

**ELIZABETH II**



**1985 CHAPTER xlv**

An Act to confirm a Provisional Order under the Private  
Legislation Procedure (Scotland) Act 1936, relating to  
Fraserburgh Harbour. [19th December 1985]

**W**HEREAS the Provisional Order set forth in the Schedule  
hereunto annexed has been made by the Secretary of  
State under the provisions of the Private Legislation  
Procedure (Scotland) Act 1936, and it is requisite that the said 1936 c. 52.  
Order should be confirmed by 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 Provisional Order contained in the Schedule hereunto  
annexed is hereby confirmed. Confirmation  
of Order in  
Schedule.
2. This Act may be cited as the Fraserburgh Harbour Order Short title.  
Confirmation Act 1985.

## SCHEDULE

### FRASERBURGH HARBOUR

*Provisional Order to enact new provisions with respect to the constitution of the Fraserburgh Harbour Commissioners; to repeal and to re-enact with amendments the Fraserburgh Harbour Acts 1878 to 1975; to extend the limits of Fraserburgh Harbour; to make other provision with reference to Fraserburgh Harbour; and for purposes connected therewith.*

Whereas—

1878 c. cii.

(1) By the Fraserburgh Harbour Act 1878 (hereinafter called “the Act of 1878”) the then existing harbour of Fraserburgh was transferred to the Commissioners incorporated by that Act under the name of the Fraserburgh Harbour Commissioners (hereinafter called “the Commissioners”) and the constitution of the Commissioners was therein set out:

(2) The Act of 1878 also made provision for the qualification and election of the Commissioners and made provision for the improvement, extension, maintenance and management of Fraserburgh Harbour:

(3) By the Fraserburgh Harbour Acts 1878 to 1975 the construction of certain works was authorised, further provision was made as respects the qualification of electors of, and the election of, the Commissioners and as respects the constitution of the Commissioners, the provost, magistrates and councillors of the burgh of Fraserburgh were authorised to guarantee repayment of certain moneys lent to the Commissioners, the commissioners of the police burgh of Fraserburgh were authorised to guarantee payment of money raised by the Commissioners and further powers were conferred on the Commissioners and other provisions were made with reference to Fraserburgh Harbour:

(4) Many of the provisions aforesaid have become obsolete or outmoded and should be repealed or repealed and re-enacted with amendments :

1973 c. 65.

(5) As a result of the reorganisation of local government by the Local Government (Scotland) Act 1973 and the development and change in use of Fraserburgh Harbour the constitution of the Commissioners and the provisions relating to their qualification and election have in certain respects become inappropriate:

(6) In order to accord with the changes aforesaid and to facilitate the performance of the Commissioners’ duties it is expedient to establish a new constitution for the Commissioners and make other new provisions for the management of Fraserburgh Harbour:

(7) In the month of March 1983 a map (hereinafter referred to as “the deposited map”) marked “Fraserburgh Harbour Order

*Fraserburgh Harbour Order  
Confirmation Act 1985*

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1983—harbour limits” was deposited at the Scottish Office, Whitehall, London, S.W.1, and at the harbour office at Fraserburgh:

(8) It is expedient that the limits of Fraserburgh Harbour should be extended and a further map (hereinafter referred to as “the harbour limits map”) marked “Fraserburgh Harbour Order 1985—harbour limits map” and showing such extended harbour limits has been deposited in substitution for the deposited map:

(9) It is expedient that the other provisions of this Order should be enacted:

(10) The purposes aforesaid cannot be effected without an Order confirmed by Parliament under the Private Legislation Procedure (Scotland) Act 1936:

1936 c. 52.

Now, therefore, in pursuance of the powers contained in the last-mentioned Act, the Secretary of State hereby orders as follows:—

PART I

PRELIMINARY

1. This Order may be cited as the Fraserburgh Harbour Order 1985. Short title.

2. In this Order, unless the context otherwise requires—

Interpretation.

“Act of 1878” means the Fraserburgh Harbour Act 1878;

1878 c. cii.

“burgh” means the burgh of Fraserburgh as existing on 19th December 1973;

“clerk” means the clerk for the time being of the Commissioners, appointed by them;

“Commissioners” means the Fraserburgh Harbour Commissioners as appointed and elected under the authority of this Order;

“deposited map” means the map deposited in connection with this Order in March 1983;

“district council” means the Banff and Buchan District Council;

“existing Commissioners” means the Commissioners acting under the authority of the Fraserburgh Harbour Acts 1878 to 1975;

“harbour” means the harbour of Fraserburgh as defined in section 34 (Limits of harbour) of this Order;

“harbour limits map” means the map marked “Fraserburgh Harbour Order 1985—harbour limits map” deposited in substitution for the deposited map and signed by Gavin Douglas Q.C., Senior Counsel to the Secretary of State for the purposes of the Private Legislation Procedure (Scotland) Act 1936;

1936 c. 52.

“level of high water” means the level of mean high-water springs;

“new constitution date” means 9th January 1987;



PART I  
—cont.

“parish” means the parish of Fraserburgh;

“regional council” means the Grampian Regional Council;

“sheriff” means the sheriff principal of the sheriffdom of Grampian, Highlands and Islands and includes any sheriff sitting in the sheriff court districts of Banff or Peterhead;

“tidal work” means so much of any work authorised by any of the enactments specified in Schedule 2 to this Order as is on, under or over tidal waters or tidal lands below the level of high water;

“treasurer” means the treasurer for the time being of the Commissioners appointed by them.

Lands Clauses  
Consolidation  
Acts.

1845 c. 19.

1860 c. 106.

Commissioners  
Clauses Act  
1847.

1847 c. 16.

3. The Lands Clauses Consolidation (Scotland) Act 1845 and the Lands Clauses Consolidation Acts Amendment Act 1860 are (except where expressly varied by this Order) incorporated with and form part of this Order.

4. The Commissioners Clauses Act 1847 is (except where expressly varied by this Order) incorporated with and forms part of this Order, with the exception of the sections with respect to—

(a) the qualification of Commissioners;

(b) the election and rotation of the Commissioners where the Commissioners are to be elected by the ratepayers or other like class of electors;

(c) the meetings and other proceedings of the Commissioners and their liabilities; and

(d) the mortgages to be executed by the Commissioners;

and also with the exception of sections 57 and 92 to 94 of that Act.

Harbours,  
Docks, and Piers  
Clauses Act  
1847.

1847 c. 27.

5. The Harbours, Docks, and Piers Clauses Act 1847 is (except where expressly varied by this Order) incorporated with and forms part of this Order, with the exception of sections 22, 25, 26 and 48 of that Act:

Provided that—

(1) the sections with respect to lifeboats and with respect to keeping a tide and weather gauge shall not be in force for the purposes of this Order, except so far as from time to time the Secretary of State, by notice in writing to the Commissioners, may require;

(2) the expression “the harbour, dock, or pier” when used in that Act, except in the sections with respect to the construction of the harbour, dock or pier, shall, in reference to this Order, mean and include the harbour of Fraserburgh as hereinafter defined;

(3) the expression “the undertakers” used in that Act shall, in reference to this Order, mean the Commissioners; and

(4) the word “works” used in section 12 of that Act shall include works to be constructed by the Commissioners within any part of the said harbour, or any part of the shore of the sea, or of any creek, bay, or arm of the sea communicating therewith.

PART II

TRANSFER OF HARBOUR PROPERTY TO COMMISSIONERS AND  
CONTINUANCE OF EXISTING RIGHTS AND OBLIGATIONS

6. On the new constitution date all lands, waterways, water channels, buildings, erections, bridges, quays, piers, breakwaters, wharves, sewers, works, plant, debts, moneys, and all property, estate and effects, heritable and movable, real and personal, which shall, immediately previous to that date, belong to or be vested in the existing Commissioners, shall, subject to any then existing debts, liabilities, engagements, contracts, obligations, statutory provisions and encumbrances affecting the same, be hereby transferred to the Commissioners; and all erections, bridges, quays, piers, breakwaters, basins, wharves, sewers and works which may be constructed under the authority of this Order, shall belong to, and be vested in, the Commissioners for the purposes thereof.

Harbour  
property vested  
in  
Commissioners.

