerk, and the court shall have power to make such order as they see fit and to award costs, such costs to be recoverable summarily as a civil debt.

Powers
relating to
derelict
vessels and
structures.

23.—(1) If at any time the harbour authority are satisfied that a derelict vessel or structure moored in or lying in the water or on the foreshore of the harbour is in such a condition as to be seriously injurious to the amenity of that part of the harbour in which it is moored or lying, the harbour authority may by notice require the owner thereof within such time as may be specified in the notice (the period being not less than six weeks) to take such steps as may be necessary to abate the injury to amenity.

(2) If in the case of a derelict vessel or structure referred to in subsection (1) of this section the harbour authority are unable, after making reasonable inquiry to ascertain the name and address of the owner thereof, the harbour authority shall attach to the vessel or structure, or otherwise display in its immediate vicinity, a notice requiring the owner thereof within such time as may be specified in the notice (the period being not less than six weeks) to take such steps as may be necessary to abate the injury to amenity.

(3) Any person aggrieved by a requirement of the harbour authority under this section may appeal to the magistrates' court.

(4) (a) In the event of failure to comply with the requirements of a notice under this section, or, in the case of an appeal, with the requirements of any order of the court, the harbour authority may themselves take all such steps as may be necessary to carry out such requirement.

PART II
—cont.

(b) The reasonable expenses incurred by the harbour authority in carrying out such requirement shall be repaid to the harbour authority by the person in default and may be recovered as a debt in any court of competent jurisdiction.

(5) In this section—

“structure” includes the remains or wreckage of a structure;

“vessel” means any vessel or part thereof and includes the remains or wreckage of a vessel.

PART III

CHARGES

24.—(1) In addition to their powers to demand, take and recover ship, passenger and goods dues under section 26 of the Act of 1964, the harbour authority may demand, take and recover in respect of any dracone or floating dock, crane rig, drilling rig or other floating plant which is not a ship, as defined by section 57 of the Act of 1964, entering, using or leaving the harbour such charges as they think fit; and the provisions of sections 30, 31, 32 and 34 of the Act of 1964 shall, with any necessary modifications, apply to the charges authorised by this subsection as they apply to ship, passenger and goods dues. Power to make certain charges.

(2) (a) The harbour authority may demand, take and recover such reasonable charges in respect of any thing done or provided by them or on their behalf as they may determine.

(b) In this subsection “charge” does not include ship, passenger or goods dues as defined by the said section 57 of the Act of 1964, or a charge authorised by subsection (1) of this section.

25. Charges shall be payable subject to such conditions as the harbour authority may from time to time specify in their published list of charges. Conditions relating to payment of charges.

26. The several charges which the harbour authority are for the time being authorised to demand, take and recover in respect of vessels and goods 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 regulations as the harbour authority may from time to time appoint. How charges to be paid.

PART III
—cont.

Payment of
charges by
owner.

Joint and
several
liability for
charges.

Compounding
arrangements
and rebates.

Penalty for
evading
payment of
charges.

Claims for
repayment of
charges.

Payment of
charges on
warehoused
goods.

Deposit for
charges.

Recovery of
charges.
1847 c. 27.

27. Charges payable to the harbour authority shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

28. Where charges payable to the harbour authority may be recovered by them from more than one person, the said persons shall be jointly and severally liable.

29. Nothing in section 30 of the Act of 1964 shall require the harbour authority to include in the list of ship, passenger and goods dues to be kept, as required by subsection (1) of that section, charges reduced by virtue of a compounding arrangement in respect of, or rebate allowed on, a due included in the said list.

30. The owner of any vessel or goods or any other person who eludes or evades or attempts to elude or evade payment of, or refuses to pay, a charge payable by such owner or person to the harbour authority at the time when the same becomes due and payable shall be liable to pay to the harbour authority, in addition to the charge, a sum equal to the amount thereof, which sum shall be a debt due to the harbour authority and shall be recoverable by them in any court of competent jurisdiction.

31. Any person claiming the return of the whole or any part of any charges paid to the harbour authority shall make such claim, and produce all documents and give all information required by the harbour authority in proof thereof, within twenty-four months from the time of payment; and in default thereof the claim shall cease to be enforceable.

32. The owner or person having charge of any goods warehoused, placed, stored or yarded in a warehouse, transit shed or area, store or yard of the harbour authority shall, before the removal of those goods from the warehouse, transit shed or area, store or yard and at such date or dates as shall be fixed by the harbour authority, pay such charges as shall be then due and payable on those goods.

33. The harbour authority may, if they think fit, require any person liable, or to become liable, to pay charges to the harbour authority to deposit with their collector, or to guarantee such sum as, in the opinion of the harbour authority, is reasonable having regard to the probable amount of the charges.

34. In addition to any other remedy given by this Act and by the Harbours Clauses Act 1847, as incorporated with this Act, and whether the demand required by section 44 of that Act has been made or not, the harbour authority may recover any charges payable to them as a debt in any court of competent jurisdiction.

35.—(1) Except in so far as may be agreed between the harbour authority and the government department concerned or as may be specifically laid down by statute nothing in any statutory provision authorising the harbour authority to charge rates shall extend to authorise the harbour authority to charge rates on or regulate or subject to control—

(a) a vessel—

(i) belonging to or in the service of Her Majesty or any member of the Royal Family; or

(ii) in the service of the Commissioners of Customs and Excise not being a vessel carrying goods for reward; or

(iii) in the service of the Trinity House and not carrying goods for reward;

(b) the Commissioners of Customs and Excise in respect of a vessel or goods under customs seizure;

(c) troops landed at the port premises or a person employed by the Secretary of State for Defence while in the execution of his duty;

(d) goods or stores belonging to the Secretary of State for Defence.

