

Falmouth Harbour Act, 1958

6 & 7 ELIZ. 2 Ch. xlvi

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CHAPTER xlvi

An Act to empower the Falmouth Harbour Commissioners to borrow additional moneys to make further provision with respect to the rates leviable by them to confer on them additional powers and for other purposes.

[1st August 1958.]

WHEREAS—

(1) The Falmouth Harbour Commissioners (hereinafter referred to as “the Commissioners”) were constituted and incorporated by the Falmouth Harbour Order 1870 (hereinafter referred to as “the Order of 1870”) and by the Falmouth Harbour Orders 1870 to 1937 various powers and obligations were conferred and imposed upon them in relation to the harbour of Falmouth in the county of Cornwall (hereinafter referred to as “the harbour”):

(2) The Commissioners are authorised by the Order of 1870 from time to time to borrow and reborrow at interest such money as may be required for the purposes of the Order of 1870 but the amount which the Commissioners are so authorised to borrow is limited to five thousand pounds:

(3) It is expedient that the Commissioners be authorised to borrow additional moneys for the purposes of the improvement of the said harbour and for the purposes of their undertaking:

(4) In order to enable the Commissioners to continue efficiently to carry on their undertaking it is expedient that the rates which may be demanded received and recovered by the Commissioners should be increased and that further or new provision as in this Act contained should be made with respect thereto:

(5) It is expedient that further powers should be conferred upon the Commissioners as by this Act provided:

(6) It is expedient that the other provisions of this Act should be enacted:

(7) 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:—

PART I

PRELIMINARY

Short
and collective
titles.

1.—(1) This Act may be cited as the Falmouth Harbour Act 1958.

(2) The Falmouth Harbour Orders 1870 to 1937 and this Act may be cited together as the Falmouth Harbour Act and Orders 1870 to 1958.

Division of
Act into
Parts.

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

Part I.—Preliminary.

Part II.—Limits and rates.

Part III.—Finance.

Part IV.—Miscellaneous and general.

Incorporation
of Acts.

3.—(1) The following enactments so far as the same are applicable to the purposes of and are not varied by or inconsistent with the provisions of this Act are hereby incorporated with and form part of this Act (that is to say) :—

(a) sections 75 to 83 85 and 88 of the Commissioners Clauses Act 1847 ;

(b) the Harbours Docks and Piers Clauses Act 1847 except sections 6 to 13 16 to 19 and 25 and 26 ;

(c) the Lands Clauses Acts (except so much thereof as relates to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking and except sections 127 to 131 of the Lands Clauses Consolidation Act 1845).

(2) For the purposes of the incorporation of the said Acts the expression “ the special Act ” in those Acts shall mean this Act.

Interpretation.

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

“ Area I ” means that part of the harbour coloured red and marked “ Area I ” on the signed map;

“ Area II ” means that part of the harbour coloured yellow and marked “ Area II ” on the signed map;

“ Area III ” means that part of the harbour coloured green and marked “ Area III ” on the signed map;

- “ coastwise vessel ” means a vessel entering the harbour on arrival from any place within the United Kingdom the Channel Islands the Isle of Man or the Republic of Ireland;
- “ the Commissioners ” means the Falmouth Harbour Commissioners as constituted by the Order of 1870 ;
- “ enactment ” includes this Act and any general or local Act order byelaw or regulation for the time being in force ;
- “ foreign-going vessel ” means a vessel entering the harbour on arrival from any place outside the United Kingdom the Channel Islands the Isle of Man and the Republic of Ireland;
- “ the harbour ” means Falmouth Harbour the limits whereof are shown within the thick black line delineated on the signed map;
- “ land ” means any corporeal hereditament and includes any interest in land and any easement or right in to or over land;
- “ the Minister ” means the Minister of Transport and Civil Aviation ;
- “ the Order of 1870 ” and “ the Order of 1937 ” mean respectively the Falmouth Harbour Order 1870 and the Falmouth Harbour Order 1937 ;
- “ the signed map ” means the map signed in quadruplicate by the Right Honourable the Lord Hindlip the chairman of the committee of the House of Lords 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 Commissioners;
 - (d) The office of the Ministry of Transport and Civil Aviation;
- “ statutory security ” means any security in which trustees are for the time being authorised by law to invest trust moneys and any mortgage bond debenture debenture stock stock or other security created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery ;
- “ tonnage ” in relation to a vessel means the vessel’s tonnage as ascertained and registered according to the tonnage regulations of the Merchant Shipping Act 1894 or in

PART I
—cont.

the case of a vessel which is not registered under that Act ascertained in like manner as if it were to be so registered;

“ the undertaking ” means the undertaking of the Commissioners as authorised from time to time;

“ vessel ” includes any ship lighter barge keel raft hulk boat pleasure craft and any other kind of craft whether propelled by oars steam or otherwise or not capable of propulsion and (except in section 6 (Power to levy rates) of and the schedules to this Act) any seaplane (including a flying boat and any other aircraft designed to manoeuvre on the water) on the surface of the water.

