

[9 EDW. 7.] *Pier and Harbour Order Confirmation* [Ch. cxiv.]
(No. 1) Act, 1909.



CHAPTER cxiv.

An Act to confirm a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 relating to Tralee and Fenit. A.D. 1909.

[16th August 1909.]

WHEREAS a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 is not of any validity or force whatever until the confirmation thereof by Act of Parliament: 24 & 25 Vict. c. 45.

And whereas it is expedient that the Provisional Order made by the Board of Trade under the said Act and set out in the schedule to this Act be confirmed by Act of Parliament:

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

1. The Order as amended and set out in the schedule to this Act shall be and the same is hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force. Confirmation of Order in schedule.

2. The Undertakers mentioned in the Order by this Act confirmed shall not under the powers of this Act or of the Order purchase or acquire in any borough or other urban district or in any parish or part of a parish not being within an urban district any house or houses which on the fifteenth day of December last were occupied either wholly or partially by thirty or more persons belonging to the working class as tenants or Special provisions as to houses of working class.

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A.D. 1909. lodgers or except with the consent of the Local Government Board for Ireland any house or houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

If the Undertakers acquire or appropriate any house or houses for the purposes of this Act or of the Order in contravention of the foregoing provision they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board for Ireland by action in the High Court in Ireland and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty.

For the purposes of this section the expression "house" means any house or part of a house occupied as a separate dwelling and the expression "working class" means mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Short title.

3. This Act may be cited as the Pier and Harbour Order Confirmation (No. 1) Act 1909.

SCHEDULE.

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TRALEE AND FENIT.

Provisional Order for the construction and maintenance of new works at Fenit in the county of Kerry for enabling the Tralee and Fenit Pier and Harbour Commissioners to accept free grants and for other purposes.

Tralee and Fenit.

1.—(1) This Order shall come into force upon the day when the Act confirming this Order is passed and that day is in this Order referred to as “the commencement of this Order.”

Commencement interpretation and short title.

(2) In this Order unless the context otherwise requires—

The expression “the existing harbour” means the Tralee and Fenit Pier and Harbour as existing at the commencement of this Order;

The expression “the new viaduct” means the pier or viaduct and the approaches thereto by this Order authorised;

The expression “the harbour” includes the existing harbour and the new viaduct;

The expressions “the deposited plan” and “the deposited sections” mean respectively the plan and sections deposited with reference to this Order with the Board of Trade;

The expression “the Order of 1880” means the Tralee and Fenit Pier and Harbour Order 1880;

The expression “the Order of 1888” means the Tralee and Fenit Pier and Harbour Order 1888;

The expression “the Order of 1907” means the Tralee and Fenit Pier and Harbour Order 1907.

(3) This Order may be cited as the Tralee and Fenit Pier and Harbour Order 1909 and this Order and the Order of 1880 and the Order of 1888 and the Order of 1907 as amended by this Order may together be cited as the Tralee and Fenit Pier and Harbour Orders 1880 to 1909.

2. The Tralee and Fenit Pier and Harbour Commissioners shall be the Undertakers for carrying this Order into execution and are in this Order referred to as “the Undertakers.”

Undertakers.

3. Subject to the provisions of this Order and subject also to such alterations (if any) in the deposited plan and deposited sections as the Board of Trade may require before completion of the works authorised by this Order in order to prevent injury to navigation the Undertakers

Power to construct works.

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may in the lines and situations and according to the levels shown on the deposited plan and sections so far as the same are shown thereon and within the limits of deviation shown on the said plan or specified in this Order make and maintain the works authorised by this Order.

Description of works.

4. The works authorised by this Order comprise A pier or viaduct and the approaches thereto (north and south) commencing at a point on the existing pier and viaduct of the Undertakers at Fenit 815 feet or thereabouts (measured in a southern direction) from the southern gable of the existing railway station at Fenit in the townland of Fenit Without and extending in a southerly direction for a distance of 1060 feet or thereabouts along the eastern side of the existing pier and viaduct and terminating at a point on the existing pier and viaduct 1060 feet or thereabouts from the said point of commencement.

The new viaduct shall be built open throughout its whole extent.

Power to deviate.

5. In constructing the works authorised by this Order the Undertakers may with the consent in writing of the Board of Trade deviate laterally to any extent within the limits of deviation marked on the deposited plan and may with the like consent deviate vertically to any extent.

Consent of Board of Trade to works.

6. No part of the works authorised by this Order below high-water mark shall be commenced without the consent in writing of the Board of Trade and those works shall be executed only in accordance with the terms of such consent.

Penalty for obstructing works.

