



CHAPTER 1.

An Act to confirm certain Provisional Orders made by the Minister of Transport under the General Pier and Harbour Act 1861 relating to Oulton Broad and Portknockie.

A.D. 1922.

[20th July 1922.]

WHEREAS a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 is not of any validity or force whatever until the confirmation thereof by Act of Parliament:

24 & 25 Vict.
c. 45.

And whereas it is expedient that the Provisional Orders made by the Minister of Transport 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 Orders as set out in the schedule to this Act shall be and the same are 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.

Confirma-
tion of
Orders in
schedule.

2. This Act may be cited as the Pier and Harbour Orders Confirmation Act 1922.

Short title.

[Ch. I.]

Pier and Harbour [12 & 13 GEO. 5.]
Orders Confirmation Act, 1922.

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The SCHEDULE of Orders.

1. OULTON BROAD.—Constitution of Joint Committee with power to levy rates make byelaws &c.
2. PORTKNOCKIE HARBOUR.—Construction of works amendment of rates &c.

SCHEDULE.

A.D. 1922.

OULTON BROAD.

Provisional Order in relation to Oulton Broad in the Borough of Lowestoft in the Administrative County of East Suffolk. *Oulton Broad,*

Preliminary.

1. This Order may be cited as the Lowestoft (Oulton Broad) Short title.
Order 1922.

2. This Order shall come into operation upon the day when Commence-
the Act confirming this Order is passed and that day is in this ment of
Order referred to as the commencement of this Order. Order.

3.—(1) In this Order unless the context otherwise Definitions.
requires :—

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

“The Broad” means and includes the waters known as
Oulton Broad the Free Quay and Oulton Dyke as
indicated in blue colour on a map which has been signed
in quadruplicate by an assistant secretary to the
Ministry of Transport one copy whereof shall be de-
posited at the office of the said Ministry another copy
shall be deposited at the office of the Mercantile Marine
Department of the Board of Trade another copy shall
be deposited at the office of the clerk of the peace for
the county of Suffolk and another copy shall be de-
posited at the Town Hall Lowestoft;

“The Port of Great Yarmouth” shall have the same
meaning as in the Great Yarmouth Port and Haven
Act 1866 and in any Act amending the same;

“The Commissioners” shall mean the Great Yarmouth
Port and Haven Commissioners;

“The borough” shall mean the borough of Lowestoft;

“The Corporation” shall mean the mayor aldermen and
burgesses of the borough of Lowestoft;

“The company” shall mean the Great Eastern Railway
Company;

“The yacht club” shall mean the Royal Norfolk and
Suffolk Yacht Club;

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“Vessels” shall mean all vessels and boats except those engaged in carrying loading or unloading goods or lying in readiness to load or unload goods and row boats attached to and ordinarily accompanying the said last-mentioned vessels.

(2) In the application to this Order of the Harbours Clauses Act 1847 the expressions “packet boat” or “Post Office packet” and “Post Office bag of letters” used in that Act shall mean respectively a vessel employed by or under the Post Office or the Admiralty for the conveyance under contract of postal packets as defined by the Post Office Act 1908 and a mail bag as defined by the same Act:

Provided that nothing in the Harbours Clauses Act 1847 or in this Order shall extend to exempt from rates or duties any such vessel as aforesaid if she also conveys passengers or goods for hire.

Undertakers.

Undertakers.

4. The Committee hereinafter constituted shall be the undertakers for carrying this Order into execution and are in this Order referred to as the undertakers.

Commissioners
Clauses Act
1847.

5. The Commissioners Clauses Act 1847 is hereby incorporated with this Order except sections 6 to 35 and sections 75 to 88 and with the substitution of the undertakers for the Commissioners.

Limits.

Limits.