(2) A person who takes the benefit of an exception under subsection (1) of this section but is not entitled thereto shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding twenty pounds.

(3) A person employed by the Minister or the Board of Trade and an officer of the Commissioners of Customs and Excise shall have access free of charge to the harbour estate while in the execution of his duty.

36.—(1) Nothing in any enactment authorising the harbour authority to demand, take and recover charges shall extend to authorise the harbour authority to demand, take or recover charges in respect of—

Exemption
of certain
vessels from
charges.

(a) vessels forced by stress of weather to seek shelter in the outer harbour area which do not break bulk while making use of that area and do not enter an inner harbour; or

(b) pleasure craft using the outer harbour area on not more than eighteen days in any period of three consecutive months, which do not enter an inner harbour.

(2) In this section—

“inner harbour” means an area shown hatched black or hatched pink and black on the signed map;

“outer harbour area” means all parts of the harbour which are not within any inner harbour.

PART IV

HANDLING AND WAREHOUSING OF GOODS

As to entry
of dangerous
goods.

37.—(1) The harbour authority may—

- (a) refuse entry into the harbour of any goods which in their opinion would endanger or be liable to endanger persons or property; or
- (b) permit the entry of any such goods subject to compliance with such terms and conditions (including the part or parts of the harbour where such entry is permitted) as they think fit.

(2) The harbour authority shall publish a schedule of such goods—

- (a) entry of which is forbidden by them; and
- (b) entry of which is permitted by them only upon terms and conditions specified in the schedule.

(3) A person who after publication of the schedule referred to in subsection (2) of this section—

- (a) brings or causes or permits to be brought into the harbour any goods the entry of which is forbidden; or
- (b) fails in relation to any goods brought into the harbour to comply with any terms or conditions imposed by the harbour authority under subsection (1) of this section;

shall—

- (i) be guilty of an offence; and
- (ii) indemnify the harbour authority against all claims, demands, proceedings, costs, damages and expenses which may be made against or recovered from or incurred by the harbour authority in consequence of the commission of the offence;

and the harbour authority may remove the goods in question and may recover from the owner or offender the costs of such removal and of placing or storing the goods elsewhere.

Notice before
entry of
dangerous
goods.

38.—(1) Except in case of emergency, the owner or master of a vessel carrying any dangerous goods shall, when that vessel enters the harbour, give notice to the harbour master of the nature and quantity of dangerous goods carried in the vessel and, if such notice is not given, the owner or master of the vessel shall be guilty of an offence.

(2) Where the owner or master of a vessel is charged with an offence under subsection (1) of this section it shall be a defence to prove that he did not know and could not, with reasonable diligence, have ascertained the nature of the goods in respect of which the proceedings are taken.

39.—(1) The harbour authority may survey and examine—

(a) goods in the harbour; and

(b) goods on board a vessel in the harbour when those goods are to be or have been handled by the harbour authority or when the master of the vessel asks for a survey or examination to be made by the harbour authority.

PART IV
—cont.
Power to
survey goods.

(2) The harbour authority may make a reasonable charge for survey or examination carried out under this section.

(3) Where a written report is made on a survey or examination under this section, the harbour authority shall upon request in writing supply a copy of the report at a reasonable price to the owner or consignee of the goods and, if the survey was requested by the master of a vessel, to that master.

40. The harbour authority may remove, or cause to be removed, any goods remaining on or in any part of the harbour estate after the expiry of any periods prescribed by regulations made by the harbour authority, 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 of the goods:

Power to
remove goods.

Provided always that—

(i) notwithstanding such removal or placing in store, such goods shall be liable to a general lien for the cost of removal, and for any charges payable to the harbour authority by the owner of the goods; and

(ii) the power of the harbour authority, for preventing the removal of goods until the cost of removal, and the charges, have been paid, shall extend and apply to any goods removed or placed in store under the provisions of this section.

41. The harbour authority shall not be responsible for the safety of any goods deposited in any part of the harbour premises not specifically set apart by them for the purpose of warehousing.

Liability for
safety of
goods.

42.—(1) The harbour authority may at the request of a person—

(a) warehousing or depositing goods in a warehouse or place in the harbour specially appropriated for the purpose; or

(b) entitled to goods so warehoused or deposited;

issue to him a warrant for the delivery of the goods so warehoused or deposited or such part thereof as may be specified in the warrant:

Warrants for
goods.

Provided that the harbour authority shall not issue a warrant under this section relating to imported goods if they have been

PART IV
—cont.

given notice effective under subsection (2) of this section that the goods in question are subject to—

- (a) a claim for freight by the owner of the vessel in which the goods were imported; or
- (b) a claim to which the goods were subject before being warehoused or deposited with the harbour authority.

(2) A notice under subsection (1) of this section—

- (a) shall not be effective unless it is given—
 - (i) within seven days of the discharge of the goods in question from the importing vessel; and
 - (ii) before the harbour authority have issued a warrant relating to the goods specified in the notice;
- (b) shall remain effective for twenty-eight days and may be renewed for successive periods of twenty-eight days.

(3) Unless the contrary is clearly stated on the face of the warrant, goods which are the subject of a warrant issued under this section shall not be liable to detention or sale by the harbour authority on account of an unpaid charge of the harbour authority on or in respect of those or other goods incurred before the issue of the warrant.

