



Pier and Harbour Order (Bideford Harbour) Confirmation Act 1964

CHAPTER xxx

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ELIZABETH II



1964 CHAPTER xxx

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

[31st July 1964]

WHEREAS a Provisional Order made by the Minister of Transport 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 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 ^{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. (Bideford Harbour) Confirmation Act 1964.

SCHEDULE

BIDEFORD HARBOUR

Provisional Order to extend the limits within which the mayor, aldermen and burgesses of the borough of Bideford may levy rates in respect of their harbour undertaking; to authorise the construction of harbour works; and for other purposes.

Short and
collective titles.

1.—(1) This Order may be cited as the Bideford Harbour Order 1964.

(2) The Bideford Harbour Act 1828, the Bideford Harbour Act 1925, the Bideford Harbour (Revision of Charges) Order 1959 and this Order may be cited together as the Bideford Harbour Acts and Orders 1828 to 1964.

Commencement.

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—

“ Act of 1828 ” means the Bideford Harbour Act 1828 ;

“ Act of 1925 ” means the Bideford Harbour Act 1925 ;

“ Corporation ” means the mayor, aldermen and burgesses of the borough of Bideford in the administrative county of Devon ;

“ enactment ” means any Act, whether public general or local or any order made thereunder or any provision in any Act or any such order ;

“ existing rating limits ” means the rating limits as defined in section 3 (Interpretation) of the Act of 1925 ;

“ harbour ” means the harbour of Bideford as defined in section 3 (Interpretation) of the Act of 1925 ;

“ harbourmaster ” includes any person for the time being appointed by the Corporation to exercise the functions of a harbourmaster ;

“ harbour undertaking ” means and includes all the property, rights and powers of the Corporation in connection with the harbour ;

“ Harbours Clauses Act 1847 ” means the Harbours Docks and Piers Clauses Act 1847 ;

“ Minister ” means the Minister of Transport ;

“ Order of 1959 ” means the Bideford Harbour (Revision of Charges) Order 1959 ;

“ rating limits ” means the existing rating limits as extended by section 5 (Extension of rating limits) of this Order ;

“ river ” means the river Torridge ;

“ vessel ” means every description of vessel, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water and—

(a) without prejudice to the generality of the foregoing, includes a hover vehicle, on, in or over the water ; and

(b) except for the purpose of levying rates, includes a seaplane on or in the water ;

“works” means the works authorised by section 7 (Power to construct works) of this Order.

(2) For the purposes of the Act of 1925 and the enactments incorporated therewith the word “vessel” shall have the meaning assigned to that word by subsection (1) of this section.

(3) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Order.

4.—(1) Sections 6, 8, 11 to 13, 16 to 19, 25, 60, 84 to 90 and 101 of the Harbours Clauses Act 1847 shall not be incorporated in this Order.

Application
of Harbours
Clauses
Act 1847.

(2) In the application to this Order of the Harbours Clauses Act 1847 the expression “the special Act” shall mean this Order and the word “vessel” shall have the meaning assigned to that word by section 3 (Interpretation) of this Order:

Provided that nothing in the Harbours Clauses Act 1847 shall in any circumstances require or authorise the harbourmaster or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatsoever in the construction or equipment of a seaplane.

(3) Section 28 of the Harbours Clauses Act 1847 as incorporated with the Act of 1925 and with this Order shall be read and have effect as amended by section 31(2) of the Post Office Act 1953.

5.—(1) As from the commencement of this Order the existing rating limits shall be extended to include the banks and foreshore of the river within the borough of Bideford extending from the northern boundary of the existing rating limits for a distance of two thousand one hundred and seventy feet or thereabouts in a northerly direction along the western bank of the river.

Extension of
rating limits.

(2) A map showing the rating limits having been signed in triplicate by an assistant secretary of the Ministry of Transport and one copy thereof having been deposited at the office of the Ministry of Transport another copy thereof shall be deposited at the office of the clerk of the Devon County Council and another copy thereof shall be deposited at the office of the Corporation.

(3) In case of any discrepancy between the rating limits delineated on the said map and the limits described in subsection (1) of this section the said map shall be deemed to be correct and shall prevail.

6. For the purposes of the works the Corporation may—

Appropriation
and acquisition
of land.

(a) appropriate such land held by them as may be required for the works, subject to making such adjustment in the accounts of the Corporation as may be requisite in the circumstances or, in the case of an adjustment affecting land which immediately before the appropriation was held for the purposes of a function which is a grant-aided function within the meaning of section 10 of the Local Government (Financial Provisions) Act 1963, as the Minister of Housing and Local Government may direct; and

(b) purchase by agreement and hold for the purposes of the harbour undertaking any other lands which may be required for the works.

Power to construct works.

7. Subject to the provisions of this Order and subject to such alterations (if any) in the plan and sections deposited with reference to this Order as the Minister may require before completion of the works the Corporation may, on lands belonging to them and in the lines, according to the levels and within the limits of deviation shown on the said plan and sections, make and maintain the following works in the borough of Bideford:—

Work No. 1—A river embankment of solid construction commencing at the northern end of the existing river embankment adjacent to Victoria Park and terminating at a point 320 feet or thereabouts in a northerly direction therefrom measured along the western bank of the river:

Work No. 2—A quay or wharf and yard of solid construction commencing at the termination of Work No. 1 and terminating at a point 250 feet or thereabouts in a northerly direction therefrom measured along the western bank of the river.

Power to deviate.

8. Subject to the provisions of this Order, in constructing the works the Corporation may deviate laterally from the lines thereof as shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and may deviate vertically from the levels of the said works as shown on the deposited sections to any extent not exceeding six feet upwards and to any extent downwards:

Provided that no deviation either lateral or vertical, below the level of mean high water springs, shall be made without the consent in writing of the Minister.