(2) Except where the context otherwise requires references in this Act to any enactment shall be construed as references to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

PART II

LIMITS AND RATES

Limits.

5.—(1) The limits within which the Commissioners shall have authority and within which the powers of the harbour master may be exercised and within which the power to levy rates may be exercised shall comprise the harbour.

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

Power to
levy rates.

6.—(1) The Commissioners may demand receive and recover in respect of vessels entering and anchoring or making fast within or lying alongside any quays within—

- (a) Area I Any rates not exceeding the several rates specified in Part I of the First Schedule to this Act;
- (b) Area II Any rates not exceeding the several rates specified in Part II of the said First Schedule; and
- (c) Area III Any rates not exceeding the several rates specified in Part III of the said First Schedule:

Provided that—

- (a) all vessels forced by stress of weather to seek shelter in the harbour and not breaking bulk while making use thereof shall be exempt from the rates leviable under this Act;
- (b) no rates shall be demanded or received in respect of any vessel of less than seven hundred and fifty tons net register anchoring in the harbour on her voyage to or from Penryn St. Mawes or the port of Truro;

(c) the rates specified in the First Schedule to this Act shall not be demanded or received in respect of—

PART II
—cont.

(i) any vessel of less than fifty registered tons which is based when in commission inside the seaward boundary of the harbour (including any vessel so based in St. Mawes Harbour Truro Harbour Penryn Harbour or the Falmouth Docks);

(ii) any vessel when engaged on the Falmouth to St. Mawes Ferry on the Falmouth to St. Just Ferry or on the Falmouth to Flushing Ferry.

(2) The Commissioners may demand receive and recover in respect of every vessel for which a berth for mooring or anchoring in a selected position in the harbour is reserved any rates not exceeding those specified in the Second Schedule to this Act.

(3) The Commissioners may demand receive and recover in respect of any cargo transhipped within the harbour such rates as they may from time to time determine not exceeding two-pence per ton.

PART III

FINANCE

7.—(1) For the general purposes of the undertaking the Commissioners may from time to time borrow and reborrow at interest—

Power to borrow.

(a) moneys not exceeding in the aggregate fifty thousand pounds; and

(b) with the consent of the Minister additional moneys not exceeding in the aggregate one hundred and fifty thousand pounds;

and for the purpose of securing the repayment of any moneys so borrowed the Commissioners may mortgage all or any of their property revenues or rates.

(2) Any money borrowed under this Act shall be repaid within such period not exceeding forty years from the date of borrowing as the Commissioners may having regard to the circumstances of each case determine which periods shall be the fixed periods for the purposes of this Act.

8. It shall not be lawful to exercise the powers of borrowing conferred by this Act (except the power of borrowing to pay the costs charges and expenses of this Act) otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Saving for powers of Treasury.

9. All moneys borrowed by the Commissioners under the authority of this Act shall be applied by them for the purposes to which capital is properly applicable and not otherwise.

Application of moneys.

10. Any person advancing money to the Commissioners shall not be bound to require any further or other evidence

Protection of lenders.

PART III
—cont.

of the power of the Commissioners to borrow the money advanced by such person than such as is afforded—

- (1) by a certificate signed by the clerk to the Commissioners and two of the Commissioners that the Commissioners are not exceeding the powers of borrowing conferred on them by this Act; and
- (2) by an inspection of the register of mortgages by section 76 of the Commissioners Clauses Act 1847 required to be kept by the Commissioners.

Appointment
of a receiver.

11.—(1) The holders of any security given in respect of money borrowed by the Commissioners under this Act may apply to the High Court to enforce payment of arrears of interest or principal or principal and interest due on their securities by the appointment of a receiver and the court may if it thinks fit appoint a receiver upon such terms as it thinks fit.