(4) A warrant issued under this section shall be transferable by endorsement and shall entitle the person named therein or the last endorsee thereof to the delivery of the goods specified therein and the goods so specified shall for all purposes be deemed to be his property.

(5) A warrant under this section may be issued under the hand of an officer of the harbour authority authorised for that purpose.

Power to give directions as to loading or unloading of certain goods.

43.—(1) The harbour authority may, by resolution, designate any quay, wharf or other work, or any portion thereof, for the loading and unloading of any goods to which this section applies.

(2) Where pursuant to subsection (1) of this section, the harbour authority have designated a place for the loading or unloading of goods of any description the harbour master may direct that goods of that description intended to be loaded on board, or unloaded from, a vessel shall not be deposited or received elsewhere than at the place so designated and in the event of any person disobeying any such direction the harbour authority may remove the goods to the place so designated, and any expense incurred by them in so doing may be recovered by them from that person as a simple contract debt in any court of competent jurisdiction.

(3) The goods to which this section applies are goods in bulk and goods the nature or character of which is such as, in the opinion of the harbour authority, to give rise to special risk of contamination, taint, stain, injury or danger to other goods or to persons, or to necessitate the provision of special facilities for, or special precautions in relation to, the handling thereof or for the safety, protection, welfare or accommodation of persons employed in or in connection with such handling.

PART IV
—cont.

44.—(1) The harbour authority may from time to time appropriate a particular berth or berths in the harbour for the use of vessels of a particular owner or engaged in particular trades or functions and where a charge for the appropriation is made pursuant to subsection (2) of this section the vessel covered by the appropriation shall have priority in the use of the berth or berths as against other vessels.

Powers as to
appropriation
of berths.

(2) The harbour authority may make a reasonable charge against the owner of a vessel for the appropriation of a particular berth or berths.

PART V

BYELAWS AND REGULATIONS

45.—(1) The harbour authority may make byelaws for the harbour for any of the following purposes:—

- (a) to regulate the use of, and to prevent the misuse of, the harbour and the equipment, services and facilities provided by the harbour authority in the harbour;
- (b) to regulate the admission to, movement and berthing within, and the departure of vessels from, the harbour and the use of their motive power and equipment therein and the use of tugs within the harbour;
- (c) to regulate the shipping, transshipping and unshipping, warehousing, stowing, depositing and removing of goods within the harbour estate;
- (d) to regulate the movement, speed and parking of vehicles within the harbour;
- (e) to regulate or prevent the admittance of persons to the harbour estate, including the hours of admittance, and to secure the good and orderly conduct of persons in vessels or otherwise within the harbour;
- (f) to protect property at, or forming part of, the harbour estate from damage or defacement and to prevent nuisances and offences against decency in the harbour;

PART V
—cont.

- (g) to regulate or prevent the use in the harbour or on board any vessel therein of fires, lights or any other equipment, tools or appliances which the harbour authority consider involve a risk of fire;
- (h) to prevent pollution of the water in the harbour but the provisions of any byelaws shall not apply to any substance, the discharge or escape of which into the harbour is subject to the provisions of the Oil in Navigable Waters Acts 1955 and 1963;
- (i) to secure the conservation and improvement of the harbour and to promote ease and convenience of navigation and to prevent and remove obstructions or impediments within the harbour;
- (j) to regulate vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality of the foregoing, to prescribe rules for regulating the speed and manner of navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating or mooring within the harbour;
- (k) to prescribe parts of the harbour—
 - (i) where vessels or a specified class of vessels may not moor, anchor or be otherwise secured; or
 - (ii) which vessels of a specified class may not enter;
- (l) to promote the safety of persons and vessels in the harbour and to prevent the taking of vessels by unauthorised persons in the harbour;
- (m) to regulate or prevent the use of firearms;
- (n) to regulate the launching of vessels within the harbour and the use of pontoons, slipways, landing places or other floating equipment or plant (not being a ship within the meaning of the Act of 1964);
- (o) to regulate the placing, laying down, maintaining or using of any mooring (including a mooring placed or laid before the coming into operation of any such regulation) in the harbour otherwise than under the authority of a licence in that behalf granted by the harbour authority in accordance with the conditions subject to which it is so granted;
- (p) to prohibit (otherwise than in a case of emergency) the use of any mooring laid down by the harbour authority, in respect of which a licence affording the privilege of preferential right of user of such mooring is for the time being in force, by any person other than the licensee; and

(*q*) to regulate ferries and pleasure cruises and the launching and the use of yachts, sailing boats, rowing boats, pleasure craft and other small craft and the holding of regattas;

(*r*) to prescribe the lights and signals to be exhibited or made—

- (i) by vessels aground within the harbour; or
- (ii) by wreck-marking vessels or by other devices used for marking obstructions within the harbour; or
- (iii) at the entrance to the harbour or other work for assisting the navigation of vessels within the harbour.

(2) In this section “signals” includes sound signals.

(3) Different byelaws may be made under this section in relation to different classes of vessels.

(4) Byelaws made under subsection (1) of this section may prescribe the reasonable fees payable for any licence which may be granted by the harbour authority thereunder and different fees may be prescribed for different circumstances.

(5) Byelaws made under subsection (1) of this section may contain provisions for the imposing on persons guilty of an offence against any of the byelaws of fines not exceeding fifty pounds and to a daily fine not exceeding twenty pounds.

