



CHAPTER cxlv.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Aberdeen Harbour. A.D. 1909.
[20th September 1909.]

WHEREBY HIS Majesty's Secretary for Scotland has after Inquiry held before Commissioners 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 Aberdeen Harbour Order Confirmation Act 1909. Short title.

A.D. 1909.

SCHEDULE.

ABERDEEN HARBOUR.

*Provisional Order to confer further powers upon the
Aberdeen Harbour Commissioners.*

WHEREAS by the Aberdeen Harbour Act 1895 (herein-after called "the Act of 1895") the Acts then in force relating to the harbour of Aberdeen were repealed amended and consolidated and further powers were conferred on the Aberdeen Harbour Commissioners (herein-after called "the Commissioners"):

And whereas by the Aberdeen Harbour Act 1899 and the Aberdeen Harbour Order 1907 further powers were conferred on the Commissioners:

And whereas there are in the harbour of Aberdeen two docks known as the Victoria Dock and the Upper Dock and rails for the purposes of locomotive traffic have been laid on the quays on the north and south sides of the said docks and those quays are connected by means of a swing bridge known as Regent Bridge and herein-after referred to as "the bridge":

And whereas the Commissioners have widened and reconstructed the bridge and it has been reconstructed of sufficient strength to carry locomotive traffic:

And whereas rails have been laid upon the bridge for the accommodation and efficient working of locomotive traffic at the harbour but there is not sufficient space on the quay at the south end of the bridge to admit of the construction of rails with curves of a suitable radius for connecting the rails on the bridge with the rails on the said quay and whereas the Commissioners are not in possession of sufficient land and property for widening the said quay and enabling them to construct rails with curves of a suitable radius thereon and it is expedient that the Commissioners should be authorised to acquire the land and property herein-after mentioned for the purpose of constructing maintaining and using such rails:

And whereas it is expedient that the provisions of the Act of 1895 respecting the limits within which persons entitled to

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vote at elections of and to be elected as Commissioners should reside or have a place of business should be extended that joint adventurers should be entitled to vote at elections of and to be elected Commissioners and that the qualifications of female electors should be altered as by this Order provided: A.D. 1909.

And whereas since the passing of the Act of 1895 the Commissioners have expended large sums in improving the accommodation for the fishing industry and for fishing vessels resorting to the harbour and owing to the increase in the size and value of vessels now employed in the fishing industry the rates authorised to be levied by the Commissioners by the Act of 1895 for fishing vessels are inadequate and the rates authorised to be levied by the Commissioners by the said Act for herrings direct from the sea are also inadequate and it is expedient that such rates should be increased as in this Order provided:

And whereas it is expedient that the rates payable by vessels remaining in the harbour should in certain cases be increased:

And whereas it is expedient that the further powers in this Order contained should be conferred upon the Commissioners:

And whereas a plan of the land and property to be acquired under the powers of this Order and also a book of reference to that plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the land and property required or which may be taken under the powers of this Order were duly deposited with the principal sheriff clerk of the county of Aberdeen and with the town clerk of the city and royal burgh of Aberdeen and such plan and book of reference are herein-after respectively referred to as the deposited plan and the deposited book of reference:

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 Aberdeen Harbour Order 1909 This Order and the Aberdeen Harbour Acts 1895 to 1907 may be cited together as the Aberdeen Harbour Acts 1895 to 1909. Short title and citation.

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Commence-
ment of
Order.

2. This Order (save as otherwise in this Order expressly provided) shall commence and have effect from the date of the passing of the Act confirming the same.

Incorporation of Acts.

3. The Lands Clauses Acts so far as they are applicable for the purposes of and are not varied by or inconsistent with this Order are hereby 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.

Interpreta-
tion.

4. 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.

Further
interpreta-
tion.

