



CHAPTER clxxxiii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Lerwick Harbour. A.D. 1911.
[16th December 1911.]

WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict.
c. 47.

Be it therefore enacted by the King'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 Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed. Confirmation
of Order in
schedule.

2. This Act may be cited as the Lerwick Harbour Order Confirmation Act 1911. Short title.

A.D. 1911.

SCHEDULE.

LERWICK HARBOUR.

Provisional Order to authorise the erection of New Works by the Trustees of the Port and Harbour of Lerwick to authorise the Trustees to borrow money and to levy Tonnage Dues and for other purposes.

WHEREAS the harbour of Lerwick (hereinafter called "the harbour") is at present administered by the trustees of the port and harbour of Lerwick (hereinafter called "the Trustees") incorporated under the Lerwick Harbour Improvements Act 1877 (hereinafter called "the Act of 1877") and the Lerwick Harbour Order 1903 (hereinafter called "the Order of 1903"):

And whereas under the Act of 1877 the Trustees were authorised to construct harbour works and to borrow a sum not exceeding twenty thousand pounds:

And whereas it is expedient to extend the works erected by the Trustees and to authorise them to construct additional works and to borrow additional money as in this Order provided:

And whereas the Trustees have no power to make any charge upon vessels lying within the conservancy limits of the harbour as defined by the Act of 1877 and loading discharging or transshipping cargo therein except where such vessels are within the limits of the harbour for rating purposes as defined by the said Act and it is expedient that the Trustees should be authorised to make charges upon such vessels as hereinafter provided:

And whereas it is expedient to raise the shore dues upon fresh herrings and also to impose dues upon roused herrings:

And whereas it is expedient to alter as hereinafter provided the procedure for the election of Trustees by the ratepayers when a poll is demanded as provided for in the Act of 1877 and that the said election should be carried out by ballot:

And whereas it is expedient for the better representation of the interests concerned that the provisions of the Act of 1877 as to the retiral of Trustees and as to the qualifications of the

ratepayers and shipowners entitled to vote in the election of Trustees should be amended as hereinafter provided: A.D. 1911.

And whereas it is expedient to repeal section 15 of the Act of 1877:

And whereas it is expedient in order to secure continuity of policy that the whole body of Trustees should not go out of office simultaneously but that one Trustee of those appointed by each group of electors should retire annually:

And whereas it has been found inconvenient for the auditor appointed under the Act of 1877 to report upon the Trustees' annual accounts by the thirty-first day of January in each year and it is expedient to extend the period for the completion of the said report to the twenty-eighth day of February:

And whereas it is expedient to provide for the appointment of an auditor in the event of the auditor who is appointed for a period of three years in terms of the Act of 1877 resigning dying or otherwise becoming incapacitated:

And whereas plans and sections showing the lines situations and levels of the said proposed works have been deposited with the sheriff-clerk of the county of Zetland (which are hereinafter referred to as "the deposited plans and sections"):

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last mentioned Act the Secretary for Scotland orders as follows:—

1. This Order may be cited as the Lerwick Harbour Order 1911 and this Order and the Lerwick Harbour Acts 1877 to 1903 may be cited as the Lerwick Harbour Acts 1877 to 1911. Citation.

2. In this Order the expressions to which meanings are assigned in the Act of 1877 have the same respective meanings and the expression "the Act of 1877" means the Lerwick Harbour Improvements Act 1877 "the Order of 1903" means the Lerwick Harbour Order 1903 "the county council" means the county council of Zetland and "the Trustees" means the Trustees for the time being acting as harbour trustees under the Lerwick Harbour Acts 1877 to 1903 and this Order. Interpretation.

A.D. 1911.
Incorporation of Acts.

3. The following Acts are (except where expressly varied by and in so far as not inconsistent with this Order) incorporated with and form part of this Order (that is to say):—

The Commissioners Clauses Act 1847 with the exception of the clauses thereof—

With respect to the qualification of commissioners;

With respect to the election and rotation of the commissioners where the commissioners are to be elected by the ratepayers or other like class of electors;

With respect to the meetings and other proceedings of the commissioners and their liabilities; and

With respect to the mortgages to be executed by the commissioners and also with the exception of Clauses 66 92 93 94 and 95;

and the word "commissioners" in the said Act shall mean the Trustees:

The Harbours Docks and Piers Clauses Act 1847 with the exception of the clauses—

With respect to lifeboats with respect to keeping a tide and weather gauge (unless the Board of Trade require a lifeboat and tide and weather gauge to be kept or provided) and with respect to buoys lighthouses and beacons;

and the following expressions used in the said Act shall have the following respective meanings (that is to say):—