7. On and after the new constitution date the Commissioners may enforce against any person, company or corporation, and any person, company or corporation may enforce against the Commissioners, to the same extent and effect as might have been enforced by or against the existing Commissioners if this Order had not been passed—

Existing  
agreements and  
obligations to  
remain in force.

- (1) all Acts of Parliament and provisions of Acts conferring any right on the existing Commissioners, or on such person, company, or corporation, or their predecessors;
- (2) all contracts or agreements entered into, or adopted by the existing Commissioners or by such person, company or corporation, or their predecessors; and
- (3) all bonds, bills, promissory notes, securities, grants, charters, dispositions, conveyances, instruments, leases, discharges, deeds, obligations and writings, granted to the existing Commissioners by such person, company or corporation, or their predecessors, or granted by the existing Commissioners to such person, company or corporation, or their predecessors, or to which any of the said parties have acquired the right.

8. All duties, rates, moneys and costs, which, before the new constitution date, shall have become due or payable to the existing Commissioners, or to pilots or meters and weighers licensed or appointed by them, and which shall be then unpaid, may be levied, collected, sued for and recovered by the Commissioners, or by such pilots or meters and weighers, in the same way and by the same means as any duties, rates, moneys and costs may be levied, collected, sued for and recovered under the authority of this Order.

Rates, moneys  
and fines under  
existing  
enactments and  
Orders to be  
recovered by  
Commissioners.

9. Nothing contained in this Order shall abate or affect any action or other proceeding at law commenced or instituted previous to the new constitution date by or against the existing Commissioners, but such action or other proceeding shall be carried on by or against the Commissioners, and against the property hereby vested in them, in

Actions not to  
abate.

PART II  
—cont.

the like manner and with the like effect as such action or proceeding might have been carried on if this Order had not been passed, or as if the same had been commenced after the new constitution date by or against the Commissioners.

Survey of  
tidal works.

10. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Commissioners.

Provision  
against danger  
to navigation.

11.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Commissioners shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Commissioners fail to comply in any respect with the provisions of this section, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement  
of works  
abandoned or  
decayed.

12.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Commissioners at their own expense either to repair and restore the site thereof to its former condition, to such an extent and with such limits as the Secretary of State thinks proper.

(2) Where a work authorised by this Order and consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work or any portion thereof, in any notice under this section.

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the Commissioners, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure.

Permanent  
lights on  
works.

13.—(1) The Commissioners shall at the outer extremity of every tidal work every night from sunset to sunrise exhibit 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.

(2) If the Commissioners fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.



PART III

CONSTITUTION, QUALIFICATION, ELECTION AND  
APPOINTMENT OF COMMISSIONERS

14. On and after the new constitution date—

New  
constitution.

(1) The Commissioners shall consist of—

(a) The Superior or principal Superior for the time being of the burgh;

(b) the factor (if any) for the Superior for the time being of the burgh but subject to the provision that such factor shall not vote at any meeting at which his principal is present and votes;

(c) five persons to be elected by the proprietors, qualified as hereinafter provided, of heritable property in the parish from among their own number;

(d) three persons to be elected by the ratepayers, qualified as hereinafter provided, of the harbour from among their own number;

(e) three persons to be elected by the shipowners, qualified as hereinafter provided, of the harbour from among their own number;

(f) one district councillor appointed by the district council;

(g) two regional councillors appointed by the regional council.

(2) The Commissioners shall continue to be a body corporate under the name or style of “the Fraserburgh Harbour Commissioners”.

(3) All deeds and instruments to be made and granted by the Commissioners shall be valid and effectual if subscribed by any two of their number and sealed with their common seal.

15.—(1) A person shall be qualified to vote at the elections of Commissioners if he satisfies the following conditions:—

Qualification of  
electors.

(a) in the case of elections by the proprietors of heritable property in the parish that he resides or has a place of business within the parish and, with respect to the election of Commissioners to take office on the new constitution date, his name appears in the rating lists of the regional council on 1st September 1986 as proprietor of heritable property in the parish with a rateable value of not less than £100 and, with respect to subsequent elections of Commissioners, his name appears in such lists on 1st November in the year preceding the election as proprietor of such property and of such value;

(b) in the case of elections by the ratepayers of the harbour that he resides or has his place of business in the parish and, with respect to the election of Commissioners to take office on the new constitution date, has paid as principal, or as agent for any person residing or having his place of business outside the parish, or partly as principal and partly as such agent, during the year ending 31st August 1986 £50 or more of

PART III  
—cont.

rates leviable by the Commissioners during that year and, with respect to subsequent elections of Commissioners, he has paid in such capacity or capacities during the year ending 31st October of the year preceding the election £50 or more of rates leviable by the Commissioners during that year;

(c) in the case of elections by the shipowners of the harbour—

(i) that he resides or has his place of business in the parish; and

(ii) (A) with respect to the election of Commissioners to take office on the new constitution date, his name appears on 1st September 1986 in the books of the Custom House of Fraserburgh or of such other custom house as may be applicable to Fraserburgh as owner or part owner of any vessel belonging to Fraserburgh; and

(B) with respect to subsequent elections of Commissioners his name appears in such books on 1st November in the year preceding the election as such owner or part owner.

(2) For the purpose of paragraph (c) of subsection (1) above a shipowner shall have a place of business in the parish if he has instructed a fish salesman in the harbour to be his agent during the twelve months prior to 1st September 1986 in the case of the election of Commissioners to take office on the new constitution date and during the twelve months prior to 1st November in the year preceding the election in the case of subsequent elections of Commissioners.

Appointments  
by district  
and regional  
councils.

16.—(1) In selecting persons for appointment as Commissioners the district council and the regional council shall each select persons who appear to them to have experience of one or more of the matters specified in subsection (2) below or to have in some other respect special knowledge or experience that would be of value to the Commissioners in the discharge of their duties.

(2) The matters referred to in subsection (1) above are—

- (a) the management of harbours;
- (b) shipping or other forms of transport;
- (c) navigation;
- (d) industrial, commercial or financial matters;
- (e) administration;
- (f) the organisation of workers;
- (g) local community interests; and
- (h) environmental matters affecting the area of the harbour.

Existing  
Commissioners  
to act until  
new constitution  
date.

17. The powers and duties conferred on the existing Commissioners or on the Commissioners by virtue of this Order shall, until the new constitution date, be vested in and performed by the existing Commissioners who shall remain in office until the new constitution date and then go out of office:

Provided that any such Commissioner going out of office may, unless disqualified, be elected or appointed under the provisions of this Order.



18.—(1) The elections of persons to take office as Commissioners on the new constitution date shall take place on the second Friday in November 1986.

PART III  
—cont.

(2) Of the five persons to be elected by proprietors of heritable property in the parish the two who shall have received the smallest number of votes shall go out of office on the second Friday in January 1988; the two who shall have received the next smallest number of votes shall go out of office on the second Friday in January 1989 and the remaining Commissioner so elected shall go out of office on the second Friday in January 1990.

Elections of  
elected  
Commissioners.

(3) Of the three persons to be elected by ratepayers of the harbour and of the three persons to be elected by shipowners of the harbour the Commissioner in each such class who shall have received the smallest number of votes shall go out of office on the second Friday in January 1988; the Commissioner in each such class who shall have received the next smallest number of votes shall go out of office on the second Friday in January 1989 and the remaining Commissioner so elected in each such class shall go out of office on the second Friday in January 1990.

(4) Elections shall be held on the second Friday in January in the years 1988, 1989 and 1990 in order to fill the vacancies arising under subsections (2) and (3) of this section and Commissioners elected then and subsequently shall hold office for a period of three years and then go out of office.

(5) Elections shall be held on the second Friday in January in each year thereafter.

(6) Any Commissioner going out of office under the provisions of subsections (2), (3) and (4) of this section may, unless disqualified, be re-elected.

19. On or before 10th October 1986 the existing Commissioners, and on or before 10th December in each year thereafter the Commissioners, shall cause lists to be made up of the electors in respect of the proprietorship of heritable property, the ownership of shipping and the payment of rates respectively which shall be affixed in some place accessible to the public within the harbour office or in some conspicuous place on the outside thereof and any person claiming to be an elector whose name shall have been omitted from any such list may at any time before the twenty-fourth day of the same month apply to the existing Commissioners or to the Commissioners, as the case may be, who shall thereupon, if they find such person entitled to be an elector, cause the name of such person to be added to the list or lists, and such lists with the additions if any so made shall be certified by the clerk and shall be deemed to be the register of electors under this Order.