46.—(1) The harbour authority may make byelaws as to the loading and discharging by vessels within the harbour of dangerous goods (which expression in this section and in section 38 (Notice before entry of dangerous goods) of this Act does not include dangerous goods to which byelaws made by the harbour authority under the Explosives Act 1875, or the Petroleum (Consolidation) Act 1928, for the time being apply), and as to the bringing, handling, transport or storage of such goods within the harbour, and generally as to the precautions to be observed with respect to such goods while within the harbour, and such byelaws may in particular provide—

Byelaws relating to certain dangerous goods.

1875 c. 17.

1928 c. 32.

(*a*) for regulating the places at which vessels are to load or discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;

(*b*) for regulating the places at which vessels carrying dangerous goods are to be moored; and

(*c*) for the due enforcement of the byelaws.

PART V
—cont.

(2) Where a person is charged with an offence against a byelaw in force under this section it shall be a defence for that person to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and, if that person is charged as the owner or master of a vessel, that in addition all reasonable means were taken by the master to prevent the commission of the offence.

(3) Byelaws made under subsection (1) of this section may contain provisions for the imposing on persons guilty of an offence against any of the byelaws on summary conviction of a fine not exceeding four hundred pounds and on conviction on indictment of a fine.

(4) Nothing in this section authorising the harbour authority to make byelaws relating to certain dangerous goods shall extend to authorise the harbour authority to make such byelaws in respect of vessels using the harbour in the circumstances referred to in paragraph (a) of subsection (1) of section 36 (Exemption of certain vessels from charges) of this Act.

Existing
byelaws to
remain in
force.

47. All byelaws, rules and regulations in force immediately before the commencement of this Act shall until amended or repealed by the harbour authority continue in force and shall apply to the same extent as they applied immediately before the commencement of this Act and such byelaws, rules and regulations may be enforced and all fines incurred thereunder may be recovered in the same manner and to the same effect as any fines may be recovered under byelaws made by the harbour authority pursuant to this Act.

Confirmation
of byelaws
and fines
thereunder.
1933. c. 51.

48.—(1) All byelaws made by the harbour authority under this Act shall be subject to the provisions contained in subsections (2) to (7) of section 250 of the Local Government Act 1933 for which purposes the confirming authority shall be the Minister.

(2) Except where otherwise provided by this Act a person offending against any byelaw made by the harbour authority shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds and to a daily fine not exceeding twenty pounds.

(3) All fines imposed for the breach of any such byelaws shall be recoverable on summary conviction.

(4) Where so provided by the byelaws concerned a person found committing an offence against any byelaw made by the harbour authority under this Act may be taken into custody without a warrant by a constable.

49. Subject to section 45 (Byelaws) of this Act and any byelaws made in pursuance thereof, the harbour authority may make regulations for—

PART V
—cont.
Power to make regulations.

- (a) the use of the harbour estate;
- (b) the laying down and removal of goods on, in and from the harbour estate;
- (c) the mooring or anchoring of vessels in the harbour; and
- (d) the prescribing of patterns of moorings in the harbour and regulating the placing, laying down, maintaining and using of moorings in the harbour.

50. A master who navigates his vessel in the harbour—

General rules for navigation.

- (a) without due care and attention; or
- (b) in a manner liable to injure or endanger persons, other vessels, the foreshore of the harbour (whether above or below mean high-water level) or any structure or installation in the harbour;

shall be guilty of an offence.

51.—(1) Any person offending against or committing any breach or contravention of any of the provisions of this Act or of any byelaw made by the harbour authority under this Act or under any other enactment shall, in addition to any fine thereby incurred, be liable to repay to the harbour authority the cost of repairing or making good any damage directly or indirectly occasioned thereby to the property of the harbour authority.

Offenders against byelaws to make good damage.

(2) The harbour authority may recover as a simple contract debt from any such person the cost of repairing or making good any such damage and may detain any vessel or other property belonging to or in charge of such person or belonging to the employers of such person until the said cost has been paid or until security therefor has been given to the satisfaction of the harbour authority.

PART VI

MISCELLANEOUS AND GENERAL

52.—(1) The master of a vessel entering or leaving or intending to enter or leave the harbour shall if required to do so by the harbour master state the draught of his vessel.

Giving false draught.

(2) The master of a vessel who in response to a requirement under subsection (1) of this section gives incorrect information

PART VI
—cont.

shall, without prejudice to any right of the harbour authority to compensation for loss or damage occasioned thereby, be guilty of an offence.

(3) For the purposes of this section “ draught ” in relation to a hovercraft or hydrofoil vessel means its draught when afloat and not supported on a cushion of air, on foils or by any other means and in relation to a seaplane means its draught when afloat.

Boarding
vessels.

53. A duly authorised officer of the harbour authority may, on producing if so required his authority, enter and inspect a vessel in the harbour—

- (a) for the purposes of any enactment relating to the harbour authority or of any byelaw of the harbour authority including the enforcement thereof;
- (b) to prevent or extinguish fire.

Powers of
interrogation,
removal and
search.

54.—(1) Any responsible officer of the harbour authority may require any person on or seeking access to the harbour or any vessel using the harbour to state truly his name and address and the nature and place of his business thereon or his purpose thereon or in seeking access thereto and may require any such person to produce for inspection by such officer any pass or other authority which may have been issued to him by or on behalf of the harbour authority, and any person who fails to comply with any such requirement shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding twenty pounds.

(2) Any officer of Her Majesty’s Customs and Excise may detain and search on or within the harbour any person or any vehicle, vessel or other property, upon whom or in or about which there is reasonable cause for believing that there may be found any uncustomed or prohibited goods.

Vessels
adrift.

