



CHAPTER xxxvii

An Act to confirm a Provisional Order made by the Minister of Transport and Civil Aviation under the General Pier and Harbour Act, 1861, relating to Gloucester. [29th July 1959.]

WHEREAS a Provisional Order made by the Minister of Transport and Civil Aviation under the General Pier and Harbour Act, 1861, is not of any validity or force whatever until confirmation thereof by Act of Parliament:

And whereas it is expedient that the Provisional Order made by the Minister of Transport and Civil Aviation under the said Act which, as amended, is set out in the schedule to this Act be confirmed by Act of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Order as set out in the schedule to this Act shall be Confirmation and the same is hereby confirmed and all the provisions thereof of Order in in manner and form as they are set out in the said schedule shall schedule. from and after the passing of this Act have full validity and force.

2. This Act may be cited as the Pier and Harbour Order Short title, (Gloucester) Confirmation Act, 1959.

SCHEDULE

GLOUCESTER HARBOUR

Provisional Order to confer further powers on the Gloucester Harbour Trustees and for other purposes

Short and
collective titles.

1.—(1) This Order may be cited as the Gloucester Harbour Order, 1959.

(2) The Order of 1889, the Order of 1890, the Order of 1936 and this Order may be cited together as the Gloucester Harbour Orders, 1889 to 1959, and shall be construed and read together as one enactment except as far as might be inconsistent with or repugnant to the purposes thereof.

Commencement
of Order.

2. This Order shall come into operation upon the day when the Act confirming this Order is passed.

Interpretation.

3.—(1) In this Order, unless the context otherwise requires, words and expressions to which by the Order of 1889, the Order of 1890, or the Order of 1936 or by any enactments incorporated therewith or applied thereto meanings are assigned, have the same respective meanings and—

“enactment” includes any public general local or private Act and any order or other instrument having the force of an Act;

“Minister” means the Minister of Transport and Civil Aviation;

“the Order of 1889” means the Sharpness Lighthouses Order, 1889;

“the Order of 1890” means the Gloucester Harbour Order, 1890;

“the Order of 1936” means the Gloucester Harbour Order, 1936;

“statutory security” means any security in which trustees are for the time being authorised to invest trust moneys;

“Trustees” means the Gloucester Harbour Trustees incorporated by the Order of 1890.

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

Undertakers.

4. The Trustees shall be the undertakers for carrying this Order into execution.

Application of
Harbours
Clauses Act
1847.

5.—(1) In the application to this Order of the Harbours Clauses Act, 1847, the expression “special Act” shall mean this Order.

(2) Sections 12 and 13 16 to 19 25 and 26 47 60 and 84 to 87 of the Harbours Clauses Act, 1847, shall not be incorporated with this Order. With reference to section 88 it shall not be necessary that the byelaws therein mentioned shall be exhibited in the office of the Trustees unless such office is situated within the limits of the Order of 1890 as defined in section 12 thereof.

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(3) Section 28 of the Harbours Clauses Act, 1847 (which section exempts certain vessels from the provisions of the Act), in its application to the Gloucester Harbour Orders, 1889 to 1959, shall have effect as if in the said section for the words from "or any packet boat" to "any such packet boat or packet" there were substituted the words "or any vessel employed by or under the authority of the Postmaster-General for the conveyance under contract of postal packets as defined by the Post Office Act, 1953, not being a vessel also conveying passengers or goods for hire or reward, or any mail bag as so defined conveyed by any such vessel".

6. The Trustees may (so far as the rates specified in the schedule to the Order of 1890 do not extend) demand and recover such reasonable rates or other consideration as they may determine for the use of any warehouses sheds buildings yards weighing-machines mooring posts cranes buoys works and conveniences belonging to or provided by the Trustees or in respect of any services rendered by them in connection with the harbour.

Rates for services and accommodation not otherwise provided for.