Commissioners  
to make register  
of electors.

20. For the purpose of making up the register of the electors in the year 1986 as regards the persons qualified to be electors as hereinbefore described in respect of the payment of rates, the existing Commissioners shall cause to be entered in a book or books kept by

Commissioners  
to keep book  
showing names  
of ratepayers.

PART III  
—cont.

them the name and designation of every such person and the total amounts of such rates paid by such person during the year ending 31st August 1986 and for the purpose of making up the register of such electors in subsequent years the Commissioners shall keep such book or books showing the total amounts of rates paid during the year ending 31st October immediately preceding the election, which book or books shall be open to inspection at all times during the hours of business.

Copies of ship's manifests and other documents to be furnished to Commissioners.

21. To enable the Commissioners to prepare and keep such book or books, the owner, agent, or person in charge of every vessel arriving at or departing from the harbour shall furnish to the treasurer a copy of the ship's manifest, and such other documents as will show the names, descriptions, residences and places of business of all persons who have paid or who are liable in the payment of rates in respect of such vessel, or of the goods therein, and the amount of rates payable by such persons respectively; and every owner, agent or person in charge of any such vessel who shall refuse on reasonable notice to furnish such ship's manifest or other document, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale:

1847 c. 27.

Provided that nothing contained in this section shall in reference to this Order affect, qualify or restrict sections 37 to 39 of the Harbours, Docks, and Piers Clauses Act 1847.

Qualification of members of companies, firms or partnerships.

22. Where lands or heritages shall be possessed, or rates shall be paid by any company, firm or partnership consisting of two or more members or partners having a place of business within the parish, such company, firm or partnership may, before expiration of the first week of November immediately preceding the election, intimate in writing to the Commissioners the name or names of any one or more, not exceeding three in number, of the members or partners on whose behalf such lands and heritages shall be deemed to be possessed or such payment shall be deemed to have been made, and such lands and heritages or such payment as the case may be shall, for the purposes of the election, be deemed to be possessed or made by the members or partners so named, if resident within the parish, and each such member or partner so named shall be qualified to be an elector, and to be elected one of the elected Commissioners in respect thereof, in the same manner as if such lands and heritages had been possessed or such payment had been made by him as an individual, provided that the lands and heritages possessed or the amount of rates paid, as the case may be, by such company, firm or partnership, be sufficient to afford the qualification hereinbefore provided in respect of lands and heritages or rates respectively to each of the members or partners so named.

Mode of conducting election of elected Commissioners.

23. The following rules shall be observed with respect to the elections of each class of the elected Commissioners to take place in the month of November 1986 and in the month of January in succeeding years:—

- (1) At least seven days previous to each election the Commissioners shall make available for inspection at the office of the

Commissioners and at the office of the clerk a copy of the register of electors made up in the manner prescribed in section 19 (Commissioners to make register of electors) of this Order;

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—cont.

- (2) The chairman of the Commissioners shall fix the place of the election of elected Commissioners which shall be within the parish and also the time and place for the nomination of candidates;
- (3) The Commissioners shall cause the days and places of the nomination and election to be advertised in at least one newspaper published in Fraserburgh or Aberdeen not less than six days previous to the nomination;
- (4) At the time and place fixed for the nomination any person qualified as an elector in a particular class may nominate for election as a Commissioner any other person qualified to be elected for that class and such nomination may be seconded by any other qualified elector in the same class:

Provided that such elector so nominating shall at once satisfy the returning officer that the person so nominated will accept office if elected otherwise the nomination will be invalid;

- (5) Any nomination of a candidate may be withdrawn by notice of withdrawal to the returning officer and such notice of withdrawal shall be signed by the person nominated and by the electors who nominated him;
- (6) If no more candidates are nominated than the number to be elected in a particular class the returning officer shall on or before the Wednesday preceding the election cause public notice to be given of the persons so nominated, which notice shall be affixed in some place accessible to the public within the office of the Commissioners or in some conspicuous place on the outside thereof and advertised in one or more newspapers published or circulating in Fraserburgh or Aberdeen, and shall give notice that as the number proposed for election in such class does not exceed the number of vacancies to be filled at the election there will be no poll for that class, and shall further declare that the persons so proposed will on the day of election be deemed to be the elected Commissioners, and on the day of the election the persons so proposed shall accordingly be deemed to be duly elected;
- (7) If more candidates are nominated for any of the classes than the number to be elected the returning officer shall order a poll which shall take place on the day fixed for the election and shall be by ballot;
- (8) The returning officer shall be the sheriff or such other person as he may appoint and the returning officer shall preside at the polling place;
- (9) The chairman of the Commissioners may be appointed returning officer under paragraph (8) of this section provided that he is not a candidate at the elections;



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—cont.

- (10) The returning officer shall appoint a sufficient number of poll clerks and cause proper polling books to be provided;
- (11) Each poll clerk shall have with him at the polling place a copy of the register of electors certified by the clerk and the votes shall be taken according to such register;
- (12) The poll shall be open at ten o'clock in the forenoon of the day of election, and close at four o'clock in the afternoon of the same day;
- (13) No returning officer or poll clerk shall vote at any election at which he officiates;
- (14) At the close of the poll the returning officer shall sum up in the polling books the votes taken and shall thereafter sign the polling books, and shall forthwith transmit them to the clerk;
- (15) The persons who, being not more than the number of elected Commissioners to be elected at any election, shall be found to have the greatest number of valid votes at such election as appearing from the summation of the returning officer in the polling books, which shall be conclusive evidence of the number of votes, shall, if duly qualified according to the provisions of this Order, be deemed to be elected as Commissioners;
- (16) In case of an equality in the number of votes, the Commissioners at their first meeting to be held after such election shall, if necessary to prevent an excess in the number of elected Commissioners, determine by secret ballot which of the persons having such equality of votes shall be the Commissioner or Commissioners.

Persons not to vote more than once nor to vote without being qualified.

24.—(1) Every person entitled to vote in the election of Commissioners shall vote for Commissioners for that class only in respect of which his name appears in the register of electors and shall have as many votes as there are vacancies to be filled.

(2) If any person be qualified in more than one class he may vote for Commissioners for any one of such classes, but having so voted he shall not afterwards at the same election vote for a Commissioner for any other class, and any vote so afterwards given by him shall be void.

(3) If any person shall vote without being duly qualified according to the provisions of this Order, or falsely assume to act in the name or on the behalf of any person entitled to vote, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

In case of failure to elect elected Commissioners.

25. In the case of the failure at any time of the electors to make a valid election in terms of this Order of persons duly qualified to be elected Commissioners, the Commissioners or, in the case of the first elections hereunder, the existing Commissioners shall, within six weeks after such failure shall have been ascertained, cause an election of such persons to be made according to the rules hereinbefore appointed to be observed with respect to the annual elections of the elected Commissioners; and the persons to be so elected shall, in respect of continuance of office, be on the same footing as if their election had taken place on the second Friday of January immediately

preceding the date thereof or, in the case of the first elections hereunder, the second Friday in November 1986.

PART III  
—cont.

26. Any elected Commissioner may resign office at any time upon giving to the Commissioners not less than three weeks' written notice of such his intention.

Elected Commissioners may resign office.

27.—(1) During the month of November 1986 the district council shall appoint one member of their council and the regional council shall appoint two members of their council to take office as Commissioners on the new constitution date who shall remain in office until the second Friday in January 1990.

Appointment of non-elected Commissioners.

(2) Subsequent appointments of Commissioners by the district council and the regional council shall take place on or before the second Friday in January 1990 and on or before the second Friday in January in every third year thereafter and persons so appointed shall hold office for a period of three years.

(3) A Commissioner appointed by the district council or the regional council under subsections (1) and (2) of this section shall cease to be a Commissioner when he retires at the end of his term of office as a councillor in terms of section 4(3) of the Local Government (Scotland) Act 1973 or otherwise ceases to be a councillor unless, in the case of a councillor retiring on the day of the ordinary election of councillors he be re-elected as a councillor at the said election.

1973 c. 65.