(2) In order to authorise the appointment of a receiver in respect of arrears of interest or principal or principal and interest the amount owing to the persons by whom the application for the receiver is made shall not be less than ten per centum of the total amount of the money then borrowed under this Act and not paid off.

(3) The receiver shall have the like power of collecting receiving recovering and applying all rates and moneys receivable by the Commissioners as the Commissioners or any of their officers would or might have and such other powers and such duties as the court thinks fit and shall apply all rates and moneys so collected after payment of expenses and costs as the court directs for the purposes of the Falmouth Harbour Act and Orders 1870 to 1958.

(4) The court may at any time discharge the receiver and shall have full jurisdiction over him and all persons interested in his acts.

Annual
statements
need not
be printed.

12. It shall not be obligatory on the Commissioners under section 90 of the Commissioners Clauses Act 1847 as incorporated with the Order of 1870 to cause the statement and accounts therein mentioned to be printed and notwithstanding anything in that Order the same person may be both the clerk and treasurer to the Commissioners.

Reserve
fund.

13.—(1) The Commissioners may if they think fit provide a reserve fund by setting aside such money as they think reasonable and investing the same and the resulting income thereof in statutory securities until the money and the resulting income so invested amounts to the sum of ten thousand pounds.

(2) The reserve fund provided under this section may be applied—

- (a) to answer any deficiency at any time happening in the income of the Commissioners; or

- (b) to meet any extraordinary claim or demand at any time arising against the Commissioners; or
- (c) in payment of the cost of renewing improving or extending any works;

PART III
—cont.

and so that if the fund be at any time reduced it may thereafter be again restored to the said sum and so from time to time as often as such reduction happens Provided that resort may be had to the reserve fund though the fund may not at the time have reached or may have been reduced below the sum of ten thousand pounds.

14.—(1) The revenue received from rates or otherwise under the Falmouth Harbour Act and Orders 1870 to 1958 shall be applicable for the purposes and in the order following and not otherwise:—

Application
of revenue.

- (a) in payment of the costs charges and expenses of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto;
- (b) in payment of the expense properly chargeable to revenue of the maintenance repair renewal and management of the undertaking and all conveniences connected therewith;
- (c) in payment year by year of the interest accruing on moneys borrowed under this Act;
- (d) in payment of the instalments as they become due in discharge of any moneys so borrowed and repayable by instalments and in forming a sinking fund in accordance with this Act for payment of principal moneys borrowed under this Act;
- (e) in making such payments (if any) as the Commissioners think fit into a reserve fund established under the provisions of this Act.

(2) The surplus (if any) after providing for the purposes aforesaid shall be applied for the general purposes of the undertaking.

15. The Commissioners shall pay off all moneys borrowed by them under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months or when the money is repayable by half-yearly instalments within six months from the date of borrowing.

Mode of
payment off
of money
borrowed.

16.—(1) The Commissioners may borrow for the purpose of—

Power to
reborrow.

- (a) paying off any moneys previously borrowed under this Act by the Commissioners which are intended to be repaid forthwith; or

PART III
—cont.

- (b) replacing moneys which during the preceding twelve months have been temporarily applied from other moneys of the Commissioners in repaying moneys previously borrowed under this Act and which at the time of such repayment it was intended to replace by borrowed moneys:

Provided that the Commissioners shall not have power to borrow under this section—

- (a) for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys; or
- (b) for the purpose of replacing any moneys previously borrowed which have been repaid—
- (i) by instalments or annual payments; or
 - (ii) by means of a sinking fund; or
 - (iii) out of moneys derived from the sale of land; or
 - (iv) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the fixed period which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

Sinking
fund.

17.—(1) If the Commissioners determine to repay by means of a sinking fund any moneys borrowed under this Act the sinking fund shall be formed and maintained either—

- (a) by payment to the fund throughout the fixed period of such equal annual sums as will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed (a sinking fund so formed being hereinafter called a “non-accumulating sinking fund”); or
- (b) by payment to the fund throughout the fixed period of such equal annual sums as with accumulations at a rate not exceeding such rate as the Minister may approve will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed (a sinking fund so formed being hereinafter called an “accumulating sinking fund”).

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the moneys for

the repayment of which the sinking fund is formed be immediately invested in statutory securities but the Commissioners may from time to time vary and transpose the investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Commissioners towards the equal annual payments to the fund.

