

## ELIZABETH II



## 1988 CHAPTER xvi

An Act to modify the Transport Charges &c. (Miscellaneous Provisions) Act 1954 in its application to the undertaking of the Dartmouth-Kingswear floating bridge; to confer other powers in relation to the floating bridge on Philip & Son Limited and to amend or repeal certain of the local statutory provisions applicable to the floating bridge; and for other purposes.  
[28th June 1988]

**W**HEREAS by an Act passed in the eleventh year of the reign of His late Majesty King George 4 intituled "An Act for establishing a Floating Bridge over the Harbour of Dartmouth, from or near to Lower Sand Quay Point to Old Rock in the County of Devon, and for building Quays and Landing Places, and for making Roads and Approaches thereto, with Branches therefrom" (hereinafter referred to as "the Act of 1830") The Dartmouth Floating Bridge Company (hereinafter referred to as "the Bridge Company") were incorporated and authorised to construct the said floating bridge (hereinafter referred to as "the floating bridge") and works incident thereto and to levy tolls for use of the floating bridge:

1830 c. cxxvii.

And whereas the floating bridge continues to serve the needs of substantial volumes of traffic:

And whereas for the authorisation of tolls pursuant to the Transport Charges &c. (Miscellaneous Provisions) Act 1954 sufficient for the purposes of the undertaking in the floating bridge it is expedient that the provisions of that Act in their application to the undertaking should be modified as by this Act provided:

1954 c. 64.

And whereas the Bridge Company are believed to have disposed of their undertaking and responsibilities as to the services of the floating bridge to one John Williams in or about the year 1850 and to have thereafter wound up their affairs:

And whereas Philip & Son Limited (hereinafter referred to as "the Company") were on 3rd August 1905 incorporated under the Companies Acts 1862 to 1900 and, by a conveyance dated 28th day of July 1920 made between Olive Williams as mortgagee, John Williams as vendor and the Company, the right of ferry, the right to charge tolls and all other rights under the Act of 1830, as well as the lands described in the said conveyance, were expressed to be conveyed and confirmed to the Company who have since operated and continue to operate the floating bridge:

And whereas it is expedient that the powers respecting the floating bridge be conferred on the Company as by this Act provided:

And whereas it is expedient that the other provisions in this Act should be enacted:

And whereas the purposes of this Act cannot be effected 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:—

Short title.

1. This Act may be cited as the Dartmouth-Kingswear Floating Bridge Act 1988.

Interpretation.  
1830 c. cxxvii.

2. In this Act, unless the context otherwise requires—

"the Act of 1830" means the Act passed in the eleventh year of the reign of His late Majesty King George 4 intituled "An Act for establishing a Floating Bridge over the Harbour of Dartmouth, from or near to Lower Sand Quay Point to Old Rock in the County of Devon, and for building Quays and Landing Places, and for making Roads and Approaches thereto, with Branches therefrom";

"the Company" means Philip & Son Limited;

"the floating bridge" means the Dartmouth-Kingswear floating bridge or ferry of the Company and includes any alteration or renewal thereof authorised by section 3 (Maintenance, etc., of floating bridge) of this Act and includes all the lands, easements, rights, toll-houses, equipment, offices and other assets of whatever description for the time being held or used by the Company in connection with that bridge or ferry.

Maintenance,  
etc., of floating  
bridge.

3. Subject to the provisions of this Act but notwithstanding anything in any other enactment than this Act, the vesting of the floating bridge in the Company is hereby confirmed; and the Company may maintain the floating bridge and may alter or renew it to such dimensions and of such materials as they think fit, but not so as to extend the same more than 10 metres overall fore and aft nor 6 metres overall in width beyond the existing structures of the floating bridge.

Power to levy  
tolls.

4.—(1) Subject to the provisions of this Act the Company may demand, take and recover tolls in respect of any class of traffic using the floating bridge.

S.I. 1987/581.

(2) The tolls that may be demanded, taken and recovered under this section shall continue to be those specified in the Dartmouth-Kingswear Higher Ferry (Revision of Charges) Order 1987, but without prejudice to any further orders as to such tolls that may be made under section 6 (3) of the Transport Charges &c. (Miscellaneous Provisions) Act 1954.