(4) Subject to the provisions of subsection (3) of this section, Commissioners appointed under the provisions of subsections (1) and (2) of this section may be re-appointed for a further term of office.

28.—(1) If any one of the elected Commissioners shall refuse to accept office, or die or resign, or become disqualified or incompetent to act, or cease to be a Commissioner from any other cause than that of going out of office at the end of his term, every such vacancy shall be filled in manner following:—

Casual vacancies.

(a) the Commissioners shall elect in his stead a person duly qualified in the same class, and in every case the Commissioner so substituted shall continue in office for the period that the person in whose place he is elected would in ordinary course have continued in office;

(b) at the end of such period he shall go out of office but shall be eligible for re-election unless disqualified.

(2) If any one of the appointed Commissioners shall cease to be a Commissioner for any of the reasons aforesaid other than that of going out of office at the end of his term as a Commissioner every such vacancy shall be filled in manner following:—

(a) the council who appointed such Commissioner shall, with due regard to the provisions of section 16 (Appointments by district and regional councils) of this Order, and within two months of such vacancy arising appoint in his stead one of themselves and in every case the Commissioner so substituted shall continue in office for the period that the person in whose place he is elected would in ordinary course have continued in office;

PART III  
—cont.

(b) at the end of such period he shall go out of office, but shall subject to the provisions of section 27 (3) of this Order be eligible for re-appointment.

(3) Any casual vacancy occurring four months or less before the end of the vacating Commissioner's normal term of office may, at the discretion of the remaining Commissioners in the case of elected Commissioners and at the discretion of the district council or the regional council, as the case may be, in the case of appointed Commissioners, be left unfilled for the remainder of that term of office.

Expenses of elections: how to be defrayed.

29. The expense of making up the several lists and the registers of the electors hereinbefore directed to be made up for the purposes of elections, and the expense of advertising elections and printing lists and registers, and all other expenses attending elections, shall be defrayed out of the rates levied and received by the Commissioners.

Disqualification of Commissioners.

30. Any person who, after his becoming or being elected one of the Commissioners, participates in the profits of any work done by order of the Commissioners, or is concerned or participates in the profits of any contracts entered into with the Commissioners, without first declaring such interest shall thenceforth cease to be a Commissioner, and his office shall thereupon become vacant:

Provided that—

(1) no Commissioner shall vacate his office by reason of being a shareholder or member of any company consisting of not fewer than seven shareholders, with which the Commissioners may enter into any contract, or by reason of his being interested in any loan of money to the Commissioners, and no such contract or loan shall be void or voidable by either of such reasons; and

(2) no Commissioner shall be entitled to vote on any question relating to the affairs of the Commissioners, wherein such company of which he is a shareholder or member is interested, or on any question connected therewith or on any question relating to any such loan or on any question in which he is personally concerned, and if he shall so vote his vote shall not be counted, and he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commissioners not incapable of acting as magistrates.

31. No Commissioner shall by reason of his holding such office be disqualified from acting as a magistrate, sheriff, justice of the peace, or a magistrate or judge of any district court, with reference to the levying of any penalty under this Order, or in any matter relating to the execution of this Order.

Penalty on Commissioners, not being qualified, acting.

32. Any person being incapacitated or not duly qualified to act, or after having become disqualified, who shall act as one of the Commissioners, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale nevertheless all acts done by any person, being incapacitated or not



duly qualified as one of the Commissioners, previously to the infliction of the penalty, shall be as valid as if the person had been duly qualified.

PART III  
—cont.

33. The provisions contained in Schedule 1 to this Order shall have effect with regard to meetings and other proceedings of the Commissioners.

Meetings and  
other  
proceedings of  
Commissioners.

#### PART IV

##### LIMITS OF HARBOUR, ETC.

34.—(1) The harbour of Fraserburgh shall include the whole waterways, water channels, bridges, quays, piers, jetties, basins, breakwaters and other such adjacent works, lands, buildings, wharves and erections as are vested in or occupied by the existing Commissioners on the passing of the Act confirming this Order and any lands and heritable properties adjacent thereto acquired or occupied by the Commissioners under the authority of this Order and shall extend seaward across so much of the area of the sea below the level of mean high-water springs as is bounded by an imaginary line commencing at Kinnairds Head at a point at latitude  $57^{\circ} 41' 56''$  N and longitude  $2^{\circ} 00' 08''$  W; thence due north to a point at latitude  $57^{\circ} 42' 52''$  N and longitude  $2^{\circ} 00' 09''$  W; thence due east-south-east to a point at latitude  $57^{\circ} 42' 22''$  N, and longitude  $1^{\circ} 57' 51''$  W; thence due south to the intersection of the boundary of the parish of Fraserburgh and the line of mean low-water springs at latitude  $57^{\circ} 40' 37''$  N, and longitude  $1^{\circ} 57' 51''$  W and thence along the said parish boundary to the point of mean high-water springs at latitude  $57^{\circ} 40' 32''$  N, and longitude  $1^{\circ} 57' 48''$  W all of which seaward limits are shown delineated red on the harbour limits map.

Limits of  
harbour.

(2) Within one month after the commencement of this Order copies of the harbour limits map shall be deposited as follows, that is to say, one copy at the office of the Secretary of State in Edinburgh, one copy at the office of the Chief Executive of the regional council, one copy at the office of the Chief Executive of the district council, one copy with the Department of Transport and one copy with the sheriff clerk of the sheriff court district of Peterhead.

35.—(1) Subject as hereinafter provided, all enactments conferring rights, powers, privileges and immunities or imposing duties, obligations and liabilities on the existing Commissioners or on the Commissioners including provisions for the protection of any person and all byelaws and regulations made by the existing Commissioners or by the Commissioners shall relate to and have effect in the harbour.

Applications of  
existing  
enactments, etc.,  
to harbour.

(2) Subject to the provisions of section 5 (Harbours, Docks, and Piers Clauses Act 1847) of this Order, nothing in this Order shall affect the operation within the harbour of such of the provisions of the Harbours, Docks, and Piers Clauses Act 1847 as were operative immediately before the coming into operation of this Order and, subject as hereinafter provided, the said provisions shall extend and apply to the harbour.

1847 c. 27.

PART V

ADMINISTRATION, MAINTENANCE AND IMPROVEMENT OF  
HARBOUR

Power to  
maintain  
harbour.

36.—(1) Subject to the provisions of this Order, the Commissioners may, from time to time, on lands belonging to the Commissioners or to be acquired by them by agreement, and, within the extremities for the time being of the quays, piers, jetties, breakwaters and other permanent works of the harbour—

(a) carry out, whether temporarily or permanently, all such works of maintenance as may from time to time be requisite or expedient;

(b) alter, dredge, scour, deepen, widen, straighten, improve and maintain the entrance and navigation channels and whole waterways and water channels of the harbour:

Provided that no materials taken up or collected in the exercise of these powers shall be deposited below the level of mean high-water springs except in such position as the Secretary of State may approve and subject to such conditions and restrictions as he may impose.

(2) As early as possible and in any event not less than 28 days before any exercise of the powers contained in subsection (1) above within a distance of 50 metres of any subaqueous cable belonging to or used by British Telecommunications plc the Commissioners shall give notice in writing to British Telecommunications plc of such intended exercise.

Power to  
appropriate and  
lease or sell parts  
of harbour.

37. The Commissioners may appropriate and adopt such parts as they think fit of the lands and other harbour property heritable or movable vested in them under the provisions of this Order, for manufacturing, trading or commercial purposes and they may lease or grant the occupation of such lands and other harbour property and any rights of fishing which may be vested in them for such periods and upon such terms, and for such rent or other consideration as they think fit, or may absolutely sell, feu, or dispose of the same.

Additional lands  
may be acquired  
by agreement.

38. The Commissioners may acquire additional land by agreement whether by way of purchase, exchange, feu, lease or otherwise when they consider it expedient so to do in the exercise of their duties under this Order.

Lighthouses,  
flags and  
beacons to be  
maintained.  
1847 c. 27:  
1894 c. 60.

39. Subject to the provisions of the Harbours, Docks, and Piers Clauses Act 1847, and the Merchant Shipping Act 1894, the Commissioners shall keep up and maintain in proper order and repair the lighthouses, leading lights, and other lights, beacons, flags and signals, in the harbour, or establish and maintain others in lieu and place thereof or in addition thereto, and may appoint keepers of such lighthouses, leading lights, and other lights, beacons, flags and signals, as they may think fit.