The expressions "Packet Boat" and "Post Office Packet" mean respectively a vessel employed by or under the Post Office or the Admiralty for the conveyance under contract of postal packets as defined by the Post Office Act 1908 and the expression "Post Office bag of letters" means a mail bag as defined by the same Act. Provided that nothing in the Harbours Docks and Piers Clauses Act 1847 or in this Order shall extend to exempt from rates or duties any such vessel as aforesaid if she also conveys passengers or goods for hire:

Sections 13 18 and 19 of the Railways Clauses Act 1863 and in construing those sections the words "the Company" shall mean the Trustees and "works" and "railway" shall mean the piers quays and works authorised by this Order.

4. This Order shall come into operation on the date of the passing of the Act confirming the same which date is in this Order referred to as "the commencement of this Order."

A.D. 1911.
Commencement of Order.

5. Subject to the provisions of this Order the Trustees may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works hereinafter described and all proper approaches works and conveniences connected therewith (that is to say):—

Construction of new works.

Work No. 1 A pier commencing at the eastmost extremity of Hay's Pier at Lerwick and thence extending in a north-easterly direction for a distance of one hundred and ten feet or thereby and thence extending in a north-westerly direction for a distance of one hundred and eighty feet or thereby and thence extending in a south-westerly direction for a distance of one hundred and twenty-six feet or thereby and there terminating in the bed of the sea which work will be solid throughout:

Work No. 2 An extension of the existing Victoria Pier at Lerwick commencing at the north-east or seaward end of that pier and thence extending in a north-easterly direction for a distance of one hundred feet or thereby from the said point of commencement and there terminating in the bed of the sea which work will be solid throughout:

Work No. 3 A slip commencing at the south end of Albert Wharf at Lerwick and extending in a south-easterly direction for a distance of eighty feet or thereby and there terminating which work will be solid throughout:

Work No. 4 The reclamation of ground and raising and making up of the ground or foreshore between the last mentioned Work No. 3 and the roadway of North Esplanade which work will be solid throughout:

Work No. 5 A widening of Victoria Pier at Lerwick by filling up the existing slip situated on the north side and inner end of said pier which work will be solid throughout.

All which intended works will be situate in the burgh and parish of Lerwick and county of Zetland and in the bed of the sea in and ex adverso of said burgh and parish.

6. In constructing the works by this Order authorised the Trustees may deviate laterally from the lines of such works

Limits of deviation.

A.D. 1911. delineated on the deposited plans to any extent not exceeding the limits of deviation marked on the deposited plans and may deviate vertically from the levels of the said works as defined on the deposited sections to any extent not exceeding ten feet provided that no deviation either lateral or vertical below high water mark shall be made without the consent in writing of the Board of Trade.

Power to
borrow
money.

7. The Trustees may borrow on the security of the rates authorised to be levied by the Act of 1877 and by this Order and of their revenue and undertaking any sum not exceeding fifteen thousand pounds in addition to the sum of twenty thousand pounds which they are authorised to borrow by section 47 of the Act of 1877 and all the provisions of the Act of 1877 relative to borrowing powers shall apply to any moneys borrowed under this Order.

Tonnage
dues on
vessels
within con-
servancy
limits.

8. Notwithstanding any provisions of the Act of 1877 the Trustees may subject to the provisions of this Order demand and take for every vessel (other than boats entirely open) entering within the limits of the harbour for conservancy purposes as defined by the Act of 1877 and there discharging loading or transshipping cargo or coals or carrying on the business of herring curing (although such vessel does not make any use of the works vested in the Trustees) any sum not exceeding one half of the rates specified in Schedule B annexed to the Act of 1877 as amended by the Order of 1903 and not exceeding one-half of the said rates for the time being actually charged by the Trustees upon vessels entering or using the harbour as defined for rating purposes. Provided that no vessel which loads or discharges part of her cargo at the works vested in the Trustees and pays tonnage rates in respect of the said use of the said works shall be liable in further tonnage rates in the event of her loading or discharging part of her cargo at any other point within the said conservancy limits without having gone beyond the same.

Tonnage
dues on coal
hulks.

9. Subject to the provisions of this Order the Trustees may demand and take (in addition to the tonnage rate authorised to be taken by the immediately preceding section) for every vessel anchoring within the harbour limits for conservancy purposes as defined in the Act of 1877 and remaining within the same as a coal hulk any sum not exceeding twopence per registered ton for every period or fraction of a period of three months.