6. The limits within which the undertakers shall have authority and within which their powers may be exercised shall be the Broad as herein defined:

Provided that nothing in this Order shall—

- (a) Give the undertakers any jurisdiction or authority over or in any waters in private ownership or the soil under the same; or
- (b) Affect prejudicially any estate right or privilege of any owner of any part of the soil of the Broad or of the banks or shores thereof or authorise the undertakers to take use or in any manner interfere with moorings or other like apparatus belonging to any such owner placed on or in any part of the Broad of the soil of which he is the owner or to interfere with the use of such moorings or apparatus by such owner or any person authorised by him except in respect of a vessel which shall swing beyond such owner's part of the Broad or to require payment of mooring fees by such owner or any member of his household

in respect of vessels moored to any such private moorings or like apparatus or to the owner's bank or shore : A.D. 1922.
Oulton Broad.

Provided further that notwithstanding the above limitations the undertakers shall have power at the written request of the owner of the soil to remove any vessel moored on any part of the Broad or in any waters in private ownership adjoining the Broad.

7. For the purposes of this Order the Broad shall be deemed to be included within the limits of the borough. Broad to be
within the
borough.

Constitution of Joint Committee.

8. A Committee to be called the Oulton Broad Joint Committee and hereinafter called "the Committee" shall be constituted and shall consist of fifteen members who shall be appointed as follows that is to say— Committee.

Nine by the corporation of whom at least three shall be resident in the Oulton Broad Ward of the borough at least one shall be a person carrying on business on or in connection with the Broad or using the Broad for the purposes of recreation and at least one shall be the owner of land forming the Broad or part thereof;

Three by the company;

Two by the yacht club provided that Messrs. Russell James Colman and Edward M. Corbett shall during their respective lives or until they shall respectively resign be appointed as the representatives of the yacht club;

And one jointly by such sailing or rowing clubs other than the yacht club as regularly use the Broad and have their headquarters thereon and consist respectively of not less than one hundred members paying an annual subscription of not less than five shillings Provided that any question as to the right of a sailing or rowing club to join in any such appointment or as to the person appointed shall be determined by the Committee.

9. The corporation the company the yacht club and the sailing or rowing clubs shall on or before the first day of October after the commencement of this Order and on or before the first day of December in every third year thereafter appoint the members of the Committee whom they are by this Order respectively authorised to appoint and each of those bodies shall on or before such first day of October or December as the case may be intimate in writing to the town clerk of the borough the names and addresses of the persons so appointed by them respectively on such Committee Whenever any appointment is made by any of those bodies under this Order for filling a casual vacancy on such Committee such body shall forthwith notify to the said town clerk the name and address of the person so appointed. Appoint-
ment of
Committee.

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*Oulton Broad.*Appointment
by more
than one
body.

10. If any person shall be appointed a member of the Committee by more than one body he shall within seven days of receiving notice in writing from the said town clerk to him thereof choose and notify to the town clerk which body he will represent and in default thereof the Committee at their next meeting shall declare which body he shall represent and he shall thereupon be deemed to have been appointed by that body only which he shall so choose or which the Committee shall so declare and the vacancy so occasioned shall be filled up in like manner as a casual vacancy is directed by this Order to be filled up.

Period of
office.

11. Except as in this Order otherwise provided members of the Committee shall hold office for a period of three years from the first day of December in the year of their appointment except in the case of the first members of the Committee whose period of office shall run from the date of their appointment respectively until the first day of December one thousand nine hundred and twenty-five.

Casual
vacancy.

12. If any member of the Committee shall die or resign or be disqualified or cease to be a member of the Committee from any other cause than that of going out of office by effluxion of time the body by whom such member was appointed may if they think fit appoint another person to be a member in his place but every person so appointed shall continue in office only so long as the person in whose place he is appointed would have been entitled to continue in office.

Moorings.

Moorings.

13. The Committee may place and provide in the Broad dolphin moorings buoys and like apparatus and conveniences for vessels.

Rates.

Rates.

14. Subject to the limitations set out in the first proviso to the section of this Order of which the margined note is "Limits" the Committee may demand receive and recover in respect of vessels using any of the moorings in the Broad or moored to the quays or banks adjoining the Broad or for services rendered by the Committee such rates as may be approved by the Minister of Transport.

Exemptions.