Power to  
provide  
dredgers and  
other plant.

40. The Commissioners may, for the purposes of this Order, from time to time purchase, lease, provide, or hire such steam or other



dredgers, steam or other engines, steam or other vessels, diving bells, ballast lighters, rubbish lighters, fire-engines, tools, plant, or other materials, as they think fit; and may from time to time, as they think fit, sell and dispose of, or let such dredgers, engines, vessels, diving bells, lighters, tools, plant, and materials aforesaid.

PART V  
—cont.

41. No person, without the permission of the harbourmaster, shall bring to, or lay down at or upon the quays or piers of the harbour, any goods intended for shipment, or land, lay down, or leave upon the quays, piers, grounds or roads of the harbour any goods, gear, equipment, timber, logs, floats or rafts of timber or any other item; and any person bringing to, or laying down at or on such quays or piers, grounds or roads, without such permission, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale; and the Commissioners, or any of their officers may cause to be removed all such goods, gear, equipment, timber, logs, floats, or rafts of timber and any other item from such quays, piers, grounds or roads, and cause the same to be sold by public roup they applying the proceeds, after deduction of the expenses of sale in discharge of any sums due to the Commissioners of Customs and Excise or the Intervention Board for Agricultural Produce and then paying any overplus to the owner:

Goods, timber, etc., not to be laid down on quays, etc., of harbour.

Provided that the said goods shall not be sold until the Commissioners shall have given one month's previous notice in writing to such owner or person and shall have inserted such notice twice at least in a newspaper published in Aberdeen or Fraserburgh and have affixed the same in a conspicuous place in the office of the Commissioners.

42. The Commissioners may grant and allot to any shipping company, shipowners or shipmasters whose vessel or vessels regularly sail to and from Fraserburgh, a special or preferable right to the use of any shipping berth and quay, wharf or shed-space at the harbour for the accommodation of such vessel or vessels and the passengers or goods carried therein, and for such time and subject to such conditions and for such payment in addition to the rates ordinarily leviable by the Commissioners as the Commissioners shall from time to time determine.

Commissioners may allot special shipping berths.

43. The Commissioners may let on lease any warehouse buildings, sheds, cranes and weighing or other machines and conveniences provided by them at such rents and upon such terms and conditions as shall be agreed upon by the Commissioners.

Power to lease warehouses and other subjects.

44. The Commissioners may within the harbour act as warehousemen, wharfingers and storekeepers and render such services as are usually rendered by dock companies on payment by the owners of the goods warehoused or deposited or the person in charge of such goods of such rents or charges as shall from time to time be fixed by the Commissioners.

Power to act as warehousemen, etc.

45. The Commissioners shall from time to time at the request of any person warehousing or depositing goods in any warehouse or vault or on or in any of the quays or yards of the Commissioners specially appropriated for the purpose or entitled to any goods so

Power to issue certificates of deposit and warrants for delivery of goods.



PART V  
—cont.

warehoused or deposited issue and deliver to him a certificate (in a form approved by the Commissioners) of the goods or a warrant (in a form approved by the Commissioners) for delivery of the goods so warehoused or deposited or any specified part thereof.

Goods to be deemed property of person named in certificate.

46. Goods specified in any such certificate shall for all the purposes of this Order be deemed the property of the person in that behalf named in the certificate.

Rules with respect to issue and transfer of warrants.

47. Every such warrant for delivery shall be transferable by special endorsement and shall entitle the person named therein or the last endorser thereof named in the endorsement to the delivery of the goods specified therein and the following rules shall have effect with reference to the issue of such warrants namely:—

- (1) No warrant shall be given unless and until all liens and claims for freight and all other liens or claims to which the goods are liable on board any vessel and before the warehousing or depositing thereof and of which the Commissioners have notice in writing before the date of such warrant are paid and discharged and the goods mentioned in such warrant shall not be delivered up until the harbour rates on the goods and all rents, charges and expenses payable to the Commissioners with respect to the warehousing or depositing of the goods or for services performed by the Commissioners in respect thereof are paid or discharged.
- (2) Before a warrant is issued the certificate (if any such has been issued) shall be delivered up to the Commissioners to be cancelled.
- (3) If the warrant is for delivery of part only of the goods the Commissioners shall issue to the person delivering up the certificate a new certificate with respect to the goods not specified in the warrant.

Rates on goods deposited and sale of goods in default.

48. The owner or person having the charge of any goods warehoused, stored or yarded within the harbour shall, before the removal of such goods from the warehouses, stores or yards of the Commissioners, and at such date or dates as shall from time to time be fixed by the Commissioners, pay such rates and charges as shall be then due and payable on such goods and in case such owner or person shall fail or neglect so to do the Commissioners or such person as shall be appointed by them at their own hand shall cause all such goods to be publicly sold and the produce of such sale shall be applied first in discharge of any sums due to the Commissioners of Customs and Excise or the Intervention Board for Agricultural Produce in respect of such goods next in payment of the rates and charges imposed by or payable under this Order or any other enactment or of any other sums which may be owing to the Commissioners or for which they may be liable or have undertaken liability and the overplus arising from such sale shall be paid to such owner or person:

Provided that the said goods shall not be sold until the Commissioners shall have given one month's previous notice in writing to such owner or person and shall have inserted such notice twice at least in a newspaper published in Aberdeen or Fraserburgh and have affixed the same in a conspicuous place in the office of the Commissioners.

49. Every person who shall at any time obstruct the Commissioners, or any person employed by them, in the performance of any work or thing which they are respectively empowered or required to do by this Order, or by any byelaw in force or to be made in virtue thereof, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART V  
—cont.  
Penalty on obstructing Commissioners, etc.

50.—(1) In addition to the powers of making byelaws contained in the Harbours, Docks, and Piers Clauses Act 1847 the Commissioners may, subject to the provisions of this Order, from time to time make such byelaws as they shall think fit, for all or any of the following purposes (that is to say):—

Additional byelaws.  
1847.c. 27.

- (a) For preventing and removing obstructions or impediments within the harbour, and at or in or on the basins, piers, quays and other works and roads and accesses of the harbour:
- (b) For regulating the berthing or removal of vessels lying in any part of the harbour:
- (c) For regulating the management and superintendence of the harbour, and of the works constructed or which may be constructed for the improvement thereof, and of the harbour lighthouses, leading lights, and other lights, and the palls and landfasts placed on the quays:
- (d) For regulating the use of the rails, sidings and turntables in and along the quays, piers and other works of the Commissioners, and the moving of carriages, waggons and trucks along the same:
- (e) For regulating the conduct of the owners, masters and crews of vessels and the conduct of boatmen with regard to the rate of speed at which they may proceed within the harbour, the mode of navigating vessels, the keeping the advertised times of sailing, and the taking on board and landing or putting out passengers and the sufficiency of boats for that purpose:
- (f) For regulating the conduct of boatmen, lumpers, jobbers, stevedores and others resorting to the harbour, basins, piers, quays or other works, for prohibiting persons from acting as such within the harbour without previously obtaining a licence to that effect from the Commissioners and for regulating the conduct of persons working in or resorting to any fish market operated or maintained by the Commissioners and for preventing nuisances at any such market:
- (g) For regulating the towing of vessels at the harbour, the size and number of vessels towed at one time in one train, the order and manner in which the towage shall be given, and the duties and conduct of all persons employed on the tugs or other power used at the harbour for towing vessels, with regard to the rate of speed at which they may proceed within the harbour, or with regard to any other matter or thing:
- (h) For regulating the terms and conditions of granting licences for such tugs or other power:
- (i) For regulating the conveyance to and the laying down at or on the piers or quays of the harbour, of all goods intended for shipment:



PART V  
—cont.

(j) For regulating the conveyance, landing, laying down, discharge and removal of goods, gear, equipment, timber, logs, floats, or rafts of timber and other items within the harbour:

(k) For regulating the use of any fish market provided, operated or maintained by the Commissioners.

1973 c. 65.