5. The following words and expressions in this Order have the meanings hereby assigned to them (that is to say):—

“The Commissioners” means the Aberdeen Harbour Commissioners;

“The treasurer” means the treasurer for the time being of the Commissioners appointed by them or acting under the provisions of the Aberdeen Harbour Acts 1895 to 1907 and this Order;

“The Act of 1895” means the Aberdeen Harbour Act 1895;

“The city” means the city and royal burgh of Aberdeen;

“The port” means the port of Aberdeen;

“The harbour” means the harbour of Aberdeen as defined in the Act of 1895;

“The port and harbour” means the port and harbour of Aberdeen as defined in the Act of 1895;

“The Victoria Dock” includes the Upper Dock.

Power to
take land.

6. Subject to the provisions of this Order the Commissioners may enter upon take hold and use for the purposes of the Aberdeen Harbour Acts 1895 to 1907 and of this Order and of their undertaking the land and property herein-after mentioned and shown on the deposited plan and described in the deposited book of reference (that is to say):—

The land and property situate on the south side of Provost Blaikie's quay at the harbour belonging or reputed to belong to the Bon-Accord Slate Merchant Company Limited comprising an area of one thousand one hundred and nine square yards or thereabouts and bounded on the

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south-east by land and property belonging or reputed to belong to J. & A. Davidson Limited coal merchants on the north by Provost Blaikie's quay on the west by Regent Road and on the south-west by land belonging or reputed to belong to the Commissioners. A.D. 1909.

7. Whereas in the exercise of the powers of this Order it may happen that portions only of the land houses or other buildings or manufactories shown on the deposited plan may be sufficient for the purposes of this Order and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the land houses or other buildings or manufactories numbered 1 2 and 3 on the deposited plan in the city and the city parish of Aberdeen and whereof parts only are required for the purposes of this Order may if such portions can in the opinion of the arbiter to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto be required to sell and convey to the Commissioners the portions only of the properties so required without the Commissioners being obliged or compellable to purchase the whole or any greater portion thereof the Commissioners paying for the portions required by them and making compensation for any damage sustained by the owners thereof and other persons interested therein by severance or otherwise. Owners may be required to sell parts only of houses or buildings.

8. All cases of disputed compensation in respect of land and property taken compulsorily under this Order or of disputed compensation falling under this Order to be determined under the provisions of the Lands Clauses Acts shall notwithstanding anything in those Acts contained be determined by a single arbiter to be appointed by the parties or in case both parties do not concur in the appointment of a single arbiter it shall be in the power of either party to apply to the Secretary for Scotland to appoint a single arbiter to determine the compensation to be paid and it shall not be competent thereafter to have the same determined by arbiters oversman sheriff or jury acting under the last-mentioned Acts The said arbiter upon appointment shall be deemed to be a sole arbiter within the meaning of the Lands Clauses Acts and the provisions of those Acts with regard to arbitration shall apply accordingly provided that the arbiter shall Compensation to be settled by single arbiter.

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Correction of errors &c. in deposited plan and book of reference.

9. If there be any omission misstatement or wrong description of any land or property or of the owners lessees or occupiers of the land or property shown on the deposited plan or specified in the deposited book of reference the Commissioners after giving ten days' notice to the owners lessees and occupiers of the land or property in question may apply to the sheriff of Aberdeen Kincardine and Banff for the correction thereof and if it appears to such sheriff that the omission misstatement or wrong description arose from mistake he shall certify the same accordingly and he shall in his certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited with the principal sheriff clerk of the county of Aberdeen and a duplicate thereof shall also be deposited with the town clerk of the city and such certificate and duplicate respectively shall be kept by such sheriff clerk and town clerk respectively with the other documents to which the same relate and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to such certificate and the Commissioners may enter upon take hold and use the land or property in accordance with such certificate.

Restriction on taking houses of labouring class.

10.—(1) The Commissioners shall not under the powers of this Order purchase or acquire ten or more houses which on the fifteenth day of April last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of April but have been or shall be subsequently so occupied.

(2) If the Commissioners acquire or appropriate any house or houses for the purposes of this Order in contravention of the foregoing provisions of this section they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session 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.