(4) The Commissioners may at any time apply the whole or any part of a sinking fund in or towards the discharge of the moneys for the repayment of which the sinking fund was formed:

Provided that in the case of an accumulating sinking fund the Commissioners shall pay into the fund each year and accumulate during the residue of the fixed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) If at any time the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any deficiency shall be made good by the Commissioners.

(6) If at any time the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any such excess may be applied towards such annual payments.

(7) Any surplus of a sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such capital purposes as the Commissioners with the consent of the Minister may determine.

(8) Any expenses connected with the formation maintenance investment application or management of or otherwise in relation to any sinking fund under this Act shall be paid by the Commissioners in addition to the payments provided for by this Act.

18.—(1) If at any time it appears to the Commissioners that the amount in a sinking fund together with the sums which will be payable thereto in accordance with the provisions of this Act and in the case of an accumulating sinking fund with the accumulations thereon will not be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed the Commissioners shall either temporarily or permanently make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose and if it appears to the Minister that any such increase is necessary the Commissioners shall increase the payments to such extent as the Minister may direct.

Adjustments
to sinking
fund.

PART III
—cont.

(2) If the Commissioners desire to accelerate the repayment of any moneys borrowed they may with the approval of the Minister increase the amounts payable to the sinking fund.

(3) If the amount in a sinking fund together with the sums which will be payable thereto in accordance with the provisions of this Act and also in the case of an accumulating sinking fund together with the accumulations thereon will in the opinion of the Minister be more than sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed the Commissioners may reduce the payment to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Minister be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed.

(4) If at any time the amount in a sinking fund together with the accumulations thereon in the case of an accumulating sinking fund will in the opinion of the Minister be sufficient to repay the moneys for the repayment of which the sinking fund is formed within the fixed period the Minister may authorise the Commissioners to suspend the annual payments to the sinking fund until the Minister otherwise directs.

Return to
Minister.

19.—(1) The clerk to the Commissioners shall within three months after the expiration of each financial year send to the Minister a return showing the provision made by the Commissioners for the repayment of moneys borrowed by them under the authority of this Act.

(2) The return shall—

(a) show such particulars be made up to such date and be in such form as the Minister may require;

(b) be certified by the treasurer or other person whose duty it is to keep the accounts of the Commissioners and if so required by the Minister be verified by statutory declaration made by that person.

(3) If it appears to the Minister from any return made under this section or otherwise that the Commissioners—

(a) have failed to pay any instalment or annual payment required to be paid; or

(b) have failed to appropriate to the discharge of any loan any sum required to be so appropriated; or

(c) have failed to set apart any sum required for a sinking fund; or

(d) have applied any portion of a sinking fund to a purpose other than those authorised;

the Minister may by order direct that such sum as is specified in the order not exceeding the amount in respect of which default has been made shall be paid or applied in the manner and by the date

set out in the order and the Commissioners shall notify the Minister as soon as the order has been complied with.

PART III
—cont.

(4) An order made under the last preceding subsection may be enforced at the instance of the Minister by mandamus.

(5) If a return required to be made under this section is not made within the time specified in subsection (1) of this section the person in default shall be liable to a fine not exceeding twenty pounds and notwithstanding the recovery of any such fine the making of the return may be enforced at the instance of the Minister by mandamus.

PART IV

MISCELLANEOUS AND GENERAL

20.—(1) The Commissioners may by agreement acquire (whether by purchase lease or exchange) and hold any land which in their opinion it is desirable that they should acquire for or in connection with any of the purposes of the undertaking.

Power to purchase lands by agreement.

(2) The Commissioners may sell lease exchange (paying or receiving or without paying or receiving money for equality of exchange) or otherwise dispose of any land acquired by them in such manner and for such consideration and on such terms and conditions as they think fit (whether in consideration of the execution of works or of the payment of a capital sum or of an annual rent or of payment in any other form).

(3) Any capital money received by the Commissioners in respect of any transaction under this section shall be applied in or towards the repayment of moneys borrowed by the Commissioners or for other purposes of the Commissioners for which capital money may properly be applied.

21.—(1) The powers of the Commissioners of making byelaws under section 83 of the Harbours Docks and Piers Clauses Act 1847 shall extend so as to enable the Commissioners to make byelaws—

Byelaws as to vessels plying for hire etc.