55.—(1) The owner or master of a vessel adrift in the harbour shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding fifty pounds.

(2) It shall be a defence to the owner or master of a vessel charged with an offence under subsection (1) of this section to prove that the vessel did not become adrift as the result of any neglect or default on his part.

Traffic offences
on harbour
roads.

56.—(1) In this section—

“ harbour road ” means any road, pier, wharf, quay, bridge or other work which, or any land which, is vested in or is the property of the harbour authority and is accessible to motor vehicles, not being a road to which the Act of 1960 applies;

“ motor vehicle ” has the same meaning as in the Act of 1960. PART VI
—cont.

(2) The Act of 1960, the Road Traffic Act 1962, the Road Safety Act 1967 and the Road Traffic Regulation Act 1967 shall have effect as if, in the sections thereof mentioned in Schedule 2 to this Act, the expression “ road ” and the expression “ highway ” included a harbour road and as if in the sections thereof mentioned in Part II of Schedule 2 to this Act the expression “ police constable ” included an officer of the harbour authority authorised in that behalf; and any person who commits an offence under any of those sections, as extended by this section, shall be liable to be dealt with in all respects as if the offence had been committed under those provisions on a road as defined by section 257 of the Act of 1960, and, subject to the provisions of this section all the provisions of the said Acts, so far as applicable (including, without prejudice to the generality of the foregoing, sections 241 and 250 of the Act of 1960, section 6 of the Road Safety Act 1967 and section 79 of the Road Traffic Regulation Act 1967), shall apply accordingly.

(3) If no duty is chargeable under the Vehicles (Excise) Act 1962 in respect of a motor vehicle—

- (a) by virtue of the provisions of subsection (6) of section 6 of that Act; or
- (b) by reason only that the vehicle is used exclusively on roads which are not public roads within the meaning of that Act;

sections 5, 97, 98, 110, 201, 225, 230 and 231 shall not apply in respect of that vehicle while it is being driven, or to any person while driving it, on a harbour road.

(4) Any maximum speed limit which has for the time being been fixed under the provisions of byelaws, which are for the time being continued in force by virtue of section 47 (Existing byelaws to remain in force) of this Act, shall for the purposes of section 4 of the Act of 1960 be deemed to have been fixed by an enactment passed after the commencement of the Act of 1960.

(5) Regulations or orders made under section 64 or 70 of the Act of 1960 or section 20 of the Road Traffic Regulation Act 1967, and from time to time in force, shall extend and apply to harbour roads as they apply to roads as defined by section 257 of the Act of 1960 or section 104 of the Road Traffic Regulation Act 1967, and subsection (2) of section 64 and section 239 of the Act of 1960 and section 87 of the Road Traffic Regulation Act 1967 shall apply accordingly:

PART VI
—cont.

1962 c. 13.

Provided that, if no duty is chargeable under the Vehicles (Excise) Act 1962 in respect of a motor vehicle—

- (a) by virtue of the provisions of subsection (6) of section 6 of that Act; or
- (b) by reason only that the vehicle is used exclusively on roads which are not public roads within the meaning of that Act;

the said regulations shall not apply in respect of that vehicle while it is being driven, or to any person while driving it, on a harbour road.

1962 c. 59.
1967 c. 30.
1967 c. 76.

(6) For the purposes of the Act of 1960, the Road Traffic Act 1962, the Road Safety Act 1967 and the Road Traffic Regulation Act 1967 as extended and applied by this section, the expressions “chief officer of police”, “police officer”, “constable” and “police station” where used in those Acts shall respectively include the chief officer or an officer of, and any police officer maintained by, the harbour authority, and the expression “highway authority” shall mean the harbour authority in relation to any harbour road for the maintenance of which the harbour authority are responsible.

Power to
contract for
harbour
police.

57.—(1) The harbour authority may from time to time make agreements with a police authority for the employment by the harbour authority of any members of the police establishment of that police authority for police duty within the harbour.

(2) Any such agreement may contain such terms and conditions and provide for such payment or consideration as the harbour authority shall think proper and shall agree with the police authority.

1964 c. 48.

(3) In this section “police authority” has the same meaning as in the Police Act 1964.

Power to
borrow.

58.—(1) The harbour authority may borrow—

- (a) such sums as may be necessary for any of the purposes of this Act;
- (b) without the consent of any sanctioning authority, such sums as may be necessary for paying the costs, charges and expenses of this Act;

1933 c. 51.

and, subject to the provisions of this section, Part IX of the Local Government Act 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

(2) The harbour authority shall repay sums borrowed under paragraph (b) of the foregoing subsection within five years from the date of borrowing.

(3) It shall not be lawful to exercise the powers of borrowing conferred by paragraph (a) of subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946. 1946 c. 58.

(4) The sanctioning authority under Part IX of the Local Government Act 1933 shall be the Minister. 1933 c. 51.

59. When any compensation, costs, damages or expenses is or are by this Act directed to be paid and the method for determining the amount thereof is not otherwise provided for, such amount shall in case of dispute be ascertained in the manner provided by subsection (2) of section 278 of the Act of 1936. Compensation how to be determined.

60.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act. Local inquiries.

(2) Subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply in relation to any such inquiry; and for that purpose the definition of “department” in subsection (8) of that section shall include any Minister of the Crown having functions under this Act.

(3) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act 1946. 1946 c. 31.

61.—(1) In proceedings under any enactment, a document purporting to be certified by the town clerk as a copy of a resolution passed, order made, or report received, by the council or a committee thereof on a specified date shall be evidence that that resolution, order or report was duly passed, made or received by the council or committee on that date. Evidence of proceedings, appointments, etc.