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(3) 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 "labouring class" means mechanics artisans 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.

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11. Persons empowered by the Lands Clauses Acts to sell and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Commissioners any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges feu duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Persons under disability may grant servitudes &c.

12. 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 compulsory purchase of lands.

13. For the purpose of making up the register of electors under the Act of 1895 for the year ending the thirtieth day of September one thousand nine hundred and nine and for every subsequent year the following provisions shall have effect (that is to say):—

Alteration of qualification of electors and qualification as electors of joint adventurers.

- (1) Section 18 (Qualifications of electors) section 24 (True ownership &c. when rates paid to be proved) section 26 (Qualification of members of companies and joint owners) of the Act of 1895 and Schedule N. (Form of Statutory Declaration as to Ownership &c.) to the last-mentioned Act shall be read and have effect as if the words "the United Kingdom" were substituted for the words "the parliamentary boundaries of the city for the time being" "the said parliamentary boundaries for the time being" "such boundaries"

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“the parliamentary boundaries of the city” “the
“parliamentary boundaries for the time being of the
“city” “such parliamentary boundaries” and “the
parliamentary boundaries of the city of Aberdeen”
wherever they occur in those sections and in that
schedule :

- (2) The last proviso to section 18 (Qualifications of electors) of the Act of 1895 shall be read and have effect as if the words “not married or any female married but not living in family with her husband” were omitted therefrom :
- (3) Where rates shall be paid by the partners or persons engaged in any joint adventure which is not being carried on by a company firm or corporation section 26 (Qualification of members of companies and joint owners) of the Act of 1895 shall as amended by this Order extend and apply mutatis mutandis to such joint adventure and the partners or persons engaged therein and such partners or persons shall be entitled to qualify as electors one or more of such partners or persons not exceeding five in number by intimating the names of the partners or persons to be qualified to the Commissioners within the time and in the manner provided by the said section 26 Provided that the amount of rates paid by the partners or persons engaged in such joint adventure shall be sufficient to afford the qualification of five pounds of rates to each of the partners or persons so named and that each of the partners or persons so named shall be in other respects qualified as electors as prescribed by the said section 26 as amended by this Order Provided also that for the purposes of this subsection the partners or persons engaged in a joint adventure shall as regards the crew of any vessel engaged in the fishing industry be such members only of the crew (including the master) as are remunerated solely by shares in the profits or the gross earnings of the working of such vessel :
- (4) The Commissioners for the purpose of making up the register under the Act of 1895 of the electors may require that any partner or person engaged in a joint adventure who may claim to be qualified in

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terms of the last preceding subsection shall furnish evidence to the satisfaction of the Commissioners that he was so engaged during the year ending the thirtieth day of September immediately preceding the election and if engaged as a member of the crew in a joint adventure for fishing that he was remunerated solely by a share or shares in the profits or the gross earnings of the working of the fishing vessel and for that purpose may require such partner or person to produce all agreements contracts accounts and other documents instructing such engagement and in the case of a member of the crew of a fishing vessel instructing the terms of his remuneration and the Commissioners may also in writing require such partner or person to subscribe and deliver to the treasurer within one week from the date of delivery of such requisition personally or at the residence or place of business of such partner or person a statutory declaration proving such engagement and in the case of a member of the crew of a fishing vessel proving the terms of his remuneration which declaration may be in the form of the Third Schedule to this Order or to the like effect and if such partner or person shall fail after being required to furnish evidence to the satisfaction of the Commissioners that he has been so engaged or in the case of a member of the crew of a fishing vessel that he has been so engaged and remunerated or shall fail after being required in writing to subscribe and deliver within the time aforesaid to the treasurer the said statutory declaration the Commissioners shall not be bound to enter the name and designation of such partner or person in the list of electors to be made up as prescribed by the Act of 1895 or in the register of electors and the partner or person so failing shall not be qualified to vote as an elector or to be elected a Commissioner at the next ensuing election.