7. It shall not be obligatory on the Trustees under section 90 of the Commissioners Clauses Act, 1847, as incorporated with the Order of 1890 to cause the statement and accounts therein mentioned to be printed and notwithstanding anything in that Act the same person may be both clerk and treasurer to the Trustees.

Annual statement need not be printed.

8. The Trustees may if they think fit for the purpose of forming and maintaining a reserve fund which fund shall be applicable to answer any deficiency at any time happening in the income of the Trustees or to meet any extraordinary claim or demand in respect of the undertaking or for payment of the cost of renewing improving or extending any part of the works forming part thereof, appropriate and set apart any amount which they think fit in any year out of the revenue received under the Gloucester Harbour Orders, 1889 to 1959, and shall deposit any such amount in some joint stock bank to be increased by accumulation in the way of compound interest or otherwise or shall invest the same in statutory securities until required for any of the purposes aforesaid.

Reserve fund.

9.—(1) In their application to the Trustees sections 530 and 532 of the Merchant Shipping Act, 1894 (which confer powers on the Trustees 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—

Powers with respect to disposal of wrecks.

(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 (3) of this section, and to any enactment for the time being in force limiting his liability the Trustees 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 the Act confirming this Order, 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.

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(3) Except in a case which is in the opinion of the Trustees 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 Trustees 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 Trustees 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 Trustees 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 Trustees.

(4) Notice under the last foregoing subsection to the owner of any vessel may be served by the Trustees 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 Trustees by displaying the notice at the offices of the Trustees 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 abandoning thereof.

Protection of
Crown interests
in wrecks.

10.—(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 Trustees 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 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 Trustees shall give notice in writing to the Admiralty and to the Minister of any decision of the Trustees 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 Trustees 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 Trustees 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 Trustees 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 Trustees 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 (3) 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 Trustees by the said section 530, the Trustees 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 Trustees 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 Trustees under that section.

(4) Any limitation on the powers of the Trustees 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.

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Byelaws.

11.—(1) The byelaws which may from time to time be made by the Trustees in exercise of the powers in that behalf conferred on them by section 83 of the Harbours Clauses Act, 1847, may provide for the imposing of a penalty not exceeding forty shillings for the breach or non-observance of any of the byelaws.

(2) Notwithstanding the provisions of the Harbours Clauses Act, 1847, relating to the procedure for the making and confirmation of byelaws by the Trustees the provisions of subsections (3) to (6) of section 250 and section 252 of the Local Government Act, 1933, shall apply to all byelaws to be made by the Trustees in respect of the undertaking and in the application of such last-mentioned provisions the Minister shall be the confirming authority.

Inquiries by Minister.

12. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Order and 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 Trustees were a local authority.

Repeal.

13. On and from the commencement of this Order the following provisions shall be repealed:—

The Order of 1889—

Section 8 (Part of Commissioners' Clauses Act, 1847, incorporated);

Section 12 (Limits of Order);

Section 18 (Power to make byelaws);

Section 19 (Application of receipts).

The Order of 1936—

Section 10 (Byelaws);

Section 11 (Inquiries by Minister).

Costs of Order.

14. All costs charges and expenses of and incident to the preparing and obtaining of this Order and otherwise incurred in reference thereto shall be paid by the Trustees.

Table of Statutes referred to in this Act

| Short title | Session and chapter |
|--|------------------------|
| Commissioners Clauses Act 1847... .. | 10 & 11 Vict. c. 16. |
| Harbours Docks and Piers Clauses Act 1847 | 10 & 11 Vict. c. 27. |
| General Pier and Harbour Act 1861 | 24 & 25 Vict. c. 45. |
| Merchant Shipping Act 1894 | 57 & 58 Vict. c. 60. |
| Merchant Shipping Act 1906 | 6 Edw. 7 c. 48. |
| Local Government Act 1933 | 23 & 24 Geo. 5. c. 51. |
| Post Office Act 1953 | 1 & 2 Eliz. 2 c. 36. |

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