(2) The provisions of subsections (4), (5), (6), (7), (8), (10), (11) and (12) of section 202 and 204 of the Local Government (Scotland) Act 1973 shall apply to all byelaws made by the Commissioners under or by virtue of this Order as if the Commissioners were a local authority and in the application of the provisions of the Local Government (Scotland) Act 1973 the Secretary of State shall be the confirming authority.

(3) A person who fails to comply with any byelaw made by the existing Commissioners or any byelaw to be made by the Commissioners under this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## PART VI

## FISH MARKET

Power to provide, operate and maintain fish market.

51. The Commissioners may provide, operate and maintain a fish market for the sale of fish either within the buildings of the existing fish market or within any buildings which may be constructed under the powers of this Order at any convenient place in or adjacent to the harbour and on any lands belonging to the Commissioners or which they may acquire by agreement with all such appliances and fittings as they may deem necessary and suitable for the purposes thereof and they may divide or allocate any parts or part thereof into stalls or other defined or limited places and make provision for the cleansing and general management thereof and may provide and operate in connection with the fish market such services and facilities as may be requisite or expedient and they shall have the sole operation, superintendence and management thereof and they may fix and regulate the hours during which the said fish market or any part thereof shall be open.

Power to make charges.

52. The Commissioners may demand, take and recover such reasonable charges, rates and dues as they think fit for the use of any fish market provided, operated or maintained by them and for services and facilities provided by them in relation thereto.

Officer for fish market.

53. The Commissioners may appoint such person or persons as they think fit to superintend the traffic within the fish market and to carry out the regulations, byelaws and orders of the Commissioners thereat.



54. The Commissioners may for such consideration and upon such terms and conditions and subject to such restrictions and for such period as they think fit sell, feu, lease, excamb or otherwise dispose of the whole or any part of the lands which from time to time form the fish market and may carry into effect agreements with respect to any offices, stalls and ancillary buildings in connection therewith.

PART VI  
—cont.

Power to lease fish market and enter into agreements.

PART VII

RATES

55. Fishing vessels belonging to countries with which for the time being treaties exist exempting from duties and port charges vessels forced by stress of weather to seek shelter in the ports or on the coasts 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 by the Commissioners.

Certain fishing vessels under stress of weather exempt from rates.

56. Officers of Her Majesty's Customs and Excise and all other persons engaged in the performance of any act or duty relating to an assigned matter within the meaning of the Customs and Excise Management Act 1979 shall at all times have free ingress, passage and egress to, on, along, through and from the harbour by land and with their vessels and otherwise without payment.

Officers of H.M. Customs and Excise exempt from rates.  
1979 c. 2.

57. 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 Her Majesty's 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 also all persons brought ashore from any vessel in distress shall at all times have free ingress, passage and egress to, on, along, through and from the harbour without payment.

Lifeboat crew exempt from tolls.

58. Officers of Her Majesty's 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 and from time to time without payment attach or cause to be attached to any part of the harbour spars and other apparatus for saving life and may also in course of using the apparatus for saving life fire rockets over the harbour.

Life-saving apparatus may be attached to harbour.

59. All rates which may be levied by the Commissioners for vessels coming into or going out of the harbour or any part thereof, and for goods shipped or unshipped in any part of the harbour, shall be paid by the owners, agents, masters, managers or other persons having charge of such vessels respectively, or by the owners, consignees or agents of the owners or consignees of such goods respectively, who shall be each and all liable in the payment of the said rates.

Rates, by whom to be paid.

60. The owners, agents of owners, managers or persons in charge of all goods (including all fresh fish and shellfish) imported into or landed

Consignees and owners of all goods to give account.

PART VII  
—cont.

in the harbour, shall be bound, when required, to give to the treasurer a true account under their hands of the quantity or value thereof, as the case may be, and to verify the same by the production of their books and all other documents necessary to vouch such account, and every person who shall give or subscribe a false account shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Provisions as to  
collection of  
rates.

61. Without prejudice to the Commissioners' rights to levy rates for goods shipped and unshipped in the harbour from the several persons described in sections 59 (Rates, by whom to be paid) and 60 (Consignees and owners of all goods to give account) of this Order the Commissioners may levy, sue for and recover the rates for all fresh fish and shellfish brought into the harbour direct from sea either from the fish salesmen or auctioneers who dispose of such fish or from the persons purchasing or receiving delivery of the same who shall respectively be entitled to deduct the amount of such rates from the price at which such fish were sold or purchased and such fish salesmen, auctioneers and purchasers or receivers of such fish shall when required be respectively bound to furnish the treasurer with a true account under their hands of the quantity or value of such fish and to verify the same by the production of their books and every person who shall refuse to give such account or who shall subscribe a false account shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Rates for sheds,  
ponds, cranes,  
weighing  
machines, etc.

62. The Commissioners may levy, demand, and take such rates as the Commissioners shall from time to time fix for the use of their warehouses, sheds, timber ponds, shear poles, storage ground, cranes, weighing machines, conveniences, weights and measures of and from the owner or person having the charge of any goods, articles or things deposited or placed in such warehouses, sheds or timber ponds, or shipped or unshipped, loaded or unloaded, weighed or measured, by means of such cranes, weighing machines, conveniences, weights or measures, or from the owner, agent, master, manager or other person in charge of the vessel using such cranes, weighing machines, conveniences, weights or measures, and such rates may be recovered by the Commissioners as other rates in respect of vessels or of goods are by law recoverable.

Rates for  
graving docks  
and slips.

63. The Commissioners may levy, demand and take from the owner, agent, master, manager or other person in charge of any vessel taken into or upon or using any graving dock or inclined plane or slip provided by or belonging to the Commissioners for the purposes of this Order, and also subject to the provisions of this Order, from every person using any lines of rails, sidings or turntables provided by or belonging to them for such purposes, such rates as the Commissioners shall from time to time fix, and which rates may be recovered by the Commissioners as other rates in respect of vessels or of goods are by law recoverable.

Master of vessel  
to report arrival.

64. Within twelve hours after the arrival within the limits of the harbour of any vessel liable to rates the master of such vessel shall report such arrival to the treasurer, and if he fail to make such report

within the time aforesaid and after he has been required to do so by the treasurer he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

PART VII  
—cont.

65. The master of every vessel shall on his arrival in the harbour and before unloading any part of his cargo, and immediately after being loaded, be obliged if required to give in to the treasurer, or to such person as the Commissioners shall appoint, an exact and full account of his cargo by producing his bills of lading or his manifest or intake account, or a true copy thereof, and such other documents as the treasurer shall deem necessary and demand for ascertaining the true contents thereof and every person failing so to do, or not delivering a just and true account of his cargo both outwards and inwards as aforesaid shall in addition to being liable for the whole rates and duties payable in respect of such loading and unloading be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Master of vessel  
to give account  
of cargo.

66. The master of every boat engaged in fishing shall on arrival in the harbour forthwith report the same to the harbourmaster or the treasurer, and shall furnish to the treasurer a true and accurate statement of his take of fish and the names of the persons obtaining delivery of the same and liable for the dues thereon, and he shall not leave the harbour without paying to the treasurer his dues, and if he fail to do so he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Masters of  
fishing boats to  
report arrival  
and give account  
of take of fish.

67. The harbourmaster may prevent the removal or sailing out of the harbour of any vessel in respect of which any rates shall have been payable until evidence shall have been produced to him of the payment of such rates to the treasurer, and until he shall have given in an account of his cargo as required by section 65 (Master of vessel to give account of cargo) and section 66 (Masters of fishing boats to report arrival and give account of take of fish) of this Order.

Harbourmaster  
may prevent  
sailing of vessels  
when rates not  
paid.

68. The Commissioners may by their own officers or such persons as they may choose to employ, and without judicial procedure or authority, take possession of any boat for which a rate or rates shall have been incurred, and which shall for the time being remain unpaid, wherever such boat may be found within the harbour, and may remove such boat to any part of the harbour, and retain the same until the rate or rates, and all expenses attending the seizure, removal and retention of such boat, shall have been paid, including in such expenses the wages of the officers, servants or other persons who may have been employed in connection therewith for the time of such employment:

Recovery of  
rates on fishing  
boats.

Provided always that nothing in this section shall prejudice the right of the Commissioners to sue for and recover such rates by legal process.