(2) In proceedings under any enactment, a document purporting to be certified as aforesaid as a copy of the appointment of, or of an authority given to, an officer of the council or a committee thereof on a specified date shall be evidence that that appointment was duly made, or that that authority was duly given, by the council or committee on that date.

PART VI
—cont.

(3) In this section “ officer ” includes a servant and an agent.

Liability of
directors, etc.

62.—(1) Where an offence under the provisions of this Act mentioned in subsection (2) of this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) The provisions hereinbefore referred to are—

- Section 21 (Prohibition on pollution, etc., in harbour);
- Section 22 (Power to license pleasure craft);
- Section 30 (Penalty for evading payment of charges);
- Section 37 (As to entry of dangerous goods).

(3) In this section “ director ” in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body.

Restriction on
right to
prosecute.

63. The written consent of the Attorney-General shall be requisite for the taking of proceedings in respect of an offence created by or under this Act by any person other than a party aggrieved or the harbour authority.

Appeals.

64.—(1) Section 300 of the Act of 1936 shall apply to appeals to a magistrates’ court under this Act; and sections 301 and 302 of that Act shall apply accordingly.

(2) Where any requirement, refusal or other decision of the harbour authority against which a right of appeal is conferred by this Act—

- (a) involves the execution of any work or the taking of any action; or
- (b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision, or to use premises for any purpose for which they were lawfully used up to that time;

then, until the time for appealing has expired or, if an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution—

- (i) no proceedings shall be taken in respect of any failure to execute the work, or take the action, nor shall the harbour authority themselves execute the work or take the action; and
- (ii) that person may carry on that business, and use those premises for that purpose.

PART VI
—cont.

65. Section 265 of the Public Health Act 1875 shall apply to the harbour authority as if any reference in that section to the said Act of 1875 included a reference to this Act and as if any reference in that section to a member of a local authority included a reference to a member of a committee or a sub-committee of a local authority.

Protection of members and officers of harbour authority from personal liability.
1875 c. 55.

66. The sections of the Act of 1936 mentioned in Schedule 3 to this Act shall have effect as if references therein to that Act included references to this Act.

Application of general provisions of Act of 1936.

67. Nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Board of Trade to certain operations and contain other provisions for the safety of navigation) or of any enactment which requires the consent or approval of the Board of Trade to such operation.

Saving for Board of Trade.
1949 c. 74.

68. Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular, nothing herein contained shall authorise the harbour authority 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 Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of such commissioners on behalf of Her Majesty first had and obtained for that purpose.

Crown rights.

69. Any person employed by the Minister or the Board of Trade and any officer as defined in the Customs and Excise Act 1952 shall have free access to the harbour estate while in the execution of their duty.

Crown right of access.
1952 c. 44.

PART VI

—cont.

Saving rights
of Duchy of
Cornwall.

1863 c. 49.

70. In particular and without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall, nothing contained in this Act shall extend to authorise the harbour authority to take, enter upon or interfere with any land or water or take away or affect any rights, powers, privileges or authorities belonging to or enjoyed by Her Majesty in right of the Duchy of Cornwall or to or by the Duke of Cornwall for the time being without the consent in writing of some two or more of such of the regular officers of the said duchy or of such other persons as may be duly authorised under section 39 (Proviso for exercise of powers when the Duchy of Cornwall is vested in the Crown) of the Duchy of Cornwall Management Act 1863, to exercise all or any of the said rights, powers, privileges and authorities by the said Act made exercisable or otherwise for the time being exercisable in relation to the said duchy or as the case may be the consent of the said duke testified in writing under the seal of the Duchy of Cornwall first had and obtained.

Saving for
Paignton
Pier Act
1874.

1874 c. xlvi.

71. Except as otherwise agreed in writing between the Corporation and the Paignton Pier Company, nothing in this Act shall prejudice or affect the rights and powers of the said company and their pier master under the Paignton Pier Act 1874 and, without prejudice to the generality of the foregoing, nothing in this Act or done thereunder shall affect the freedom from dues expressly provided for by section 31 (Steam and other vessels and passengers and traffic using pier exempted from payment of tolls to Paignton Harbour Company) of that Act.

Penalties for
offences
against Act.

72. Except as hereinbefore provided, any person guilty of an offence against the provisions of this Act shall be liable on summary conviction in respect thereof to a fine not exceeding one hundred pounds.

Repeal.

73. The enactments specified in Schedule 4 to this Act are (in so far as they are not already repealed) hereby repealed to the extent mentioned in that schedule.

Costs of Act.

74. The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act shall be paid by the Corporation.

SCHEDULES

SCHEDULE 1

Section 5.

LIMITS OF THE HARBOUR

PART I

The area below the level of high water enclosed by an imaginary line drawn from the point at which the northern boundary of the borough meets the coast to a point one-half of a nautical mile true east, thence to a point one half of one nautical mile true east of Hope's Nose, thence to a point one nautical mile true east of Berry Head and thence direct to Sharkham Point but excluding the area referred to in Part II of this schedule.

PART II

The area below the level of high water enclosed by—

- (a) an imaginary line drawn from Shoalstone Point in the parish of Brixham extending in a west-north-westerly direction for a distance of 6,500 feet or thereabouts until it intersects the imaginary line next described;
- (b) an imaginary line drawn from the centre of Old Quarry at O.S. Ref. SX 91445723 in a north-easterly direction for a distance of 3,000 feet or thereabouts until it intersects the imaginary line first described; and
- (c) the land line of the coast from the centre of Old Quarry aforesaid to the said Shoalstone Point.