1954 c. 64.

5. In its application to the Company, section 6 (3) of the said Act of 1954 (revision of charges) shall have effect as if for the words "the paid up share capital of the undertaking" there were substituted the words "the investment of Philip & Son Limited in the floating bridge as defined in section 2 of the Dartmouth-Kingswear Floating Bridge Act 1988".

Modification of  
Transport  
Charges &c.  
(Miscellaneous  
Provisions) Act  
1954.  
1954 c. 64.

6. A list of the tolls for the time being authorised to be charged by the Company shall be exhibited in a conspicuous position at or near the places where such tolls are payable.

List of tolls to be  
exhibited.

7.—(1) The tolls for the time being authorised to be charged by the Company shall be paid at such places and in such manner and under such regulations as the Company may appoint and make.

Payment of tolls.

(2) If any person refuses or neglects to pay any toll or part thereof lawfully due from him, the persons appointed to receive tolls may refuse to permit the person so in default to pass through or by any toll-gate or other place at which such toll should be paid and may stop and prevent the person so in default from passing through or by the same.

(3) A person who—

- (a) passes through or by any toll-gate or other place at which any toll should be paid or otherwise passes over or onto the floating bridge, in either case with intent to avoid paying any toll lawfully due from him; or
- (b) operates or attempts to operate a machine provided by the Company for the collection of tolls by the insertion of objects other than current coins of the realm of the appropriate denomination or cards or tokens authorised by the Company to be used for the payment of such tolls; or
- (c) otherwise interferes with such a machine as is mentioned in paragraph (b) above with the intention of dishonestly obtaining for himself a pecuniary advantage;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Where the driver of a vehicle is alleged to be guilty of an offence under subsection (3) above—

- (a) the person keeping the vehicle shall give such information as to the identity of the driver as he may be required in writing to give by or on behalf of a police officer or a person appointed to receive tolls; and
- (b) any other person shall if so required give any information which it is in his power to give and may lead to the identification of the driver.

In this subsection references to the driver of a vehicle include references to the person riding a bicycle or tricycle.

(5) (a) A person who without reasonable excuse fails to comply with the requirement of subsection (4) (a) above shall be guilty of an offence unless he shows to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained who the driver of the vehicle or, as the case may be, the rider of the bicycle or tricycle, was; and a person who fails to comply with the requirement of subsection (4) (b) above shall be guilty of an offence.

(b) A person guilty of an offence under this subsection shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Power to compound for payment of tolls.

8. The Company may enter into a composition with any person with respect to the payment of any tolls for the time being authorised to be charged by the Company, but so that no preference be in any case given to any person, and may issue season tickets.

Tickets.

9. The Company may in exchange for the payment of any toll provide a ticket to any person intending to pass through or by any toll-gate or other place at which the toll is payable and any person to whom a ticket is so provided may be required on demand to deliver up the ticket to the person appointed by the Company to collect the same, at such place or places as the Company may determine.

Byelaws.

10.—(1) The Company may make byelaws—

- (a) for preventing injury and damage to the floating bridge or persons or vehicles, including any class of vehicles using or intending to use the floating bridge;
- (b) for regulating the conduct of all persons using the floating bridge;
- (c) for prohibiting the use of the floating bridge by certain engines, carriages, vehicles and animals or other classes of traffic and for ensuring that road traffic shall not be unreasonably delayed;
- (d) relating to the issue and inspection of tickets and the collection of tolls;
- (e) relating to the hours of manning and maintaining the floating bridge in readiness for operation and for modifying the requirements in that behalf of section 11 (Operation of floating bridge) of this Act; and
- (f) generally for regulating and controlling the use of the floating bridge.

1972 c. 70.

(2) Byelaws made by the Company under this section shall be subject to the provisions contained in subsections (3) to (8) of section 236 and section 237 of the Local Government Act 1972 as if the Company were a local authority within the meaning of that section and the secretary to the Company were the proper officer (within the meaning of the said Act of 1972) of that local authority; but subject to the modification that for the purposes of the said section 237 persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. The confirming authority for the purposes of the said section 236 shall be the Secretary of State.