69. All rates to be levied and received by the Commissioners shall be applied by the Commissioners in manner following (that is to say):—

Application of  
rates.



PART VII  
—cont.

- (1) in paying the costs, charges, and expenses of and incident to the preparing for, obtaining and passing of this Order, or otherwise in relation thereto;
- (2) in paying year by year, according to their priorities, the instalments of principal and interest in respect of advances which have been actually made before the passing of this Order, or which, under the provisions of this Order, are to be treated as being and remaining secured as if they had been actually made before, and had been secured at, the time of the passing of this Order;
- (3) in paying, year by year, the interest accruing on other moneys borrowed by the Commissioners;
- (4) in the making of payments to the sinking fund (if any) referred to in section 81 (Sinking fund) of this Order;
- (5) in paying, subject to the provisions of this Order, the cost of the maintenance, repairs, management and regulation of the harbour;
- (6) in payment of principal money borrowed;
- (7) in the further general improvement and prosperity of the harbour.

Certain officers and others exempt from rates.

70. The Secretary of State or any person or persons deputed by him being in the execution of their duty shall at all times have free ingress, passage and egress to or along and from the harbour and works by land and with their vessels or otherwise without payment.

## PART VIII

## TUGS

Commissioners may provide and license tugs.

71. For the better navigation of the harbour and for the use and accommodation of vessels frequenting the same, the Commissioners may from time to time build, purchase, contract for or hire and may maintain, use and let tugs or other power; and may also from time to time license such number of tugs or other power belonging to any person, and for such period, and on such terms and conditions, as they may think fit.

Commissioners to fix rates for tugs.

72. The Commissioners may from time to time fix reasonable rates or charges for and in respect of the use of the tugs or other power maintained, used and let or licensed by them; and such rates or charges shall be paid by the owner, master, agent, manager or other person having charge of the vessel obtaining the assistance of such tugs or other power, to the Commissioners or to their lessee, or to the person with whom they may contract, or to the owner of such tugs or other power, if licensed by them, as the case may be; and such rates and charges shall be due and payable whether such tugs or other power shall be actually employed or not, provided the assistance thereof shall have been required, and shall, in consequence of such requisition, have been tendered by the master or other person having the command of such tugs or other power.

73. Every person who, without the licence of the Commissioners, shall use or employ any tug or other power for towing vessels within the harbour, except such as shall be provided or employed by the Commissioners, or by their lessee, contractor or other person having their authority, and except also any tug or other power which is being employed in towing a vessel from any other port or harbour to the harbour, or from the harbour to any other port or harbour, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART VIII  
—cont.  
Penalty for using  
or employing  
tugs without  
licence.

### PART IX

#### METERS AND WEIGHERS

74. The Commissioners may appoint and license a sufficient number of persons to be meters and weighers within the harbour who shall within twelve hours after any vessel is discharged or loaded give an account of the cargo at the treasurer's office, and any person not complying with this requirement shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to appoint  
meters and  
weighers.

75. The rates or other remuneration to be paid for the weighing and measuring of goods at the harbour shall be of such amounts as the Commissioners shall from time to time fix and determine, and also the other necessary and proper charges and expenses connected with the metering and weighing department.

Payment of rates  
for weighing and  
measuring goods.

### PART X

#### SUPPLY OF WATER, GAS AND ELECTRICITY, ETC.

76. The Commissioners may contract with any body of commissioners, local or other authority, corporation, company or person for a supply of water to vessels within the harbour, and for the extinction of fires in such vessels, and also for a supply of gas, electricity or other source of energy for the use of the harbour, and the streets, buildings, property and vessels within the limits thereof.

Commissioners  
may contract for  
supply of water,  
gas and  
electricity, etc.

77. The Commissioners may charge the owner, master, agent, manager or other person in charge of any vessel for such supply of water or gas, electricity or other source of energy at such rate or rates as shall from time to time seem to the Commissioners to be just and reasonable:

Rate for water  
supplied to  
vessels.

Provided—

- (a) that in the case of the supply of gas the rate to be charged by the Commissioners shall not exceed the maximum price for the time being fixed by the British Gas Corporation in

PART X  
—cont.  
1972 c. 60.

accordance with the provisions of paragraph 12 of the Fourth Schedule to the Gas Act 1972 as being the maximum price at which gas supplied by them may be resold; and

1979 c. 11.

- (b) that in the case of the supply of electricity the rate to be charged by the Commissioners shall not exceed the maximum price which may from time to time be fixed by the North of Scotland Hydro-Electric Board in accordance with the provisions of section 23 of the Electricity (Scotland) Act 1979 as being the maximum price at which electricity supplied by them may be resold.

## PART XI

### POLICE, PROSECUTION OF CRIMES, ETC.

Power to  
contract for  
police.

78. The Commissioners may contract with the police authority for the area of Fraserburgh for the execution by police constables of police duty within the harbour or any part thereof on such terms and conditions and under such payment or consideration as the Commissioners shall think proper and as shall be agreed between them and the police authority.

Prosecution of  
crimes, offences  
and breaches of  
byelaws within  
harbour.

79.—(1) For all purposes in connection with the prosecution of crimes, offences and breaches of any byelaws made by the existing Commissioners or by the Commissioners under the authority of this Order, the harbour shall be deemed to be within the police limits abutting the harbour.

1975 c. 20.

(2) Proceedings against any person offending or committing any breach or contravention of any of the provisions of this Order or any byelaw made thereunder shall be instituted and conducted under and in conformity with the Criminal Procedure (Scotland) Act 1975.

## PART XII

### FINANCIAL

Accounting and  
auditing.

80.—(1) The Commissioners shall keep proper accounts and proper records in relation to those accounts and shall prepare proper statements of account in respect of each financial year of the Commissioners and the accounts of the Commissioners for each such year shall be audited by an auditor appointed by the Commissioners for that year who is qualified under subsection (2) below.

(2) An auditor is qualified for the purpose of subsection (1) above if, and only if, he is a member, or a firm all the members of which are members, of one or more of the following bodies, that is to say:—

The Institute of Chartered Accountants of Scotland;

The Institute of Chartered Accountants in England and Wales;



The Association of Certified Accountants;  
The Institute of Chartered Accountants in Ireland;  
Any other body of accountants established in the United Kingdom for the time being approved by the Secretary of State.

(3) Within six months after the date on which the accounts of the Commissioners for any financial year of the Commissioners have been audited the Commissioners shall transmit to the Secretary of State three copies of their statements of account and the auditor's report for that year and copies shall be made and kept available at the harbour office for inspection by the public without charge during reasonable hours and for supply on demand upon payment of such reasonable charge in respect of each copy as the Commissioners may determine.

(4) Where the auditor's report includes any recommendation with respect to the keeping of the Commissioners' accounts or records or the preparation of their annual statements of account the Secretary of State may direct the Commissioners to give effect to that recommendation subject to such modifications, if any, as the Secretary of State may specify in his direction and the Commissioners shall comply with that direction.

(5) In this section the expression "financial year" means the year ending 31st October.

81. If the Commissioners determine to repay by means of a sinking fund any moneys borrowed on mortgage under the powers of this Order, such sinking fund shall be formed and maintained either—

- (a) by payment to the fund throughout the period fixed for the repayment of the sum borrowed (in this section referred to as "the fixed period") of such equal annual sums as will be sufficient to pay off within that period the sum for the repayment of which the sinking fund is formed; 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 Secretary of State may approve, will be sufficient to pay off within that period the sum for the repayment of which such sinking fund is formed.

82.—(1) The Commissioners may deposit any moneys, including such portion of any sinking fund established in accordance with the provisions of section 81 (Sinking fund) of this Order as may not at the time have been applied in manner hereinbefore provided, in any bank or banks in Scotland incorporated under Act of Parliament or by royal charter, or invest the same in the public or government funds of the United Kingdom or on heritable security or in securities in which trustees in Scotland may lawfully invest money.

(2) The Commissioners shall carry and credit to the sinking fund each year all dividends and interest arising out of the investment of the sinking fund.

PART XIII

MISCELLANEOUS

Nothing to exempt works from provisions of Merchant Shipping Act. 1894 c. 60.