15. The Committee may confer vary or extinguish exemptions from and compound with any person with respect to the payment of the rates authorised by this Order but so that no preference be in any case given to any person over any other person under the like circumstances and that anything done under this section shall not prejudice the other provisions of this Order.

16. The rates to be received by the Committee shall be adjusted by them in such a manner that as far as possible the revenue therefrom shall be sufficient and not more than sufficient for the purposes of this Order. If at any time it appears to the Minister of Transport from the annual account to be sent to him under this Order that the clear annual income derived from the rates leviable by the Committee on the average of the then three last preceding years after payment of all expenses and outgoings exceeds the amount sufficient for the purposes of this Order the Minister may if in his discretion he thinks fit reduce the rates leviable under this Order to such amounts as will be sufficient to provide the amount aforesaid and may again at any time raise the rates to any amount not exceeding the rates authorised by this Order.

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Reduction
of rates.

17. The harbour master may prevent the removal or sailing from within the limits of this Order of any vessel in respect of which any rates are payable until evidence has been produced to him of the payment of such rates to the collector.

Powers of
harbour
master.

*Registration of Pleasure Boats using Oulton Broad and
Oulton Dyke.*

18. The jurisdiction of the Commissioners shall as from the commencement of this Order extend to the registration annual numbering and collection of tolls and registration fees in respect of pleasure boats navigating in or using the Broad and for these purposes the limits of the Port of Great Yarmouth as defined in the Great Yarmouth Port and Haven Act 1866 shall include in addition the Broad and the Great Yarmouth Port and Haven Acts 1866 and 1911 and the byelaws made thereunder shall so far as the same are applicable to such purposes extend and apply accordingly :

Jurisdiction
of Great
Yarmouth
Port and
Haven
Commis-
sioners.

Provided that nothing in this Order shall affect the liability of any vessel propelled by steam or other mechanical power and carrying more than twelve passengers to be surveyed and to have a passenger certificate under the provisions of the Merchant Shipping Acts 1894 to 1921 :

Provided also that nothing in this Order shall diminish or alter or prejudicially affect the powers of the corporation contained in section 68 of the Lowestoft Corporation Act 1901 or in any other statutory provisions with respect to pleasure boats and pleasure vessels and the boatmen or persons assisting in the charge or navigation of such boats and vessels or otherwise in respect thereof :

Provided further that no byelaws made by the Commissioners shall apply to the Broad for any purpose for which the Committee or the corporation are for the time being authorised to make byelaws.

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*Oulton Broad.*Definition of
pleasure
boat.

19. The expression "pleasure boat" in the last preceding section of this Order includes any boat pleasure wherry house boat hulk skiff dinghy (such dinghy not to include a bonâ fide dinghy fitted for rowing only and part of the equipment of a yacht and which does not exceed in length half the overall length of the yacht) punt canoe or yacht and craft of every kind whether propelled by sails steam electricity or other motive power and not being a vessel used solely as a tug or exclusively for the carriage of animals fish or goods and includes any pleasure boat let lent hired or engaged for gift pay hire reward or promise of payment.

*Finance.*Payment by
Commis-
sioners.

20. The Commissioners shall during each year ending on the thirtieth day of September pay to the Committee a sum of twenty-five pounds to be devoted to the general benefit and improvement of the Broad.

Revenue.

21. All other revenue received by the Committee from rates or otherwise under this Order shall be applicable for the purposes and in order following and not otherwise (that is to say)—

- (1) In payment of the expenses of the Committee in carrying this Order into execution :
- (2) For the general benefit and improvement of the Broad.

Clerk and
treasurer.

22. Notwithstanding anything in the Commissioners Clauses Act 1847 contained the same person may be both clerk and treasurer to the Committee.

Auditor.

23.—(1) The Minister of Transport may if he thinks fit appoint a person to be permanent auditor to examine and audit the accounts of the Committee and may fix the payments to be made to him for salary and for expenses (if any) and the amount of the salary and expenses (if any) shall be paid by the Committee out of the rates or other revenue received by them under this Order.