Order Confirmation Act, 1911.

10. The maximum charge which the Trustees may levy upon fresh herrings in virtue of section 44 of the Act of 1877 and Schedule C annexed thereto shall be threepence per cran in place of one penny per cran as therein provided and the said Schedule C shall be amended accordingly and the Trustees may levy a like rate of threepence per cran upon roused herrings.

A.D. 1911.
Alteration
of dues on
fresh and
imposition
of dues on
roused
herrings.

11. At the first election of Trustees subsequent to the commencement of this Order each of the four bodies entitled to elect Trustees shall elect three Trustees as heretofore and at the end of one year from the date of that election one Trustee of the three Trustees representing each body shall retire but shall be eligible for re-election. In the following year one of the two remaining Trustees representing each body shall retire but shall be eligible for re-election and in the third year the third remaining Trustee representing each body shall likewise retire and be eligible for re-election and thereafter the three Trustees representing each body shall retire in rotation being always eligible for re-election. In the event of there being a poll at the first election of Trustees by ratepayers or shipowners the Trustee elected by each of those bodies having the lowest number of votes shall retire at the end of the first year the Trustee having the next lowest at the end of the second year and the Trustee having the highest number of votes at the end of the third year and in the event of there being no poll or an equal number of votes being cast for two or more of the candidates the Trustees shall fix the order of retiral and should any Trustee die retire or become disqualified between the annual elections the Trustees shall elect a Trustee ad interim in his room and the Trustee so elected shall take the place of the Trustee in whose room he has been elected and shall retire at the time when the said Trustee would have retired in ordinary course. In the case of the Trustees elected by the corporation and the county council these bodies shall at the first election fix the order of retiral of the Trustees elected by them.

Election of
Trustees.

12.—(1) Section 15 of the Act of 1877 is hereby repealed.

(2) Subject to the provisions of this Order and the Act of 1877—

(a) The corporation at their meeting on the first Friday immediately succeeding the day of their annual election in 1912 or any adjournment thereof and

Election of
Trustees by
corporation
county
council and
shipowners.

A.D. 1911.

the county council at their general meeting held in the month of December 1912 or any adjournment thereof respectively shall elect from their own number three persons to be Trustees And at their said meetings to be held annually thereafter the corporation and county council respectively shall elect from their own number one person to be a Trustee and where any Trustee representing the said corporation or county council ceases to be a member of the corporation or county council he shall also cease to be a Trustee and at the next annual meeting for the election of Trustees of the corporation or county council the corporation or county council as the case may be shall elect a Trustee in his place and the Trustee so elected shall retire at the date when the Trustee whose place he takes would have retired:

- (b) The shipowners shall between the first and tenth day of November 1912 both days inclusive hold a meeting and at such meeting shall elect from their own number three persons to be Trustees and between the first and tenth day of November both days inclusive annually thereafter the shipowners shall hold a meeting and at such meeting elect from their own number one person to be a Trustee.

Lists of ship-owners and ratepayers to be made.

13.—(1) Section 11 (Lists of shipowners and ratepayers to be made) of the Act of 1877 is hereby repealed.

(2) The clerk to the Trustees shall prepare annually on or before the twenty-fourth day of August in each year a list of the persons qualified as shipowners to vote at the election of Trustees by the shipowners and also a list of the persons qualified as ratepayers to vote at the election of Trustees by the ratepayers And the said lists shall be open to the inspection of the public at the office of the clerk from the said twenty-fourth day of August until the first day of September and any person objecting to either of the said lists either on the ground that it contains the name of any person who is not qualified or omits the name of any person duly qualified may appeal on or before the said first day of September to the Trustees or to any committee of the Trustees appointed for hearing such appeals for rectification of said lists and the Trustees or such committee

Order Confirmation Act, 1911.

shall dispose of every such appeal before the tenth day of September and the clerk shall if necessary rectify the said list accordingly. A.D. 1911.

14. Section 14 (Regulations for taking the poll) of the Act of 1877 is hereby amended as follows:— Election by ratepayers and ship-owners.

(1) In subsection (1) the word "eight" shall be substituted for the word "three" therein occurring:

(2) Subsection (5) is hereby repealed and in place thereof the following subsection shall have effect:—

"(5) The polling shall be by ballot."