83. Nothing contained in this Order shall be deemed to exempt the harbour or the Commissioners from the provisions of the Merchant Shipping Act 1894, or of any public general Act relating to merchant shipping, harbours or docks, or dues on shipping, or on goods carried in ships, now in force or which shall be passed during the present or any future Session of Parliament.

Saving for Food and Environment Protection Act 1985. 1985 c. 48.

84. Nothing in this Order shall affect the operation of Part II of the Food and Environment Protection Act 1985.

Saving for Coast Protection Act 1949. 1949 c. 74.

85. Nothing in this Order shall exempt the Commissioners or any other person from the provisions of Part I of the Coast Protection Act 1949.

Crown rights.

86. Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, without prejudice to the generality of the foregoing nothing in this Order shall authorise the Commissioners or any licensee of the Commissioners to take, use or enter upon or in any manner interfere with any land or interest in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

- (a) 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; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

Repeals.

87. The enactments referred to in the first and second columns of Schedule 2 to this Order are hereby repealed to the extent specified in the third column of that Schedule.

Costs of Order.

88. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming, of this Order or otherwise in relation thereto shall be paid by the Commissioners.

## SCHEDULES

### SCHEDULE 1

Section 33.

#### MEETINGS AND OTHER PROCEEDINGS OF THE COMMISSIONERS

1.—(1) At the first meeting of the Commissioners on or after the new constitution date the Commissioners shall elect from among their own number a chairman who shall remain in office for one year. Chairman of Commissioners.

(2) The Commissioners shall elect a chairman from among their own number each year thereafter such election to take place at the first meeting of the Commissioners after the elections.

(3) If there shall be an equality of votes in the election of a chairman the meeting shall decide by secret ballot which of the Commissioners having an equal number of votes shall be chairman and if there is still equality the Superior or in her absence her factor shall decide by a casting vote.

(4) At the end of a chairman's year of office he may stand for re-election.

(5) The chairman shall be resident in the parish on the date of his election.

2.—(1) Meetings of the Commissioners shall be held monthly, or more frequently, as the Commissioners shall see fit on such day and at such hour as they shall from time to time appoint. Monthly meetings.

(2) All questions considered at any meeting shall be decided by the votes of the majority present, and in case of an equality of votes, the chairman for the time being shall in addition to his own vote have a second or casting vote.

3. The Commissioners may hold special meetings, and the chairman or any three or more of the Commissioners, may require a special meeting to be held, and may call or direct the clerk to call such meeting; but no such meeting shall be held unless twenty-four hours' previous notice thereof be given, and such notice shall specify the objects for which such meeting is called. Special meetings.

4. All notices of any meeting of the Commissioners shall be in writing and shall be delivered at or posted to the usual place of abode or place of business of each of the Commissioners, and every notice shall specify the time and place of the meeting. How notices of meetings are to be given.

5.—(1) At all meetings of the Commissioners, five shall be a quorum and all powers vested in the Commissioners may be exercised by such quorum. Quorum of Commissioners.

(2) No business shall be transacted at any meeting of the Commissioners unless the quorum hereinbefore specified be present.

6. The meetings of the Commissioners shall be held at the harbour office or other convenient place within the parish to be fixed by the chairman. Place of meetings.



SCH. 1  
—cont.  
Adjournment of  
meetings.

7. The Commissioners (whether more or less than a quorum) present at any meeting of the Commissioners, or the clerk if no Commissioner be present, may adjourn such meeting to another day at the same or any other convenient place within the parish.

Orders or  
resolutions not  
to be altered  
without notice.

8. No order or resolution of the Commissioners at any meeting shall be altered or revoked unless at a special meeting called for that purpose, and notice of the intention to propose such alteration or revocation shall be given on the card or circular calling such meeting.

Power to  
appoint  
Committees.

9. At the first meeting of the Commissioners in each year the Commissioners shall appoint from among their own number committees for the ensuing year for such purposes as they may consider expedient; and the Commissioners may appoint the chairman of any such committee, and may fix the quorum thereof, being not fewer than three, and may continue, alter, or discontinue such committee; and the Commissioners may delegate to any such committee, and such committee may exercise and perform such of the powers and duties competent to or incumbent on the Commissioners in virtue of this Order, except borrowing money, as the Commissioners think fit.

Meetings of  
committees.

10. Every committee so appointed may meet from time to time, and may adjourn from place to place, as they may think proper, for carrying into effect the purposes of their appointment; and at all meetings of the committee the chairman appointed by the Commissioners, and in his absence, or if no chairman has been appointed, one of the members present to be appointed by the meeting shall preside; and if there be an equality of votes in the election of the chairman the meeting shall decide by lot which of the Commissioners having an equal number of votes shall be chairman and preside; and all questions shall be determined by a majority of the votes of the members present, and in case of equality of votes the chairman shall have a casting vote in addition to his vote as member of the committee.

Quorum of  
committees.

11. No business shall be transacted at any meeting of any committee appointed by the Commissioners unless the quorum of members fixed by the Commissioners, or if no quorum be fixed, three members, be present.

Proceedings not  
to be invalidated  
by vacancies.

12. No proceeding of the Commissioners, or of any committee, shall be invalidated or be illegal by reason of any deficiency at the time of such proceeding in the number of the Commissioners occasioned by any failure to elect or appoint the Commissioners or any of their number, or by reason of the fact of a vacancy from any other cause in the number of Commissioners or members of committees, at the time of such proceeding.

Informalities in  
appointment not  
to invalidate  
proceedings.

13. All proceedings of the Commissioners, or of any committee of the Commissioners, or of any person acting as one of the Commissioners, shall, notwithstanding it be afterwards discovered that there was some defect in the election or appointment of any such Commissioners, or persons acting as aforesaid, or that they or any of

them were disqualified, be as valid as if every such person had been duly elected or appointed and was qualified to be one of the Commissioners, as the case may be.

SCH. 1  
—cont.

14. The Commissioners shall cause records to be kept by the clerk, under their superintendence, of all the proceedings of the Commissioners, and of every committee appointed by them, with the names of the Commissioners as the case may be, who shall attend each meeting; and the record of every such proceeding shall be signed by the chairman of the meeting at which the proceeding took place, and the record or minute of such meeting so signed, or an extract thereof certified by the clerk, shall be received as evidence in all courts, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being Commissioners or members of committees respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such records shall at all reasonable times be open to the inspection of any of the Commissioners, and of any creditor on the security of the rates or property of the Commissioners.

Proceedings to be recorded and when signed to be received as evidence.

15.—(1) The Secretary of State may from time to time at the request of the Commissioners by order make such additions to or alterations in this Schedule as may be found necessary or desirable.

Revision of Schedule.

(2) The power to make orders conferred on the Secretary of State by this paragraph of this Schedule shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any such order may be amended or revoked by a subsequent order made in like manner and subject to the like conditions.

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SCHEDULE 2

Section 87.

ACTS AND ORDERS REPEALED

Chapter (1)	Short title (2)	Extent of repeal (3)
41 & 42 Vict. c. cii.	Fraserburgh Harbour Act 1878.	The whole Act.
47 & 48 Vict. c. ccxvi.	Fraserburgh Harbour Order 1884.	The whole Order.
54 & 55 Vict. c. xlvi.	Fraserburgh Harbour Order 1891.	The whole Order.
57 & 58 Vict. c. cxi.	Fraserburgh Harbour Order 1894.	The whole Order.
5 Edw. 7. c. cxcv.	Fraserburgh Harbour Order Confirmation Act 1905.	The whole Act.
4 & 5 Geo. 5. c. cxv.	Fraserburgh Harbour Order 1914.	The whole Order.
9 & 10 Geo. 5. c. xciv.	Fraserburgh Harbour (Rates) Order Confirmation Act 1919.	The whole Act.
9 & 10 Geo. 5. c. cvi.	Fraserburgh Harbour (New Works) Order Confirmation Act 1919.	The whole Act.
13 & 14 Geo. 5. c. xlix.	Fraserburgh Harbour Order Confirmation Act 1923.	The whole Act.
21 & 22 Geo. 5. c. ii.	Fraserburgh Harbour Order Confirmation Act 1930.	The whole Act.
1975 c. xiii.	Fraserburgh Harbour Order 1975.	The whole Order except sections 19 and 20.

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# Fraserburgh Harbour Order Confirmation Act 1985

## CHAPTER xlv

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2. Short title.

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