(3) Any such byelaws may be confirmed with or without modifications; but, where the Secretary of State proposes to make a modification which appears to him to be substantial, he shall inform the Company and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Company and by other persons who have been informed of it.

Operation of floating bridge.

11. Subject to the provisions of any byelaws having effect under subsection (1) (e) of section 10 (Byelaws) of this Act and subject otherwise to this Act, the Company shall man and maintain the floating bridge in readiness for operation as occasion reasonably requires between the hours of 9 a.m. to 12 noon and 3 p.m. to 6 p.m. on Christmas Day, 9 a.m. to 10.50 p.m. on Sunday, Boxing Day, New Year's Day and Good Friday and otherwise 6.30 a.m. to 10.50 p.m. on Monday to and including Saturday.

12. Subject to the provisions of section 83 (Power to Company to rebuild the Bridge when necessary, and in the meantime to provide a Ferry) of the Act of 1830, the Company may close the floating bridge to traffic whenever in their opinion this is necessary for the purposes of maintenance, repair or improvement of the floating bridge, in connection with public events or in the case of stress of weather or other emergency.

As to closing floating bridge.

13.—(1) The Company may with the consent in writing and subject to such terms, conditions, exceptions and restrictions as may be approved by the Secretary of State, sell, lease or assign any interest in the floating bridge and, in that event, the purchaser, lessee or assignee may exercise to the extent authorised by his conveyance, lease or instrument of assignment, all or any of the powers conferred upon the Company by or under this Act in relation to the floating bridge but shall be subject to all the restrictions, liabilities and obligations in respect thereof to which the Company is subject and shall perform all the functions of the Company conferred by or under this Act in respect of the floating bridge.

Sale, lease or assignment of floating bridge.

(2) The Company shall, within one month after the date of any such conveyance, lease or assignment as is mentioned in subsection (1) above, publish in one or more local newspapers and in the London Gazette a notice of the date and subject matter of that conveyance, lease or assignment and the names and addresses of all other persons who are parties thereto.

14.—(1) The Company may, by setting apart in any year out of revenue such sums as they think fit, form and maintain a reserve fund for the purposes mentioned in subsection (2) below.

Reserve fund.

(2) Any sums forming part of the reserve fund shall be available for meeting all costs, charges, demands and expenses incurred by or made upon the Company howsoever arising out of the renewal, repair or alteration of the floating bridge or in the purchase of land required in connection with such renewal or alteration.

15.—(1) Subject to subsection (3) below, the following provisions in this section shall apply to tidal works, that is to say, works authorised by section 3 (Maintenance, etc., of floating bridge) of this Act on, under or over tidal waters or tidal lands below the level of high water.

Tidal works.

(2) (a) The Company shall, during the whole time of the construction and after the completion of a tidal work, exhibit every night from sunset to sunrise in such position on or near the tidal work as may be directed from time to time by Trinity House such lights, if any, as may be so directed; and shall take such other steps for the prevention of danger to navigation as may be so directed.

(b) If the Company fail to comply in any respect with a direction given under this subsection, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(3) (a) In case of injury to or destruction or decay of a tidal work, or any part thereof, the Company 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.

(b) If the Company fail to notify Trinity House as required by this subsection or to comply in any respect with a direction given under this subsection they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(4) (a) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the owners of the work 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 Secretary of State thinks proper.

(b) Where a work consisting partly of a tidal work and partly of works 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 Secretary of State may include that part of the work or any portion thereof in any notice under this subsection.

(c) If, on the expiration of 30 days from the date when a notice under this subsection is served upon the Company, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Company.

(5) The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Company.

(6) In this section—

“the level of high water” means the level of mean high-water springs;

“statutory maximum” means the prescribed sum as defined in section 32 (9) of the Magistrates’ Courts Act 1980;

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

1980 c. 43.

Saving for  
Duchy of  
Cornwall.

16.—(1) Without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall, nothing in this Act or the Act of 1830 affects prejudicially any estate, right, power, privilege, authority or exemption of the Duchy of Cornwall, and in particular any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) belonging to or enjoyed by the Duchy of Cornwall or the possessor for the time being of the Duchy, without the consent in writing of 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 of the Duchy of Cornwall Management Act 1863, or, as the case may be, the consent of such Duchy testified in writing under the seal of the said Duchy.