(2) The Minister of Transport may at any time revoke the appointment of any person as auditor and thereupon shall unless he sees special reason to the contrary appoint another person as auditor.

(3) The Committee shall on demand by the auditor produce to him all books accounts deeds papers writings and other documents and furnish him with all information in their possession or power and afford him all reasonable facilities for conducting the examination and audit.

(4) If the Committee refuse or neglect to comply with any of the provisions of this section they shall be liable to a penalty not exceeding twenty pounds for every month during which they neglect or refuse so to comply.

24.—(1) The Committee shall within two months after the date to which their annual accounts are made up send a copy of the same to the Ministry of Transport and the sixteenth section of the General Pier and Harbour Act 1861 Amendment Act 1862 shall apply to and include any such account.

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Annual
account to
be sent to
Ministry of
Transport.

(2) The Committee shall as from the expiration of that period be liable to a penalty not exceeding twenty pounds for every week or part of a week during which they refuse or neglect to comply with this section.

(3) The account shall be made up to the end of the thirty-first day of March in each year.

(4) In addition to the account lodged with the clerk of the peace in accordance with section 50 of the Harbours Clauses Act 1847 the Committee shall also lodge with him a full and detailed statement showing the capital expenditure made by the Committee during the year covered by the said account.

Byelaws.

25.—(1) Subject to the limitations set out in the first proviso to the section of this Order of which the marginal note is "Limits" the Committee may from time to time make such byelaws or regulations as to them seem meet for all or any of the following purposes namely—

Byelaws.

- (a) For the regulating or prohibiting the mooring of vessels on the Broad and for prescribing the patterns of buoys;
- (b) For securing the good and orderly conduct of persons in charge of or using vessels and boats;
- (c) For the regulation or prevention of the use of firearms on the Broad;
- (d) For the prevention of nuisances and offences against decency on the Broad;
- (e) For regulating and controlling the navigation and speed of vessels mechanically propelled and preventing obstruction to vessels using the Broad.

(2) The byelaws and regulations which may from time to time be made by the Committee in exercise of the powers in that behalf conferred on them by section 83 of the Harbours Clauses Act 1847 and by this Order may provide for imposing a penalty not exceeding forty shillings for the breach or non-observance of any of the byelaws or regulations.

(3) No byelaw or regulation shall come into operation until it has received the allowance and confirmation of the Ministry of Transport and that allowance and confirmation shall be sufficient for all purposes.

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Borough
byelaws to
cease.

26. Upon any byelaws or regulations made under this Order or under section 83 of the Harbours Clauses Act 1847 and containing the same or the like provisions as are contained in the byelaws as to pleasure boats and vessels made by the town council of the borough and confirmed by the Local Government Board on the third June one thousand nine hundred and two coming into operation the said last-mentioned byelaws shall cease to be in force in the Broad.

*Miscellaneous.*Appointment
of officers to
enforce bye-
laws and
regulations.

27. The Committee may appoint officers for securing the observance of the byelaws and regulations made by them under this Order in respect of the Broad and may from time to time procure such officers to be sworn as constables for that purpose but no such officers shall act as constables until so sworn in and unless in uniform or provided with a warrant and in the application of the Harbours Clauses Act 1847 to this Order the expression harbour master shall include such officers.

Application
of Harbours
Clauses Act
1847.

28. For all the purposes of the Harbours Clauses Act 1847 this Order shall be deemed the special Act but sections 6 to 26 37 to 42 45 59 60 66 to 68 77 to 82 84 and 85 shall not be incorporated with this Order.

Recovery
and applica-
tion of
penalties.

29. All penalties under this Order shall be recovered and applied as penalties are recoverable and applicable under the Harbours Clauses Act 1847.

Conflict of
authority.

30. In case there shall be any conflict between the corporation on the one hand and the Committee or the Commissioners on the other hand as to the body which shall have jurisdiction in any matter not expressly provided for by this Order the jurisdiction of the corporation shall prevail.

Crown rights.