Powers to cease in certain events.

9.—(1) If the works are not substantially commenced within two years from the commencement of this Order, or such extended time as the Minister may in the circumstances by order direct, the powers to make the same conferred by this Order shall cease.

(2) If the execution of the works, after having been substantially commenced, is virtually suspended for twelve consecutive months the said powers shall cease except as to so much of the works as is then completed unless the Minister by order directs that the said powers continue and remain in force but, subject to the foregoing provisions as to completion, the said powers shall cease in any event within five years from the commencement of this Order.

(3) A certificate of the Minister to the effect that the works have not been substantially commenced, or that they have been virtually suspended for twelve consecutive months, shall for the purposes of this section be conclusive evidence of the facts stated in such certificate.

Rates for use of works and conveniences.

10. When the certificate required by section 26 of the Harbours Clauses Act 1847 has been obtained in respect of the works the Corporation may in respect of the works, subject and according to the provisions of this Order, levy and demand for the use of the works and the conveniences connected therewith by or in respect of vessels, persons, goods or services any rates not exceeding those specified in the First Schedule to the Act of 1925 (as amended by the

Order of 1959 and by this Order) and in the construction of the Act of 1925 from and after the date of such certificate the expression "the Quay and wharf" shall, unless there be something in the subject or context repugnant to such construction, include the works.

11. The Corporation may provide within the harbour mooring chains, buoys or other convenient means for the mooring of vessels and may make reasonable charges for the use thereof: Power to lay moorings.

Provided that the Corporation shall not exercise the powers of this section on any land of the British Railways Board which is operational land of that Board within the meaning of the Town and Country Planning Act 1962 except with the consent of that board.

12. As from the commencement of this Order the Corporation may increase by an amount not exceeding fifty per centum all or any of the rates and charges which they are authorised to demand receive or take by the Act of 1925 and the Order of 1959. Increase of rates.

13.—(1) The Corporation may (so far as the rates and charges authorised by the Act of 1925 do not extend) demand and take such reasonable rates as they may from time to time determine for the use of any yards, works, plant, appliances and conveniences belonging to or provided by the Corporation or in respect of any services rendered by the Corporation in connection with the harbour undertaking. Rates for services and accommodation not otherwise provided for.

(2) The rates authorised by subsection (1) of this section shall be payable by the owner of the goods or other articles dealt with or by the master of any vessel using or applying for the use of such yards, works, plant, appliances, conveniences or services or by any other person who may so apply.

14.—(1) In addition to the purposes set out in section 83 of the Harbours Clauses Act 1847 and section 38 of the Act of 1925 the Corporation may make byelaws with regard to the following matters:— Byelaws.

The regulation and control of persons in or upon the quay and wharf whether using the same or not.

The regulation and control of any animals in or upon the quay and wharf and the liability of the owner or person having custody of any such animals.

The lights and signals to be exhibited on board or to be made or given by vessels whilst in the harbour.

(2) The byelaws which may from time to time be made by the Corporation in exercise of the powers in that behalf conferred on them by section 83 of the Harbours Clauses Act 1847, as incorporated with the Act of 1925, and by section 38 of the Act of 1925, may provide for the imposing of a penalty not exceeding ten pounds for the breach or non-observance of any of the byelaws.

(3) In this section the expression "the quay and wharf" means the quay and wharf as defined in section 3 (Interpretation) of the Act of 1925 and, from and after the date of the certificate referred to in section 10 of this Order, shall include the works.

(4) Subsection (2) of the said section 38 of the Act of 1925 is hereby repealed.

Harbourmaster may give directions as to mooring.

15. Section 52 of the Harbours Clauses Act 1847, in its application to the Corporation and the harbourmaster, shall extend to empower the harbourmaster to give directions prohibiting the mooring of vessels in any particular part or parts of the harbour.

Directions of harbourmaster need not be in writing.

16. Section 53 of the Harbours Clauses Act 1847, in its application to the Corporation and the harbourmaster, shall not be construed to require the harbourmaster to serve a notice in writing of his directions upon the master of a vessel and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

Contingency fund.

17. Section 29 (Contingency fund) of the Act of 1925 is hereby amended by the substitution for the words "two thousand pounds" of the words "ten thousand pounds".

Power to borrow.

18.—(1) The Corporation may borrow at interest the sum requisite to meet the cost of the works.

(2) The provisions of Part IX (Borrowing) of the Local Government Act 1933, so far as they are not inconsistent with this Order, shall extend and apply to the borrowing of money under this section and to money so borrowed as if it were borrowed under the said Part IX.

(3) In the application of the provisions of Part IX of the Local Government Act 1933 to the borrowing of money for the purposes of this Order the Minister shall be the sanctioning authority.

(4) It shall not be lawful to exercise the powers of borrowing conferred by this section 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.

Crown rights.

19. Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained authorises the Corporation 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 Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose.

Saving for town and country planning.

20. The provisions of the Town and Country Planning Act 1962 and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act.

21. 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 Corporation. Costs of Order.

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Table of Statutes referred to in this Act

Short title	Session and chapter
Bideford Harbour Act 1828	9 Geo. IV. c. xxxix.
Harbours Docks and Piers Clauses Act 1847 ...	10 & 11 Vict. c. 27.
General Pier and Harbour Act 1861	24 & 25 Vict. c. 45.
Bideford Harbour Act 1925	15 & 16 Geo. 5. c. xxix.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Borrowing (Control and Guarantees) Act 1946...	9 & 10 Geo. 6. c. 58.
Post Office Act 1953	1 & 2 Eliz. 2. c. 36.
Town and Country Planning Act 1962	10 & 11 Eliz. 2. c. 38.
Local Government (Financial Provisions) Act 1963	1963 c. 46.

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