7. Any person who wilfully obstructs any person acting under the authority of the Undertakers in setting out the lines of the works authorised by this Order or pulls up or removes any poles or stakes driven into the ground for the purpose of setting out the lines of those works shall for each offence be liable to a penalty not exceeding five pounds.

Power to maintain and improve harbour and works.

8.—(1) Subject to the provisions of this Order the Undertakers may maintain the harbour and may from time to time with the consent of the Board of Trade alter improve and extend the works authorised by this Order and may in connexion with the same respectively construct maintain alter and improve embankments landing places quays jetties wharves buoys moorings lights beacons roads sewers drains watercourses gas and electric lighting and water pipes and other works and conveniences which may be found necessary for the accommodation of vessels and traffic and may also from time to time lay down and maintain rails railways tramways sidings and turntables on and along the works authorised by this Order and land connected therewith and may take down or remove portions of the existing works.

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(2) No line of rails railway or tramway constructed under the powers of this Order shall be used for the 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.

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(3) Any electric lighting works constructed or maintained under this Order shall be so constructed used and worked as to prevent any interference with telegraphic communication by means of any telegraphic line belonging to or used by the Postmaster-General or with any telephonic communication by means of any apparatus of the National Telephone Company Limited.

9. For the protection of the Great Southern and Western Railway Company (in this section called "the company") the following provisions shall apply and have effect unless otherwise agreed upon in writing between the company and the Undertakers:—

For protection of Great Southern and Western Railway Company.

(1) The Undertakers shall not commence the construction of the new viaduct until they have given to the company at least one month's previous notice in writing of their intention to commence the same by leaving such notice at or sending the same by registered post to the principal office of the company in Dublin together with detailed plans and other necessary particulars of the construction of the new viaduct and until the company shall have signified in writing their approval of those plans and particulars or shall have failed or neglected during that month to express in writing their approval or disapproval of those plans and particulars and the Undertakers shall subject to the approval of the Board of Trade comply with and conform to all reasonable requirements of the company in the construction of the new viaduct regard being had to the rights (if any) of the company under the heads of arrangement referred to in the section of this Order of which the marginal note is "As to heads of arrangement between Undertakers and Great Southern and Western Railway Company" and the new viaduct and the permanent way to be laid down thereon shall be constructed and laid to the reasonable satisfaction of the engineer of the company:

(2) If the company fail to signify their approval or disapproval or other requirements in reference to the said detailed plans and other particulars as aforesaid for one month from the delivery thereof the company shall be deemed to have approved the same:

(3) If in the opinion of the Undertakers the company shall unreasonably withhold their approval of such plans and particulars as aforesaid or shall require as a condition to their approval

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the making or doing of any further or other works or things which the Undertakers are or may be unwilling to undertake or comply with it shall be lawful for the Undertakers or the company to require any such difference between them to be decided by arbitration as herein-after provided :

- (4) The Undertakers shall take all necessary precautions in the construction of the new viaduct or any of the works connected therewith and shall properly light the same so as to prevent injury or accident to any servants or officers of the company while lawfully engaged on the business of the company on the pier railway between the railway station at Fenit and the end of the pier and to prevent any damage to any rolling stock or other property of the company used on the said pier railway and in the event of any such accident or damage occurring as aforesaid from the negligence or neglect of the Undertakers their agents workmen contractors or servants the Undertakers shall indemnify and save harmless the company from and against all loss costs charges expenses or liability whatsoever in connexion therewith :
- (5) In carrying out the work of construction of the new viaduct and works connected therewith the Undertakers shall make all necessary arrangements so that the traffic over the pier railway between the said station at Fenit and the end of the pier shall not be delayed or otherwise unduly interfered with and in the event of any claim being made against the company for or in respect of loss or damage by reason of stoppage or delay to any such traffic arising from the construction of the new viaduct and works connected therewith the Undertakers shall indemnify and save harmless the company from and against all costs damages and expenses which they may from time to time sustain or be put to in consequence thereof :
- (6) In case of any difference or dispute arising at any time between the Undertakers and the company or their respective engineers as to anything to be done or not to be done or as to any matters provided for under this section or as to the effect or meaning thereof such difference or dispute shall be referred to an arbitrator to be appointed by the Board of Trade on the application of the Undertakers and the company or either of them and the decision of such arbitrator (who shall have authority to determine by whom the costs of such reference shall be paid) shall be binding and conclusive :

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(7) Nothing in this section contained shall take away or abridge any power of the Board of Trade and if in the opinion of that Board the plans and particulars as approved by the Company or in case of difference as settled by an arbitrator as aforesaid shall cause or be likely to cause injury to navigation in the harbour the Board of Trade shall have full power to alter and amend the same in such manner in all respects as it may think fit and the plans and particulars so altered or amended shall not require the approval of the company and the Undertakers shall be at liberty without any further reference to or approval by the company to construct the works authorised by this Order or any alteration improvement or extension thereof in accordance with the plans and particulars so altered or amended.

