

**CHAPTER cxcv.**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Fraserburgh Harbour. A.D. 1905.
[11th August 1905.]

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

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

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed. Confirmation
of Order in
schedule.

2. This Act may be cited as the Fraserburgh Harbour Order Confirmation Act 1905. Short title.

A.D. 1905.

SCHEDULE.

FRASERBURGH HARBOUR.

Provisional Order to authorise the construction of piers and other works at the harbour of Fraserburgh in the county of Aberdeen to authorise the Fraserburgh Harbour Commissioners to borrow additional money to alter tonnage rates to alter the mode of electing the Commissioners and for other purposes.

WHEREAS by the Fraserburgh Harbour Act 1878 (herein-after called "the Act of 1878") the then existing harbour at Fraserburgh was transferred to the Commissioners incorporated by that Act under the name of the Fraserburgh Harbour Commissioners (herein-after called "the Commissioners") and the Commissioners were authorised by that Act to construct additional works and further powers were conferred upon the Commissioners by the Fraserburgh Harbour Orders 1884 1891 and 1894:

And whereas owing to the great increase in recent years of the size of vessels engaged in the fishing industry which forms a very large part of the trade at Fraserburgh Harbour the harbour has become inadequate for the accommodation of such vessels and it is expedient that the Commissioners should be authorised to construct the new works in this Order described:

And whereas it is expedient that the Commissioners should be authorised to borrow further money for the purposes of those works and of their undertaking:

And whereas it is expedient that the mode of levying tonnage rates on vessels should be altered:

And whereas it is expedient that the mode of electing Commissioners should be altered and that the other powers in this Order mentioned should be conferred on the Commissioners:

And whereas plans and sections describing the lines situation and levels of the works authorised by this Order and plans of the lands which will be taken for the purposes of this Order and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the

lands required or which may be taken for the purposes or under the powers of this Order were duly deposited with the principal sheriff-clerk of the county of Aberdeen at his offices at Aberdeen and Peterhead and are herein-after respectively referred to as the deposited plans sections and book of reference : A.D. 1905.

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

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

1. This Order may be cited as the Fraserburgh Harbour Order 1905. Short title.

2. The Lands Clauses Acts and the Harbours Docks and Piers Clauses Act 1847 (except the provisions thereof with respect to lifeboats and with respect to keeping a tide and weather gauge unless the Board of Trade require the same to be kept or provided and sections 25 and 26) are except where expressly varied by this Order incorporated with and form part of this Order and this Order shall be deemed to be a special Act within the meaning of those Acts. Incorporation of Acts.

3. In this Order the several words and expressions to which meanings are assigned by the Acts incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction In this Order the expression— Interpretation.

“ The Harbour ” means the harbour of Fraserburgh ;

“ The Commissioners ” means the Fraserburgh Harbour Commissioners ;

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

“ The Order of 1884 ” means the Fraserburgh Harbour Order 1884.

4. Subject to the provisions of this Order the Commissioners may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after described and the works and conveniences connected therewith and may enter upon take and use such of the lands delineated Construction of works.

A.D. 1905. on the deposited plans and described in the deposited book of reference as may be required for those purposes The works herein-before referred to are—

- (1) A pier commencing at a point on the west side of the south breakwater 100 feet or thereabouts from the termination of that breakwater extending thence in a north-westerly direction and terminating at a point 335 feet or thereabouts from the point of commencement :
- (2) A pier commencing at the north-eastern end of the termination of the north pier and extending thence in a south-westerly direction for 138 feet or thereabouts extending thence in a south-easterly direction and terminating at a point 300 feet or thereabouts from the south-western end of the termination of the north pier :
- (3) The deepening or excavation of the area to be inclosed by the construction of the piers herein-before described to a depth of 9 feet or thereabouts below the level of low water of ordinary spring tides :
- (4) A pier or jetty to be situate within the before-mentioned inclosed area commencing at a point on the seashore 300 feet or thereabouts measured in a south-easterly direction from the south side of the south pier and terminating at a point 550 feet or thereabouts in an easterly direction from the point of commencement :
- (5) A spur or pier commencing on the south-west side of the Balaclava Breakwater at a point thereon 200 feet or thereabouts from the end of that breakwater extending thence in a south-westerly direction and terminating at a point 150 feet or thereabouts from the point of commencement.

The piers will be constructed as solid work throughout their whole length.

Works to
form part of
harbour.

5. Subject to the provisions of this Order the works by this Order authorised and all the works executed or lands acquired by the Commissioners before the passing of the Act confirming this Order shall for all purposes of rates duties and charges and for all other purposes whatsoever be and form part of the harbour.