SCHEDULE 2

Section 56.

PROVISIONS APPLIED TO HARBOUR ROADS

PART I

PROVISIONS IN RESPECT OF WHICH CERTAIN OFFICERS OF THE HARBOUR AUTHORITY DO NOT HAVE THE POWERS OF A POLICE CONSTABLE

Sections of Act of 1960—

- Section 1 (Causing death by reckless or dangerous driving);
- Section 2 (Reckless, and dangerous, driving generally);
- Section 3 (Careless, and inconsiderate, driving);
- Section 5 (Driving under age);
- Section 6 (Driving, or being in charge, when under influence of drink or drugs);
- Section 9 (Reckless, and dangerous, cycling);
- Section 10 (Careless, and inconsiderate, cycling);
- Section 11 (Cycling when under influence of drink or drugs);
- Section 13 (Restriction on carriage of persons on bicycles);
- Section 16 (Leaving vehicles in dangerous positions);
- Section 77 (Duty to stop, and furnish particulars, in case of accident);

SCH. 2
—cont.

- Section 97 (Minimum age for driving);
 Section 98 (Drivers of motor vehicles to have driving licences);
 Section 110 (Offence of applying for or obtaining licence, or driving, while disqualified);
 Section 201 (Users of motor vehicles to be insured or secured against third-party risks);
 Section 202 (Exceptions from requirement of third-party insurance or security);
 Section 218 (Penalisation of tampering with motor vehicles);
 Section 219 (Penalisation of holding or getting on to vehicle in order to be towed or carried);
 Section 225 (Power of police constables to require production of driving licences);
 Section 226 (Power of police constables to obtain names and addresses of drivers, and others, and to require production of evidence of insurance or security and test certificates);
 Section 228 (Penalisation of failure to give name and address, and power of arrest, in case of reckless or careless driving or cycling);
 Section 230 (Duty of driver, in case of accident involving injury to another, to produce evidence of insurance or security or to report accident);
 Section 231 (Duty of owner of motor vehicle to give information for verifying compliance with requirement of compulsory insurance or security);
 Section 232 (Duty to give information as to identity of driver, &c., in certain cases);
 Section 241 (Restrictions on prosecutions for certain offences);
 Section 250 (Application to the Crown).

1962 c. 59.

Section of Road Traffic Act 1962—

- Section 42 (Driving with uncorrected defective eyesight).

1967 c. 30.

Sections of Road Safety Act 1967—

- Section 1 (Driving or being in charge with blood-alcohol concentration above the prescribed limit);
 Section 2 (Breath tests);
 Section 5 (Consequences of conviction of certain offences of driving or being in charge);
 Section 6 (Application of Part I to the Crown);
 Section 7 (Interpretation of Part I);
 Section 31 (General provisions as to interpretation, etc.).

1967 c. 76.

Sections of Road Traffic Regulation Act 1967—

- Section 54 (Traffic signs);
 Section 55 (Powers and duties of highway authorities as to placing of traffic signs);
 Section 61 (Removal of traffic signs, etc.);
 Section 79 (Exemption of fire engines, etc., from speed limits).

PART II

SCH. 2
—cont.

PROVISIONS IN RESPECT OF WHICH CERTAIN OFFICERS OF THE HARBOUR
AUTHORITY HAVE THE POWERS OF A POLICE CONSTABLE

Sections of Act of 1960—

- Section 4 (Speeding);
- Section 8 (Restriction on carriage of persons on motor cycles);
- Section 14 (Drivers to comply with traffic directions);
- Section 223 (Power of police to stop vehicles).

Section of Road Traffic Regulation Act 1967—

1967 c. 76.

- Section 58 (Emergency traffic signs).

SCHEDULE 3

Section 66.

SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED TO THIS ACT

1936 c. 49.

Section	Marginal note
271	Interpretation of "provide".
283	Notices to be in writing; forms of notices, &c.
288	Penalty for obstructing execution of Act.
293	Recovery of expenses.
297	Continuing offences and penalties.
299	Inclusion of several sums in one complaint.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

SCHEDULE 4

Section 73.

ENACTMENTS REPEALED

Session and chapter	Short title	Extent of repeal
39 Geo. 3 c. vi ...	Brixham Harbour and Market Act 1799	The whole Act.
43 Geo. 3 c. lxxxviii	Torquay Harbour Act 1803 ...	The whole Act.
1 Vict. c. lxxv ...	Brixham Harbour and Market Act 1837	The whole Act except section 18.

SCH. 4
—cont.