1863 c. 49.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

Amendments  
and repeals.

17.—(1) (a) In the provisions of the Act of 1830 not repealed by subsection (2) below, for the words “carriage” and “carriages” wherever they occur there shall be substituted the words “vehicle” and “vehicles” respectively.

(b) Section 2 (Securing the rights of the Duchy of Cornwall) of the Act of 1830 is hereby amended by the substitution for the words from “to the Bailiff” to “Bailiff for the time being” of the words “for the use of the said Harbour and for the liberty of laying the said Chain across the said Harbour such sum as is provided for in the Agreement dated 20th day of May 1988 and made

between the Company of the one part and His Royal Highness Charles Prince of Wales Duke of Cornwall of the other part, to be paid within Ten Days after the 1st January in every Year to such person as the possessor of the Duchy of Cornwall shall appoint;”, and by the omission at the end of the words “or to assign the same”.

(c) Section 3 (Property to revert to the Duchy of Cornwall on Company ceasing to maintain the Bridge) of the Act of 1830 is hereby amended by the omission of the words “of Forty Shillings”.

(d) Section 83 (Power to Company to rebuild the Bridge when necessary, and in the meantime to provide a Ferry) of the Act of 1830 is hereby amended by the omission of the words “or the Roads leading thereto” by the substitution for the words “Cattle and Carriages” where they secondly and thirdly occur of the words “and bicycles” and by the omission of the proviso.

(e) Section 99 (Saving of Rights) of the Act of 1830 is hereby amended by the omission of the words “His Majesty in right of or in respect of the said Duchy of Cornwall, or of” and the words “His Majesty, or of”.

(2) The Act of 1830, except sections 2, 3, 51, 82, 83 and 99, is hereby repealed.

(3) The unrepealed provisions of the Act of 1830, as amended by subsection (1) above, are set out in the Schedule to this Act and, as so amended, those provisions shall have effect as if—

- (a) references in those provisions to the Act of 1830 or to the purposes of the Act of 1830 included reference to this Act or, as the case may be, the purposes of this Act; and
- (b) references to the said Company within the meaning of that Act were references to the Company.

## Section 17.

## SCHEDULE

## PROVISIONS OF THE ACT OF 1830 NOT REPEALED

Securing the rights of the Duchy of Cornwall.

2. Provided always, and be it further enacted, That all such Part of the said Harbour belonging to the said Duchy, or of the Shores thereof, below High-water Mark, as may hereafter be established by Law to belong to His Majesty in Right and as Parcel of His said Duchy, as shall be used for the Purposes of this Act, shall from thenceforth be deemed and taken to be held of the Duke of Cornwall for the Time being, or of His Majesty, His Heirs and Successors, for the Time when there shall be no Duke of Cornwall, as Part and Parcel of the Duchy of Cornwall, for the Purposes of this Act only, and for no other Purpose whatsoever; and that the said Company shall pay annually for the Use of the said Harbour and for the Liberty of laying the said Chain across the said Harbour such sum as is provided for in the Agreement dated 20th day of May 1988 and made between the Company of the one part and His Royal Highness Charles Prince of Wales Duke of Cornwall of the other part to be paid within Ten Days after the 1st January in every Year to such person as the possessor of the Duchy of Cornwall shall appoint; and if the same shall not be paid upon Demand, the said Rent may be levied and recovered as any Rent of the Duchy of Cornwall may be recovered; and it shall not be lawful for the said Company to use the said Harbour or the Shores thereof for any other than the Purposes of this Act.

Property to revert to the Duchy of Cornwall on Company ceasing to maintain the Bridge.

3. Provided also, and be it further enacted, That if the said Company shall at any Time hereafter cease to maintain the said Floating Bridge or some other sufficient Communication across the said Harbour, then and in such Case such parts of the said Harbour belonging to the said Duchy of Cornwall as shall have been used by the said Company for the Purposes of this Act shall revert to the Duchy of Cornwall; and such Part of the Shores thereof as shall be used for the Purposes of this Act shall revert to the Duchy of Cornwall or such Persons as may be entitled thereto by Law, together with all Erections thereon, as if this Act had not passed; and the said Rent shall in such Case cease and determine.