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14. The following provisions shall have effect from and after the thirtieth day of September one thousand nine hundred and nine (that is to say):—

- (1) Schedule A to the Act of 1895 shall be read and have effect as if the First Schedule to this Order were substituted for Part III. of the said Schedule A:

Amendment
of Sche-
dule A to
Act of 1895
as to rates for
vessels and
of Schedule
B to Act of

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 1895 as to
 rates for fresh
 herrings.

(2) Schedule A to the Act of 1895 shall be read and have effect as if the Second Schedule to this Order were substituted for Part IV. of the said Schedule A:

(3) The rate authorised to be levied demanded and taken by the Commissioners by Schedule B of the Act of 1895 for fresh herrings direct from sea is hereby repealed and in lieu thereof the Commissioners may levy demand and take therefor a rate not exceeding twopence halfpenny per cran.

Application
 of funds.

15. The Commissioners may apply to the purposes of this Order any moneys in their hands or which they are authorised to borrow under the Aberdeen Harbour Acts 1895 to 1907.

Costs of
 Order.

16. All costs charges and expenses of and incidental to the preparing for obtaining passing and confirming of this Order or otherwise in relation thereto shall be paid by the Commissioners from and out of the revenues of their undertaking.

The SCHEDULES referred to in the foregoing Order.

THE FIRST SCHEDULE.

REFERRED TO IN THE SECTION OF THIS ORDER OF WHICH THE MARGINAL NOTE IS "AMENDMENT OF SCHEDULE A TO ACT OF 1895 AS TO RATES FOR VESSELS AND OF SCHEDULE B TO ACT OF 1895 AS TO RATES FOR FRESH HERRINGS."

III.—HERRING AND WHITE FISHING VESSELS.

	<i>s.</i>	<i>d.</i>
For all herring fishing vessels propelled by steam or other motive power on each occasion of any such vessel entering the port and harbour - - - - -	4	0
or		
In any fishing season at the port as a composition in full of rates for such vessels for the period of such fishing season payable in advance for each vessel - - - - -	40	0
For all other herring fishing vessels on each occasion of any such vessel entering the port and harbour - - - - -	3	0
or		
In any fishing season at the port as a composition in full of rates for such vessels for the period of such fishing season payable in advance for each vessel - - - - -	30	0

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	s.	d.	A.D. 1909.
For all vessels engaged in the trawl fishery on each occasion of any such vessel entering the port and harbour - -	6	0	
For all line fishing vessels propelled by steam or other motive power on each occasion of any such vessel entering the port and harbour - - - - -	4	0	
For all other vessels or boats decked or undecked engaged in the white fishery the following rates shall be payable in advance viz. :—			
If under 45-feet keel - - - - - per week	1	0	
or per month	2	6	
or per season	20	0	
If of 45-feet keel but under 65-feet keel on each occasion of entering the port and harbour - -	1	0	
If of 65-feet keel or upwards on each occasion of entering the port and harbour - - - - -	6	0	

THE SECOND SCHEDULE.

REFERRED TO IN THE SECTION OF THIS ORDER OF WHICH THE MARGINAL NOTE IS "AMENDMENT OF SCHEDULE A TO ACT OF 1895 AS TO RATES FOR VESSELS AND OF SCHEDULE B TO ACT OF 1895 AS TO RATES FOR FRESH HERRINGS."

IV.—MISCELLANEOUS.

For all vessels entering the harbour windbound or for safety or for orders or for repairs or (not being private pleasure yachts) with or for passengers only and not breaking bulk nor taking in goods (stores for their own use excepted) the following rates shall be paid namely:—

One penny per register ton if from any port or place in Great Britain or Ireland;

Twopence per register ton if from any other port or place:

Provided that no rates of any kind shall be exigible in respect of such vessels coming within the limits of the port and harbour but not entering the harbour.