Session and chapter	Short title	Extent of repeal
1 & 2 Vict. c. i 27 & 28 Vict. c. 93 31 & 32 Vict. c. xlvii 38 & 39 Vict. c. cxvii	Paignton Harbour Act 1838 ... Pier and Harbour Orders Confirmation Act 1864 Pier and Harbour Orders Confirmation Act 1868 (No. 2) Pier and Harbour Orders Confirmation Act 1875 (No. 3)	The whole Act. The Torquay Harbour Order 1864. The Torquay Harbour Order 1868. The Brixham Harbour Order 1875 except sections 13 to 18.
40 & 41 Vict. c. xcvii 49 & 50 Vict. c. cxix 51 & 52 Vict. c. clxx 55 & 56 Vict. c. cciv 59 & 60 Vict. c. lv	Pier and Harbour Orders Confirmation Act 1877 (No. 1) Torquay Harbour and District Act 1886 Pier and Harbour Orders Confirmation (No. 2) Act 1888 Pier and Harbour Orders Confirmation (No. 3) Act 1892 Brixham Harbour and Market Act 1896	The Brixham Harbour Order 1877. Sections 7, 8, 9 and 11. The Torquay Harbour Order 1888. The Torquay Harbour Order 1892. The whole Act.
1 Edw. 7 c. clix 4 Edw. 7 c. lxiii 6 Edw. 7 c. cxiii	Pier and Harbour Orders Confirmation (No. 2) Act 1901 Local Government Board's Provisional Orders Confirmation (No. 2) Act 1904 Pier and Harbour Orders Confirmation (No. 1) Act 1906	The Babbacombe Pier Order 1901. The Brixham Order 1904. The Brixham Harbour Order 1906. The Torquay Harbour Order 1906.
10 Edw. 7 & 1 Geo. 5 c. lxxii 2 & 3 Geo. 5 c. cxlvi 11 & 12 Geo. 5 c. c 24 & 25 Geo. 5 c. lxxii 26 Geo. 5 & 1 Edw. 8 c. lxxxiii	Pier and Harbour Orders Confirmation (No. 2) Act 1910 Pier and Harbour Orders Confirmation (No. 2) Act 1912 Pier and Harbour Orders Confirmation (No. 1) Act 1921 Torquay Corporation Act 1934 Pier and Harbour Order (Paignton) Confirmation Act 1936	The Torquay Harbour Order 1910. The Brixham Harbour Order 1912. The Brixham Harbour Order 1921. Sections 57 to 59. Schedule 2. The whole Act.
1 Edw. 8 & 1 Geo. 6 c. xciii	Torquay Corporation Act 1937	Sections 21 to 36.

PRINTED IN ENGLAND BY THE OYEZ PRESS
PRINT DIVISION OF THE SOLICITORS' LAW STATIONERY SOCIETY, LTD.

FOR C. H. BAYLIS

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

Tor Bay Harbour Act 1970

CHAPTER liii

ARRANGEMENT OF SECTIONS

PART I

Section PRELIMINARY

1. Short title and commencement.
2. Division of Act into Parts.
3. Incorporation of Act.
4. Interpretation.
5. Limits of harbour.

PART II

DUTIES AND POWERS OF HARBOUR AUTHORITY

6. General duties and powers.
7. Harbour authority to be local lighthouse authority.
8. Purchase of land for harbour undertaking.
9. Extension and alteration of tidal works.
10. Power to undertake towage services.
11. Power to license tugs.
12. Power to hire out plant.
13. Works in the harbour.
14. Power to dredge.

Section

15. Powers with respect to disposal of wrecks.
16. Protection of Crown interests in wrecks.
17. Provision against danger to navigation.
18. Abatement of works abandoned or decayed.
19. Survey of tidal works.
20. Permanent lights on tidal works.
21. Prohibition on pollution, etc., in harbour.
22. Power to license pleasure craft.
23. Powers relating to derelict vessels and structures.

PART III

CHARGES

24. Power to make certain charges.
25. Conditions relating to payment of charges.
26. How charges to be paid.
27. Payment of charges by owner.
28. Joint and several liability for charges.
29. Compounding arrangements and rebates.
30. Penalty for evading payment of charges.
31. Claims for repayment of charges.
32. Payment of charges on warehoused goods.
33. Deposit for charges.
34. Recovery of charges.
35. Crown exemption from rates.
36. Exemption of certain vessels from charges.

PART IV

HANDLING AND WAREHOUSING OF GOODS

37. As to entry of dangerous goods.
38. Notice before entry of dangerous goods.
39. Power to survey goods.
40. Power to remove goods.
41. Liability for safety of goods.
42. Warrants for goods.
43. Power to give directions as to loading or unloading of certain goods.
44. Powers as to appropriation of berths.

PART V

BYELAWS AND REGULATIONS

45. Byelaws.
46. Byelaws relating to certain dangerous goods.
47. Existing byelaws to remain in force.
48. Confirmation of byelaws and fines thereunder.

Section

- 49. Power to make regulations.
- 50. General rules for navigation.
- 51. Offenders against byelaws to make good damage.

PART VI

MISCELLANEOUS AND GENERAL

- 52. Giving false draught.
- 53. Boarding vessels.
- 54. Powers of interrogation, removal and search.
- 55. Vessels adrift.
- 56. Traffic offences on harbour roads.
- 57. Power to contract for harbour police.
- 58. Power to borrow.
- 59. Compensation how to be determined.
- 60. Local inquiries.
- 61. Evidence of proceedings, appointments, etc.
- 62. Liability of directors, etc.
- 63. Restriction on right to prosecute.
- 64. Appeals.
- 65. Protection of members and officers of harbour authority from personal liability.
- 66. Application of general provisions of Act of 1936.
- 67. Saving for Board of Trade.
- 68. Crown rights.
- 69. Crown right of access.
- 70. Saving rights of Duchy of Cornwall.
- 71. Saving for Paignton Pier Act 1874.
- 72. Penalties for offences against Act.
- 73. Repeal.
- 74. Costs of Act.

SCHEDULES:

Schedule 1—Limits of the harbour.

Schedule 2—Provisions applied to harbour roads—

Part I—Provisions in respect of which certain officers of the harbour authority do not have the powers of a police constable.

Part II—Provisions in respect of which certain officers of the harbour authority have the powers of a police constable.

Schedule 3—Sections of Public Health Act 1936 applied to this Act.

Schedule 4—Enactments repealed.