6. In addition to the other lands which the Commissioners are by this Order authorised to purchase and acquire they may purchase take on lease or acquire by agreement and may hold for the purposes of their undertaking any lands not exceeding ten acres and they may on such lands erect or construct and hold depôts yards wharves offices buildings sidings works and other conveniences in connexion with their undertaking but nothing in this Order shall exonerate the Commissioners from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any such lands.

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Lands for extraordinary purposes.

7.—(1) Subject to the provisions of this Order the Commissioners may from time to time construct maintain alter and improve the harbour and for the purposes of and in connexion with the harbour may acquire construct provide and maintain any jetties wharves slips landing-stages sewers drains water-courses roads approaches buoys moorings lights and other works and conveniences and may provide lay down and construct gas or electric lighting mains and other apparatus rails tramways turntables and sidings on or along the quays and other works within or connected with the harbour.

Improve-
ment and
maintenance
of harbour
and works.

(2) No line of rails or tramway constructed under the powers of this Order shall be used for public conveyance of passengers unless and until the same shall have been inspected and certified by the Board of Trade to be fit for such traffic.

(3) Any electric lighting mains or other apparatus or tramways constructed and provided under this Order shall be so constructed used and worked as to prevent any interference with telegraphic communication by means of any telegraphic line of the Postmaster-General or with telephonic communication by means of any apparatus of the National Telephone Company Limited and also so as to prevent any interference with the telegraphic telephonic or electric signalling communication or the electric circuits or any other electric appliances used by or in connexion with the railway of the Great North of Scotland Railway Company.

8. In addition to the other works by this Order authorised the Commissioners may where the construction of the works or any of them authorised by this Order renders it necessary reclaim or otherwise interfere with the foreshore and they may alter

Dredging.

A.D. 1905. dredge scour and deepen the waterway within the limits of the harbour :

Provided that all materials excavated or dredged if deposited below high-water mark shall be deposited in such position and under such restrictions as may be fixed by the Board of Trade.

Penalty for obstructing works.

9. Every person who wilfully obstructs any person acting under the authority of the Commissioners in setting out the lines of the works or who pulls up or removes any poles or stakes driven into the ground for the purpose of setting out the lines of the works or defaces or destroys the works shall for every such offence be liable to a penalty not exceeding five pounds.

Period for compulsory purchase of land.

10. The powers of the Commissioners for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of three years from the passing of the Act confirming this Order.

Period for completion of works.

11. If the works are not completed within seven years from the passing of the Act confirming this Order then on the expiration of that period the powers by this Order granted to the Commissioners for completing the works shall cease except as to so much thereof as is then completed :

Provided that the Board of Trade may on application in writing to them before the expiration of the said period by the Commissioners extend the period for completion of the said works for such period not exceeding ten years from the commencement of this Order as they may think fit by a consent under the hand of the secretary or an assistant secretary of the said Board.

Powers of deviation.

12. Subject to the provisions of this Order and with the consent in writing of the Board of Trade the Commissioners may in the execution of the works deviate laterally from the lines of the works within the limits of lateral deviation marked on the deposited plans and they may deviate vertically from the levels of the said works as shown on the deposited sections to any extent not exceeding five feet.

Works below high-water mark not to be commenced

13. The Commissioners shall not under the powers of this Order construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any

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

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without consent of Board of Trade.

14. From and after the commencement of this Order the Schedule A annexed to the Order of 1884 shall be and the same is hereby amended by the introduction at the end of Part I. "Rates for Vessels" and before "Exemption" of the following provision:—

Provisions as to rateable tonnage.

In all cases the Commissioners shall have the option of charging either on the net registered tonnage or on one-third of the gross tonnage.

15. Fishing vessels belonging to countries with which for the time being treaties exist exempting such vessels from dues and port charges when 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 under this Order.

Certain fishing vessels under stress of weather exempt from rates.

16. 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 a lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and also all persons brought ashore from any vessel in distress shall at all times have free ingress passage and egress to or along and on and from the piers and works by this Order authorised without payment.

Exemption of lifeboat crews.

A.D. 1905.

Alteration
and increase
of borrowing
powers.

17. The amount authorised to be borrowed by the Commissioners under section 136 (Borrowing powers of the Commissioners) of the Act of 1878 is hereby increased to four hundred thousand pounds and except as in this Order expressly provided all the provisions of the Act of 1878 and of any other Act or Order at present applicable to money borrowed under the said Act shall apply to any money borrowed by the Commissioners under this Order.

Application
of money
borrowed.

18. All money borrowed under this Order shall be applied only for the purposes of the harbour to which capital money may properly be applied and not otherwise.

Period of
repayment
of moneys
borrowed.