(a) for regulating the conduct of boatmen and ferrymen and others plying in the harbour;

(b) subject to subsection (3) of this section for prohibiting vessels or any class of vessels not being vessels authorised so to do by or under any enactment from plying for hire in or from the harbour except under a licence granted by the Commissioners and in accordance with any terms and conditions upon which the licence is granted.

(2) The Commissioners may demand and take subject to subsection (3) of this section in respect of licences such as are mentioned in paragraph (b) of subsection (1) of this section such reasonable fees as they may from time to time determine.

PART IV
—cont.

(3) Any person aggrieved by the refusal suspension or revocation of a licence such as is mentioned in paragraph (b) of subsection (1) of this section or who alleges that any term or condition attached to such a licence or any fee demanded therefor under subsection (2) of this section is unreasonable may make a complaint in respect thereof to a magistrates' court who may make such order on the complaint as they think just and any person aggrieved by the order may appeal against it to a court of quarter sessions.

Application
of Local
Government
Act 1933 to
byelaws.

22.—(1) Notwithstanding the provisions of the Harbours Docks and Piers Clauses Act 1847 relating to the procedure for the making and confirmation of byelaws all byelaws made by the Commissioners after the passing of this Act under any enactment shall be subject to the provisions contained in subsections (2) (3) (4) (5) (6) and (7) of section 250 and in sections 251 and 252 of the Local Government Act 1933 and all fines imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of fines and those sections shall for the purposes of this section be construed as if the words "the Commissioners" were inserted instead of the words "the authority" wherever they occur and as if the reference to "the clerk of the authority" included a reference to "the clerk of the Commissioners".

(2) The confirming authority for the purposes of the said section 250 shall be the Minister.

Powers with
respect to
disposal of
wrecks.

23.—(1) In their application to the Commissioners sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the Commissioners 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 the next following section; and

(b) in relation to a vessel sunk stranded or abandoned before as well as after the passing of this Act.

(2) Subject to subsection (4) of this section and to any enactment for the time being in force limiting his liability the Commissioners 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 being a vessel sunk stranded or abandoned after the passing of this Act any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section or in the case of an appeal under the next following subsection against the amount demanded such sum if any as may be awarded under that subsection.

(3) At any time before the expiration of fourteen days from the date of service on the owner of a vessel of a demand for the

payment of any amount under the last foregoing subsection he may if he is dissatisfied with the amount demanded appeal to the Minister who shall appoint an arbitrator to determine whether any and if so what sum should properly be payable by the owner in respect of the Commissioners' expenses aforesaid and the decision of the arbitrator shall be final and binding on both parties and the costs of the appeal and award shall be borne by the parties in such manner as the arbitrator may determine and be recoverable as a simple contract debt.

(4) Except in a case which is in the opinion of the Commissioners 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 Commissioners 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 Commissioners 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 next following section he shall be at liberty to do so and the Commissioners 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 Commissioners.

(5) Notice under the last foregoing subsection to the owner of any vessel may be served by the Commissioners either by delivering it to him or by sending it to him by post in a registered letter 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 Commissioners by displaying the notice at the offices of the Commissioners for the period of its duration.

(6) 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 abandoning thereof.

24.—(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 Commissioners by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

Protection
of Crown
interests in
wrecks.

(a) in relation to any vessel sunk stranded or abandoned by design by or under the orders of a person acting

PART IV
—cont.

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 Admiralty which may be given with or without such a direction as is referred to in paragraph (b) of the next following subsection 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 Admiralty of Her Majesty's ships of war.

(2) The Commissioners shall give notice in writing to the Admiralty and to the Minister of any decision of the Commissioners to exercise in relation to any vessel 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 Commissioners a case of emergency shall not proceed with the exercise thereof—

(a) except with the consent of the Admiralty and the Minister 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 Commissioners a direction by the Admiralty or the Minister 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 Commissioners 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 the last foregoing section:

Provided that—

(i) the Commissioners 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 the foregoing subsection 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 (4) of the last

foregoing section 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 Minister for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Commissioners by the said section 530 the Commissioners 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 Commissioners shall discharge any sums payable in respect of that property by way of duties of customs or excise purchase tax or surcharge in respect of sugar or molasses and any sums so discharged shall be deemed to be expenses incurred by the Commissioners under that section.

(4) Any limitation on the powers of the Commissioners 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 the Trinity House by section 531 of the said Act of 1894.

25. The Minister may hold such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred upon him or the giving of any consent or approval under this Act and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Commissioners were a local authority.

Inquiries by
Minister.