15. In section 7 (Qualification of shipowners) and section 9 (Qualification of harbour ratepayers) in the Act of 1877 the words "parish of Lerwick" shall be substituted for the words "burgh of Lerwick" in these sections occurring. Extension of area of electors.

16. Section 65 (Appointment of auditor) of the Act of 1877 shall be amended as follows The words "twenty-eighth day of February" shall be substituted for the words "thirty-first day of January" therein occurring and the following words shall be added to the said section "and in case the office of such auditor shall before such accounts are audited by him become vacant by death or from any other cause the sheriff shall on the application of the Trustees appoint an auditor to supply such vacancy." Amendment of section 65 of Act of 1877.

17. Nothing contained in this Order shall be deemed to exempt the harbour or the Trustees from the provisions of the Merchant Shipping Act 1894 or from any general Act relating to merchant shipping harbours or docks or to dues on shipping or on goods carried in vessels now in force or which shall be passed during the present or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the rates authorised by this Order. Nothing to exempt harbour or Trustees from provisions of Merchant Shipping Act.

18. The Trustees shall not under the powers of this Order construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the Secretaries or Assistant Secretaries of the Board of Trade and then only Works below high-water mark not to be commenced without consent of Board of Trade.

A.D. 1911. according to such plan and under such restrictions and regulations as the Board of Trade may approve such approval being signified as last aforesaid and where any such work may have been constructed the Trustees shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consent or approval. If any such work be commenced or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Trustees and the amount of such costs and charges shall be a debt due from the Trustees to the Crown and shall be recoverable as a Crown debt or summarily.

Lights on works during construction.

19. The Trustees shall at or near the works below high-water mark hereby authorised during the whole time of the constructing altering or extending the same exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Board of Trade from time to time require or approve.

If the Trustees fail to comply in any respect with the provisions of this section they shall for each day in which they so fail be liable to a penalty not exceeding twenty pounds.

Permanent lights on works.

20. The Trustees shall at the outer extremity of their works below high water exhibit and keep burning from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

If the Trustees fail to comply in any respect with the provisions of the present section they shall for each day in which they so fail be liable to a penalty not exceeding twenty pounds.

Survey of works by Board of Trade.

21. If at any time the Board of Trade deem it expedient for the purposes of this Order to order a survey and examination of a work constructed by the Trustees on in over through or across tidal lands or tidal water or of the intended site of any such work the Trustees shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Trustees to the Crown and be recoverable as a Crown debt or summarily.

22. If a work constructed by the Trustees on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Trustees and the amount of such expense shall be a debt due from the Trustees to the Crown and be recoverable as a Crown debt or summarily.

A.D. 1911.
Abatement
of work
abandoned or
decayed.

23. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and all persons brought ashore from any vessel in distress shall at all times have free ingress passage and egress to along and from the premises and works belonging to the Trustees.

Exemption
of lifeboat
crew.

24. Fishing vessels belonging to countries with which for the time being treaties exist exempting from duties and port charges those vessels when forced by stress of weather to seek shelter in the ports or on the coast of the United Kingdom shall when forced by stress of weather to make use of the harbour and not breaking bulk while making use thereof be exempt from rates leviable under this Order.

Certain fish-
ing vessels
under stress
of weather
exempt from
rates.

25. The officers of the coastguard and all other persons for the time being actually employed in connection with the lifeboat or the apparatus for saving life may either permanently or temporarily without payment attach or cause to be attached to any part of the works by this Order authorised spars and other apparatus for saving life and may also either in course of using or of exercising the apparatus for saving life fire rockets over those works.

Life-saving
apparatus
may be
attached to
works.

26. The Trustees shall at all times keep at convenient places on the works by this Order authorised and in obedience to any requirements which may be made by the Board of Trade a sufficient number of lifebuoys and lifelines in good order and fit and ready for use.

Lifebuoys to
be kept.

27. The Trustees shall within one month after sending to the sheriff clerk a copy of their annual account send a copy of the same to the Board of Trade and the Trustees shall as

Annual
account to
be sent to
Board of
Trade.

A.D. 1911. from the expiration of that month be liable to a penalty not exceeding twenty pounds for every week or part of a week during which they refuse or neglect to comply with this section.

Crown
rights.

28. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained shall authorise the Trustees 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 heritages subjects or rights of whatsoever description belonging to His Majesty in right of his Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

Costs of
this Order to
be charged
upon rates.

29. The costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Trustees out of the rates levied under the Lerwick Harbour Acts 1877 to 1903 and this Order.

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