Exemptions from tolls.

51. Provided always, and be it further enacted, That this Act shall not extend or be construed to extend to charge with Toll any Horses or Vehicles belonging to His Majesty, or attending His Majesty or any of the Royal Family, or returning after having so attended; or for any Horse, Beast, Cattle, or Vehicle of whatever Description employed or to be employed in conveying, fetching, or guarding Mails of Letters and Expresses under the Authority of His Majesty's Postmaster General, either when employed in conveying, fetching, or guarding such Mails or Expresses, or in returning back from conveying or guarding the same; or for any Soldiers upon their March or upon Duty, or for any Horse, Beast, Cattle, or Vehicles attending them with their Arms and Baggage, or returning after having been so employed; or for any Waggon, Wain, Cart, or other Vehicle whatsoever, or the Horse or Horses or other Cattle drawing the same, which shall be employed in conveying any Ordnance, Barrack, or Commissariat or other Public Stores of or belonging to His Majesty or for the Use of His Majesty's Forces; or for any Horse, Beast, Cattle, or Vehicles travelling with Vagrants sent by legal Passes; or for any volunteers upon their March or upon Duty, or in going to or returning from the Place appointed for and on the Days of Exercise; or for any Horse, Mare, or Gelding furnished by or for or belonging to any Corps of Yeomanry or Volunteer Cavalry, and rode by them in going to or returning from the Place appointed for and on the Days of Exercise; provided always, that such Persons be dressed in the Uniforms of the respective Corps, and have their Arms, Furniture, and Accoutrements according to the Regulations provided for such Corps respectively at the Time of claiming such Exemptions as aforesaid; and if any Person shall claim and take the Benefit of any of the Exemptions by this Act granted from the Whole or any Part of the several Tolls hereby authorized to be taken, not being entitled to the same, such Person or Persons for every such Offence shall forfeit and pay any Sum not exceeding Five Pounds.



82. And be it further enacted, That the said Bridge shall not be adjudged or taken to be a County Bridge, or subject the County of Devon to the repairing, amending, or supporting the same, any Law or Statute to the contrary thereof notwithstanding.

Bridge not to be deemed a County Bridge.

83. And be it further enacted, That in case the said Bridge shall at any Time become impassable or unsafe for Travellers or Vehicles, the said Company or their Successors shall and they are hereby empowered and required to cause the same to be forthwith rebuilt or repaired, and made safe and commodious for the Passage of Travellers, Cattle, and Vehicles; and in the meantime until the said Bridge shall be so rebuilt or repaired, and made safe and commodious, it shall be lawful for the said Company, and they are hereby required, during all such Time as the said Bridge shall be impassable or unsafe as aforesaid, to provide a proper and convenient Ferry for the Passage of Travellers and bicycles, over the said Harbour, as near to the said Bridge as conveniently may be; and it shall be lawful for such Person or Persons as the said Company or their Successors shall appoint for that Purpose to demand, collect, and receive for the Passage of such Travellers and bicycles, in or over the said Ferry, before they shall be permitted to pass, the like Tolls as are hereby authorized to be taken for passing over the said Bridge, and to apply the same in manner by this Act directed, any thing herein-before contained to the contrary notwithstanding.

Power to Company to rebuild the Bridge when necessary, and in the meantime to provide a Ferry.

99. Provided also, and be it further enacted, That neither this Act nor any thing herein contained, shall extend, or be deemed or construed to extend, by Implication or otherwise, to affect, alter, take away, destroy, lessen, or prejudice the Rights or Interests of any Lord or Lords, Owner or Owners of any Manor or Lands on either Side of the said Harbour, nor at any Time or Times be admitted in any Court of Law or Equity or otherwise considered as Evidence upon any Occasion to affect in any Manner such Rights of any such Lord or Lords, Owner or Owners as aforesaid, but that such Rights shall remain of the same Force and Effect as if this Act had not been made and passed.

Saving of Rights.





# Dartmouth–Kingswear Floating Bridge Act 1988

CHAPTER xvi

## ARRANGEMENT OF SECTIONS

### Section

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SCHEDULE—Provisions of the Act of 1830 not repealed.