For vessels breaking bulk (except for repairs) or taking in goods (except stores for their own use) full rates shall be paid and vessels breaking bulk to permit repairs to be effected shall re-load all the goods so landed otherwise they shall be liable in full rates.

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A.D. 1909. For all vessels launched at the port half-rates shall be paid on the first sailing thereafter outwards if in ballast only but if loading goods or carrying passengers full rates shall be paid. If on such first sailing any such vessel shall be loaded with chip stones only the vessel shall for the purposes of rates for vessels be held to be in ballast.

For all fishing vessels propelled by steam or other motive power and fishing regularly from the port remaining in the harbour the sum of eightpence per register ton if in the Victoria Dock and the sum of fourpence per register ton if in any other part of the harbour for each period of fourteen days or any period less than fourteen days during which such vessels shall remain in the harbour after the expiration of one month from the date of their arrival.

For all such vessels not fishing regularly from the port remaining in the harbour the sum of eightpence per register ton if in the Victoria Dock and the sum of fourpence per register ton if in any other part of the harbour for each period of fourteen days or any period less than fourteen days during which such vessels shall remain in the harbour after the expiration of fourteen days from the date of their arrival.

A vessel shall be held to be fishing regularly from the port when she has made not less than ten arrivals within the twelve months ending on the date of her latest arrival.

For all decked or open boats remaining in the harbour the sum of one shilling if in the Victoria Dock and sixpence if in the Albert Basin for each week or for any period less than a week during which such boats shall so remain in the harbour after the expiration of one week from the date of their arrival.

For all other vessels remaining in the harbour the sum of one penny halfpenny per register ton if in the Victoria Dock and one penny per register ton if in any other part of the harbour for each month or for any period less than a month during which such vessels shall remain in the harbour after the expiration of one month from the date of their arrival.

The above rates for vessels and boats remaining in the harbour shall be payable in advance but shall not be chargeable for such vessels or boats while under repair on pontoons slips or gridiron or in graving dock.

In reckoning the number of voyages made within any year (except as regards fishing vessels) the year shall be deemed to run from the first day of October to the thirtieth day of September. If any vessel being a regular trader to the harbour shall be lost or sold during any such year any vessel substituted in the trade for the

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vessel so lost or sold shall in computing the number of voyages in that year be deemed to be the vessel for which it is so substituted. One sailing inwards and the next following sailing outwards shall constitute a voyage. A.D. 1909.

For vessels sailing from the harbour and put back by stress of weather or other cause without having accomplished the voyage no additional rates shall be charged on such return.

For the purpose of rating the net register tonnage of fishing vessels and steam tugs shall not in any case be deemed to be less than eighteen per cent. of the gross register tonnage.

For all vessels not specially mentioned in this schedule or not having any net register tonnage—there shall be charged on each occasion of entering the port and harbour the appropriate tonnage rate charged on the gross tonnage.

EXEMPTION.

No rates leviable under this schedule shall be charged on steam tugs plying by the authority or licence of the Commissioners while such steam tugs are employed only in towing vessels into or out of the harbour.

THE THIRD SCHEDULE.

REFERRED TO IN THE SECTION OF THIS ORDER OF WHICH THE MARGINAL NOTE IS "ALTERATION OF QUALIFICATION OF ELECTORS AND QUALIFICATION AS ELECTORS OF JOINT ADVENTURERS."

FORM OF STATUTORY DECLARATION AS TO ENGAGEMENT IN A
JOINT ADVENTURE.

I (insert name and designation) do solemnly and sincerely declare that I am one of the partners or persons who paid rates to the value of (insert amount of rates paid) to the Aberdeen Harbour Commissioners during the year preceding the 30th day of September (insert the year) in respect of a joint adventure for (here specify shortly the nature of the joint adventure and if for fishing the name of the fishing vessel) in which I was engaged along with (insert the names and designations of the other partners or persons engaged in the joint adventure along with the declarant and if the joint adventure was for the purpose of fishing and the declarant is a member of the crew add) and that I was remunerated solely by a share in the profits or