19. The Commissioners shall pay off all moneys borrowed by them under this Order within the respective periods (in this Order respectively referred to as "the prescribed period") following (that is to say) :—

As to moneys borrowed under this Order for harbour purposes within such period as the Commissioners may fix but not exceeding fifty years from the completion of the works by this Order authorised or from the first day of November one thousand nine hundred and ten whichever of those dates shall be the earlier ;

As to moneys borrowed for payment of the costs charges and expenses of this Order within five years from the commencement of this Order.

Mode of
payment off
of borrowed
moneys.

20. The Commissioners shall pay off all moneys borrowed by them under this Order either by equal yearly or half-yearly instalments of principal or principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them.

Sinking
fund.

21.—(1) If the Commissioners determine to repay by means of a sinking fund any moneys borrowed by virtue of this Order such sinking fund shall be formed and maintained either—

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is hereinafter called a non-accumulating sinking fund ; or

(B) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is hereinafter called an accumulating sinking fund. A.D. 1905.

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority (other than the Commissioners) the Commissioners being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Commissioners towards the equal annual payments to the fund.

(4) The Commissioners may at any time apply the whole or any part of any sinking fund in or towards the discharge of the moneys for the repayment of which the fund is formed. Provided that in the case of an accumulating sinking fund the Commissioners shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5)—(A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Commissioners :

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per

A.D. 1905. centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Order shall be paid by the Commissioners in addition to the payments provided for by this Order.

(7) If it appears to the Commissioners at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Commissioners to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose.

(8) If the Commissioners desire to accelerate the repayment of any loan they may increase the amount payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Commissioners be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Commissioners may reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Commissioners be sufficient to repay the loan in respect of which it is formed within the prescribed period the Commissioners may discontinue the annual payments to such sinking fund.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose as the Commissioners may determine.

22. The payment of the first instalment or the first equal annual payment to the sinking fund shall be made within one year after the date of borrowing the sum in respect of which the payment is made except in the case of moneys borrowed for harbour purposes in which case the first payment shall be made not later than the first day of November one thousand nine hundred and ten or one year after the date of the completion of the harbour works whichever of these two dates shall be the earlier.

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First instalment of sinking fund.

23.—(1) Before commencing the works the Commissioners shall apply to the Board of Trade for directions as to the lights to be exhibited and other means to be taken for preventing danger to navigation and shall in all respects obey any directions given upon that application or afterwards given as to the like matters by the Board of Trade during the construction of the works and compliance with the directions so given shall satisfy and be in place of every other statutory requirement as to those matters during the construction of the works.

As to lights during construction of works.

(2) The Commissioners shall be liable to a penalty not exceeding twenty pounds for every day during which they omit so to apply or refuse or neglect to observe any such direction.

24.—(1) After completion or permanent discontinuance or abandonment of the works authorised by this Order the Commissioners shall exhibit at the outer extremity of the piers or the completed portions thereof or in such other place as may be required for all or any part of the time from sunset to sunrise according to the requirements of the traffic and the season of the year such lights (if any) and take such other steps for the prevention of danger to navigation as are directed by the Commissioners of Northern Lighthouses and shall apply to those Commissioners for such directions.

As to lights after completion of works.

(2) The Commissioners shall be liable to a penalty not exceeding twenty pounds for every day during which they omit so to apply or refuse or neglect to observe any such directions.

25.—(1) In case of injury to or destruction or decay of the works the Commissioners shall lay down such buoys exhibit such lights or take such other means for preventing (as far as may be) danger to navigation as are directed by the Commissioners of Northern Lighthouses and shall apply to those Commissioners for such directions.

Provision against danger to navigation.

A.D. 1905.

(2) The Commissioners shall be liable to a penalty not exceeding ten pounds for every month during which they omit so to apply or refuse or neglect to obey any such directions.

Saving
rights of
Crown.

26. Nothing in this Order shall prejudicially affect any estate right power privilege or exemption of the King's most Excellent Majesty and in particular nothing herein contained shall authorise the Commissioners to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent such Commissioners and such Board are hereby respectively authorised to give).

Survey of
works by
Board of
Trade.

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

Abatement
of work
abandoned
or decayed.

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

Amendment
of section 4
of Order of
1884 as to
mode of
electing
Commis-
sioners.

29. From and after the passing of the Act confirming this Order the words "The election shall be by open poll and votes shall be given personally" in subsection (6) of section 4 of the Order of 1884 shall be and the same are hereby repealed and the following words "The election shall be carried out by a poll which shall be by ballot" shall be and are hereby substituted in lieu thereof.

30. All costs charges and expenses of and incident to the preparing for obtaining passing and confirming this Order or otherwise in relation thereto shall be paid by the Commissioners out of the rates to be levied or the moneys authorised to be borrowed by them.

A.D. 1905.
Costs of
Order.

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