

**CHAPTER xxxv**

An Act to confirm a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 relating to Workington.

[28th July 1950.]

WHEREAS a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 24 & 25 Vict. c. 45. 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 under the said Act as set out in the schedule to this Act be confirmed by Act of Parliament:

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 Order which as amended is set out in the schedule to this Act shall be and the same is hereby confirmed and all of the provisions thereof in manner and form as they are set out in the said schedule shall 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. (Workington) Confirmation Act 1950.

SCHEDULE

WORKINGTON HARBOUR AND DOCK

Provisional Order to authorise the Workington Harbour and Dock Board to fix demand take and recover increased rates to provide for the revision of the rates and for other purposes

5 Edw. 7.
c. cxlvii.

WHEREAS by the Workington Harbour and Dock Act 1905 (hereinafter referred to as "the Act of 1905") the Workington Harbour and Dock Board (hereinafter referred to as "the Board") were incorporated and under the authority of that Act and previous Acts are the port and harbour authority and are the owners of the harbour and certain docks railways and other works at the port and harbour of Workington in the county of Cumberland:

And whereas the Board were authorised by the Act of 1905 and by previous Acts to levy rates duties tolls and charges on vessels resorting to the said port and harbour and on goods shipped and unshipped thereat:

10 & 11 Geo. 5.
c. cl.

And whereas by the Workington Harbour and Dock Act 1920 (hereinafter referred to as "the Act of 1920") the Board were authorised to increase by fifty per centum the said rates duties tolls and charges:

9 Geo. 6. c. 10.

And whereas by the Workington Harbour (Increase of Charges) Order 1946 (being an Order made by the Minister of Transport under regulation 56 of the Defence (General) Regulations 1939 as having effect by virtue of the Supplies and Services (Transitional Powers) Act 1945) the rates duties tolls and charges authorised as aforesaid have been further increased:

And whereas the said Act of 1945 is due to expire on December tenth nineteen hundred and fifty and it is expedient that the increases authorised by the said Order of 1946 should be continued:

Now therefore the Minister of Transport in exercise of his powers under the General Pier and Harbour Act 1861 and of all other powers him enabling hereby makes the following Order:—

Short title.

1.—(1) This Order may be cited as the Workington Harbour and Dock Order 1950.

(2) The Workington Harbour and Dock Act 1905 and the Workington Harbour and Dock Act 1920 may be cited together as the Workington Harbour and Dock Acts 1905 and 1920.

(3) The Workington Harbour and Dock Acts 1905 and 1920 and this Order may be cited together as the Workington Harbour and Dock Acts and Order 1905 to 1950.

Commencement.

2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as "the commencement of this Order."

Interpretation.

3. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated with or applied to this Order have the same respective meanings unless

there be something in the subject or context repugnant to such construction and in this Order unless the context otherwise requires—

“ the Act of 1905 ” means the Workington Harbour and Dock Act 1905 ;

“ the Act of 1920 ” means the Workington Harbour and Dock Act 1920 ;

“ authorised rates ” means the rates which the Board are for the time being authorised to levy demand receive and recover under or by virtue of the Workington Harbour and Dock Acts and Order 1905 to 1950 or any order made under section 7 (Revision of rates) of this Order ;

“ the Board ” means the Workington Harbour and Dock Board ;

“ the Harbours Clauses Act 1847 ” means the Harbours Docks and Piers Clauses Act 1847 ; 10 & 11 Vict.
c. 27.

“ the Minister ” means the Minister of Transport ;

“ the port ” means the port and harbour of Workington in the county of Cumberland ;

“ rates ” includes tolls dues and charges ;

“ the undertaking ” has the same meaning as is assigned to that expression by the Act of 1920 ;

“ vessel ” includes a seaplane on the surface of the water.

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

(2) The definition of the word “ vessel ” in section 3 of the Harbours Clauses Act 1847 as incorporated with the Act of 1905 the Act of 1920 and this Order shall be deemed to include a seaplane on the surface of the water Provided that nothing in the Harbours Clauses Act 1847 or this Order shall in any circumstances require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

(3) Sections 12 and 13 sections 16 to 19 sections 25 26 and 30 and sections 84 to 87 of the Harbours Clauses Act 1847 shall not be incorporated with this Order.

5. As from the commencement of this Order the Board may increase by an amount not exceeding forty-five per centum all the rates or any of them which by section 38 of the Act of 1905 (as amended by section 65 of the Act of 1920) they are authorised to fix demand take and recover. Increase of
rates &c.

6.—(1) Subject to the provisions of the Civil Aviation Act 1949 the Board may demand receive and recover on and in respect of seaplanes entering or using or leaving the port such reasonable rates as may from time to time be approved by the Minister. Rates on
seaplanes.
12 13 & 14
Geo. 6. c. 67.

(2) The rates authorised by this section in respect of seaplanes shall be paid or be recoverable from either the owner or other person in charge of such seaplane as the Board may determine.

Revision of
rates.