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10.—(1) If within two years from the commencement of this Order the works authorised by this Order are not substantially commenced the powers given by this Order for executing those works or otherwise in relation thereto shall cease unless the time for the commencement of the works be extended by the special direction of the Board of Trade.

Powers to cease in certain events.

(2) If the works authorised by this Order after having been substantially commenced are virtually suspended for twelve consecutive months the powers by this Order given for executing those works or otherwise in relation thereto shall cease except as to so much of those works as have then been completed unless those powers are by the special direction of the Board of Trade continued and directed to remain in force for any period not exceeding five years from the commencement of this Order.

(3) In either of the above cases a certificate from the Board of Trade to the effect that the works authorised by this Order have not been substantially commenced or that they have been virtually suspended for twelve consecutive months shall for the purposes of this Order be conclusive evidence of the facts stated in such certificate.

11. Subject to the provisions of this Order the works authorised by this Order shall for the purposes of the rates and charges which may be demanded and received by the Undertakers and for all other purposes be part of the harbour and undertaking of the Undertakers under the Orders of 1880 1888 and 1907 and the powers and provisions of the Order of 1880 as amended or varied by the Orders of 1888 and 1907 and by this Order shall extend and apply to the works authorised by this Order.

Rates and provisions of Orders of 1880 to 1907 to extend to works authorised by this Order.

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For protec-
tion of Com-
missioners
of Public
Works in
Ireland.

12.—(1) The land acquired under and the works authorised by and constructed under this Order and all rates tolls income or revenue received from or by reason of the same shall be and become subject to all the clauses and provisions of a certain deed poll of conveyance by way of mortgage dated the 6th day of January 1882 from the Undertakers as grantors and the Commissioners of Public Works in Ireland as mortgagees and shall be and become mortgaged and charged with the repayment to the said Commissioners of the moneys advanced under or secured by the said mortgage and interest upon the same as in the said mortgage provided and with the annuity or yearly rent-charge granted thereby in like manner and in the same priority as if the said land works rates tolls income and revenue had existed at the date of the said mortgage and were included therein and the same shall not be capable of being and shall not become charged with any claim or charge whatsoever in priority thereto This provision is to be without prejudice and in addition to the rights of the said Commissioners under or by virtue of the said mortgage or otherwise howsoever.

(2) Nothing in this Order contained shall alter prejudice or affect any baronial or other guarantee or charge granted or made before the commencement of this Order in reference to the existing harbour or the presentments by the Justices and Associated Cesspayers assembled at extraordinary presentment sessions for the baronies of Trughenacmy Magonihy Clanmaurice Corkaguiney and Iraghticonnor in the county of Kerry on the 28th day of September 1881 the 29th day of September 1881 the 30th day of September 1881 the 4th day of October 1881 and the 6th day of October 1881 respectively guaranteeing the repayment to the Commissioners of Public Works in Ireland of the moneys advanced by the said Commissioners to the Undertakers with interest thereon at the rate in the said presentments set forth and charging the said baronies with the sums which might be certified by the said Commissioners to be payable in any year on account of the said guarantees such presentments having been made in pursuance of the provisions of the Relief of Distress (Ireland) Amendment Act 1880 and of the several Acts therein incorporated or referred to and of the several Acts explaining or amending any of the same but such guarantees and the charges made by the said presentments shall in all respects be and remain in full force and effect.

For protec-
tion of Kerry
County
Council.

13. The land acquired under and the works authorised by this Order and all rates tolls income or revenue received from or by reason of the same shall be and become subject to all the clauses and provisions of a certain indenture of mortgage dated the 9th day of March 1883 and made between the Undertakers of the one part and Robert John Fitzgerald as secretary of the grand jury of the county of Kerry of the other part (which mortgage is now vested in the Kerry County Council)

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and shall become mortgaged and charged in like manner and in the same priority as if the same had existed at the date of the said mortgage and were included therein and subject to the priority of the herein-before mentioned mortgage of the 6th day of January 1882 to the Commissioners of Public Works in Ireland the said works rates tolls income and revenue shall not be capable of being or become charged with any claim or charge whatsoever in priority to the said mortgage of the 9th day of March 1883 Provided always that nothing herein contained shall alter prejudice or affect the powers of re-borrowing moneys conferred on the Undertakers by the Order of 1880.