26.—(1) The following provisions are hereby repealed:—

Repeal and
amendment.

Order of 1870—

Section 8 (Limits of harbour under jurisdiction of the Commissioners);

Order of 1937—

Section 12 (Power to levy rates);

Section 17 (Removal of sunk stranded or abandoned vessels);

The schedule.

(2) Section 20 (Pilots to be within certain limits subject to harbour master) of the Order of 1870 shall have effect as if for

PART IV
—cont.

the words “ so much of the limits of this order as lies inside of a line drawn from Zoze Point on the east to the Blockhouse at Pendennis Castle on the west ” there were substituted the words “ the harbour ”.

(3) References in the Order of 1870 and the Order of 1937 to “ the harbour ” shall be deemed to be references to the harbour as defined by this Act.

Costs of
Act.

27. The costs charges and expenses of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Commissioners.

SCHEDULES

FIRST SCHEDULE

TONNAGE RATES FOR VESSELS ENTERING AND ANCHORING OR MAKING FAST WITHIN THE HARBOUR OR LYING ALONGSIDE ANY QUAYS WITHIN SPECIFIED PARTS OF THE HARBOUR FOR EACH ENTRY

PART I
(AREA I)

Foreign-going vessels (except commercial fishing vessels and bona fide pleasure yachts and boats)	2d. per ton register tonnage
Minimum charge	5s. 0d.
Coastwise vessels (except commercial fishing vessels and bona fide pleasure yachts and boats)	1d. per ton register tonnage
Minimum charge	5s. 0d.
Commercial fishing vessels	1d. per ton register tonnage
Minimum charge	1s. 0d.
Bona fide pleasure yachts and boats	1d. per ton register tonnage
Minimum charge	1s. 0d.

PART II
(AREA II)

Foreign-going vessels (except commercial fishing vessels and bona fide pleasure yachts and boats)	2d. per ton register tonnage
Minimum charge	5s. 0d.
Coastwise vessels (except commercial fishing vessels and bona fide pleasure yachts and boats)	1d. per ton register tonnage
Minimum charge	5s. 0d.
Commercial fishing vessels	1d. per ton register tonnage
Minimum charge	1s. 0d.
Bona fide pleasure yachts and boats	1d. per ton register tonnage
Minimum charge	1s. 0d.
Vessels for repair only	2d. per ton register tonnage

PART III
(AREA III)

Foreign-going vessels (except commercial fishing vessels and bona fide pleasure yachts and boats)	1d. per ton register tonnage
Minimum charge	5s. 0d.
Coastwise vessels (except commercial fishing vessels and bona fide pleasure yachts and boats)	$\frac{1}{2}$ d. per ton register tonnage
Minimum charge	5s. 0d.
Commercial fishing vessels and bona fide pleasure yachts and boats	Free

1ST SCH.
—cont.

Only one rate shall be charged against a vessel using two or more sections of the harbour in one visit. The vessel shall pay the highest due applicable.

Any vessel remaining within the harbour longer than four weeks shall pay a further rate equal to half the rate specified above for the remainder of twelve months or any part thereof the minimum charge to be as specified above.

A bona fide pleasure yacht or boat leaving the harbour and returning the same day to be considered as having remained within the harbour for the purpose of tonnage rates.

SECOND SCHEDULE

RESERVATION OF BERTHS

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

	£	s.	d.
Vessels not exceeding 20 feet in length per annum	15	0	0
Exceeding 20 feet but not exceeding 25 feet per annum	1	10	0
Exceeding 25 feet but not exceeding 35 feet per annum	3	0	0
Exceeding 35 feet per annum	6	0	0

Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act 1845	8 & 9 Vict. c. 18.
Commissioners Clauses Act 1847	10 & 11 Vict. c. 16.
Harbours Docks and Piers Clauses Act 1847	10 & 11 Vict. c. 27.
Pier and Harbour Orders Confirmation Act 1870 (No. 2)	33 & 34 Vict. c. clviii.
Merchant Shipping Act 1906	6 Edw. 7 c. 48.
Local Loans Act 1875	38 & 39 Vict. c. 83.
Merchant Shipping Act 1894	57 & 58 Vict. c. 60.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Pier and Harbour Order (Falmouth) Confirmation Act 1937	1 Edw. 8. & 1 Geo. 6. c. 1xx.
Borrowing (Control and Guarantees) Act 1946.. .. .	9 & 10 Geo. 6. c. 58.

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