7.—(1) If it is represented by application in writing to the Minister—

- (a) by any chamber of commerce or shipping or any representative body of traders or shipowners ; or
- (b) by any person who in the opinion of the Minister has a substantial interest in the trade of the port and is a proper person to make an application ; or
- (c) by the Board ;

that under the circumstances then existing the authorised rates should be revised in whole or in part the Minister if he thinks fit may make an order revising all or any of the authorised rates referred to in the application and may fix the date as from which such order shall take effect and thenceforth such order shall remain in force until the same expires or is revoked or modified by a further order of the Minister made in pursuance of this subsection.

(2) An application made to the Minister under subsection (1) of this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in such manner as he may require.

(3) Where upon an application under subsection (1) of this section an order has been made or the Minister has decided not to make an order no further application for a revision of any of the rates to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

(4) Before making an order under subsection (1) of this section the Minister shall consult with such bodies or persons as aforesaid as appear to him to be appropriate including the Board where they are not the applicants and for the purpose of ascertaining such bodies or persons may require public notice of the application to be given and where an objection to an application is made by the Board or by any such body or person as aforesaid and is not withdrawn the Minister unless it appears to him that the objection is of a trivial nature shall cause an inquiry to be held in reference to the application.

(5) Subject to the proviso to this subsection the Minister shall not by an order under subsection (1) of this section make any such revision of the authorised rates as in his opinion would so far as can be estimated be likely to result in the annual revenue of the Board being insufficient or more than sufficient to enable the Board with efficient management of the undertaking to make adequate provision for paying all proper expenses of and connected with the working management and maintenance of the undertaking including interest on loan capital (regard being had by him to any capital which the Board may reasonably be expected to expend) making good depreciation providing for any contributions which the Board may reasonably and properly carry to any reserve fund contingency fund or sinking fund and meeting all other costs charges and expenses if any properly chargeable to revenue:

Provided that in any case where the Minister is satisfied that there are special circumstances affecting the undertaking taking into account the financial condition of the undertaking during such period

preceding the date on which an application is made under subsection (1) of this section as the Minister considers to be appropriate the Minister may revise the authorised rates in such manner as he thinks just and reasonable with due allowance for such special circumstances notwithstanding that such revision is likely to result in the revenue of the Board being insufficient to enable the Board to make adequate provision for all of the matters referred to in the foregoing provisions of this subsection.

(6) The authorised rates as revised by an order under subsection (1) of this section shall not in any case be less than the maximum rates which the Board were authorised to levy demand and recover under or by virtue of the Workington Harbour and Dock Acts 1905 and 1920.

(7) The provisions of section 10 (Inquiries by Minister) of this order shall apply to inquiries which the Minister may cause to be held under this section.

(8) The power of the Minister to make an order under this section shall be exercisable by statutory instrument.

8. The Board may confer vary or extinguish exemptions from Power to vary and compound with any person with respect to the payment of any authorised rate but so that no preference be in any case given to any person over any other person using the port in the like circumstances and that anything done under this section shall not prejudice the other provisions of this Order. exemptions and compound for rates.

9. The Board may appoint officers for securing the observance of the byelaws made by the Board under the Harbours Clauses Act 1847 or any other enactment in respect of the port. Appointment of officers to enforce byelaws.

10. 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 by-law made by the Board and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to such inquiries as if they were an inquiry held in pursuance of subsection (1) of that section and the Board were a local authority. Inquiries by Minister. 23 & 24 Geo. 5. c. 51.

11. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Board to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands without the consent in writing of the Commissioners of Crown Lands on behalf of His Majesty first had and obtained for that purpose. Crown rights.

Amendment
and repeal.

12. As from the commencement of this Order—

- (1) Section 42 (Power to revise dues) of the Act of 1905 shall be read and have effect as if (a) the words “at the date of the passing of this Act” were repealed and (b) the words “any Act or Order for the time being applying to the undertaking of the Board” were substituted for the words “this Act or any of the recited Acts”;
- (2) Section 38 (Power to agree for payment of special rates by certain vessels) of the Workington Dock and Harbour Act 1882 is hereby repealed.

45 & 46 Vict.
c. ccviii.

Costs of Order.

13. All costs charges and expenses of and incidental to the preparing and obtaining of this Order and otherwise incurred in reference thereto shall be paid by the Board.

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Pier and Harbour Order (Cattewater) Confirmation Act, 1950

14 GEO. 6 Ch. xxxvi

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in schedule.
2. Short title.

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22. Amendment of section 49 of Order of 1915.
23. Amendment of section 17 of Order of 1915.
24. Removal of sunk stranded or abandoned vessels.
25. As to vessels in which the Crown have an interest.
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Part II—Rates on vessels using or entering the harbour and lying at or loading or discharging cargo at the moorings of the Commissioners (except seaplanes).

Part III—Rates on goods shipped or unshipped within the harbour.

Part IV—Rates on goods shipped or unshipped at or from any quay pier jetty or other property.

Part V—Rates for the use of cranes weighing machines and sheds.

Second Schedule—Repeals.