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14. Sections 16 17 18 19 25 and 26 of the Harbours Docks and Piers Clauses Act 1847 shall not be incorporated with this Order.

Portions of Harbours Clauses Act not incorporated.

15. The Commissioners of His Majesty's Treasury the Public Works Loan Commissioners the Commissioners of Public Works in Ireland or the Department of Agriculture and Technical Instruction for Ireland or any of them may make free grants of money to the Undertakers out of public funds and the Undertakers may accept and shall apply such grants towards the cost and erection of the works authorised by this Order and the costs of this Order and the Undertakers may also accept from any company public body or person any sum or sums of money by way of gift or free grant and shall apply the same towards such cost and outlay.

Grants of moneys to Undertakers.

16.—(1) Before commencing the works authorised by this Order the Undertakers 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 from time to time given as to like matters by the Board of Trade during the construction of the works authorised by this Order 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 said works.

As to lights during construction of works.

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

17.—(1) After completion or permanent discontinuance or abandonment of the works authorised by this Order the Undertakers shall exhibit at the outer extremity of the new viaduct or the completed portion thereof or in such other places as may be required from sunset to sunrise and 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 Irish Lights and shall apply to those Commissioners for such directions.

As to lights after completion of works.

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As to buoys and lights in case of decay of works.

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

18.—(1) In case of injury to or destruction or decay of the works authorised by this Order or any part thereof the Undertakers shall lay down such buoys exhibit such lights or take such other means for preventing (as far as may be) danger to navigation as shall from time to time be directed by the Commissioners of Irish Lights and shall apply to those Commissioners for such directions.

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

Undertakers may construct works themselves or through a contractor.

19. The Undertakers may construct the works authorised by this Order or any part thereof by themselves or by labour employed by themselves or through a contractor or contractors or by any one or more of such methods.

As to heads of arrangement between Undertakers and Great Southern and Western Railway Company.

20. For the purposes of the heads of arrangement between the Undertakers and the Great Southern and Western Railway Company which are set forth in the Third Schedule to the Great Southern and Western and Waterford Limerick and Western Railway Companies Amalgamation Act 1900 the new viaduct when and so soon as the same is substantially completed shall be deemed to be part of the pier referred to in the said heads of arrangement and any railway laid down by the Undertakers on and along the new viaduct authorised by this Order shall be deemed to be part of the railway of the Undertakers referred to in the said heads of arrangement.

Saving for existing guarantees and securities.

21. Nothing in this Order contained shall alter prejudice or affect any baronial or other guarantee granted before the commencement of this Order in reference to the existing harbour or any mortgage security or charge created or granted by the Undertakers before the commencement of this Order.

Saving rights of Crown.

22. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Undertakers 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 lands 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 those Commissioners and that Board are hereby respectively authorised to give).

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23. All costs charges and expenses (including engineering fees and expenses) of and incident to preparing and obtaining this Order and all costs and expenses of any kind whatsoever of constructing the works authorised by this Order or rendered necessary by reason of such construction or in any way incidental thereto or otherwise incurred in carrying out this Order save as herein-after provided shall be paid and defrayed out of the free grants or moneys which may be made under the provisions of the section of this Order of which the marginal note is "Grants of moneys to Undertakers" and it shall not be lawful for the Undertakers to pay the same or any part thereof out of any rates charges or other income received by them nor shall the undertaking or any property or works of the Undertakers be capable of being or liable to be charged for payment thereof :

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Costs of
Order.

Provided however that with the consent of the Kerry County Council a sum not exceeding two hundred pounds may be paid in respect of law costs and engineering fees out of any revenue charges or other income received by the Undertakers :

Provided also that if the works authorised by this Order are not constructed the Undertakers shall be entitled to pay out of revenue the law costs and fees incurred up to the 17th April 1909.

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1901-1902 Annual Report of the Board of Directors of the
American Telephone and Telegraph Company

The Board of Directors of the American Telephone and Telegraph Company has the honor to acknowledge the receipt of the report of the Board of Directors of the American Telephone and Telegraph Company for the year ending December 31, 1901. The report shows a steady increase in the number of telephones in use, and a corresponding increase in the revenue of the company. The Board of Directors is pleased to report that the company has maintained its position as the leading telephone company in the United States, and has continued to expand its service to other countries.

The Board of Directors is also pleased to report that the company has continued to invest in the development of new telephone equipment, and has introduced several new models of telephones during the year. These new telephones are more durable and more efficient than the old models, and are expected to increase the revenue of the company in the future.