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

Works be-
low high-
water mark
not to be
constructed

32. The Committee shall not under the powers of this Order construct on the shore of the sea or on 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 in writing under hand as last aforesaid and where any such work may have been constructed the Committee shall not at any time alter or extend the same without obtaining previously to making any alteration or extension the like consent or approval. If any work be commenced altered extended 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 Committee and the amount of such costs and charges shall be a debt due from the Committee to the Crown and shall be recoverable as a Crown debt or summarily.

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 without
 consent of
 Board of
 Trade.

33. Notwithstanding the provisions contained in any public statute His Majesty and His lessees for their respective interests may work any minerals belonging to the Crown under or adjacent to the Broad but in the event of any such right being at any time intended to be exercised the provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near the railway shall apply when the workings reach a point the distance of which from the nearest of such lands would not if measured horizontally exceed one-half of the depth of such workings below the surface level of such lands and in the application of those provisions the term "company" shall mean the corporation and the term "railway" shall mean the said lands and works.

Crown
 minerals.

34. Nothing in this Order shall prejudice take away lessen or interfere with any of the rights jurisdictions or powers of the company in or in respect of the Broad.

For protection
 of Great Eastern
 Railway Com-
 pany.

35. All costs charges and expenses of and incident to the preparing and obtaining of this Order and otherwise incurred in reference thereto (as taxed by the proper officer) shall be paid by the corporation the Commissioners and the company in equal shares.

Costs of
 Order.

PORTKNOCKIE HARBOUR.

Provisional Order empowering the Provost Magistrates and Councillors of the Burgh of Portknockie in the County Banff to extend and improve the Undertaking known as Portknockie Harbour and authorising them to borrow money and for other purposes.

*Portknockie
 Harbour.*

Preliminary.

1. This Order may be cited as the Portknockie Harbour Order 1922 and the Portknockie Harbour Order 1913 as varied

Short and
 collective
 titles.

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Harbour.*Commence-
ment of
Order.Interpreta-
tion.

and amended by this Order and this Order may be cited together as the Portknockie Harbour Orders 1913 and 1922.

2. This Order shall come into operation 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."

3.—(1) In this Order unless the context otherwise requires—

"The burgh" means the police burgh of Portknockie;

"The Town Council" means the provost magistrates and councillors of the burgh;

"The town clerk" means the town clerk of the burgh and includes any depute acting for him;

"The Harbours Clauses Act 1847" means the Harbours Docks and Piers Clauses Act 1847;

"The Police Acts" means the Burgh Police (Scotland) Acts 1892 to 1911 and any Act or Acts amending the same;

"The Order of 1893" means the Portknockie Harbour Order 1893 confirmed by the Pier and Harbour Orders Confirmation (No. 4) Act 1893;

"The Order of 1913" means the Portknockie Harbour Order 1913 confirmed by the Pier and Harbour Orders Confirmation (No. 2) Act 1913;

"The harbour" means and includes the existing harbour of Portknockie together with all lands and works connected therewith and vested in the Town Council at the commencement of this Order and the works by this Order authorised;

"The harbour undertaking" means and includes the harbour and the conveniences connected therewith and the right to levy rates tolls and dues and all other rights conferred on or vested in the Town Council by the Order of 1913 (in so far as not varied by this Order) and by this Order and the entire undertaking of the Town Council in connection with the harbour;

"The harbour revenue" means and includes the rates tolls dues rents and other moneys and receipts which may be taken and received by way of income from or in respect of the harbour undertaking under the authority of the Order of 1913 and this Order;

"The works" means the works authorised by this Order.

(2) In the application to this Order of the Harbours Clauses Act 1847 the expressions "packet boat" or "Post Office packet" and "Post Office bag of letters" used in that Act shall mean respectively a vessel employed by or under the Post Office or the Admiralty for the conveyance under contract of postal packets

as defined by the Post Office Act 1908 and a mail bag as defined by the same Act. Provided that nothing in the Harbours Clauses Act 1847 or in this Order shall extend to exempt from rates or duties any such vessel as aforesaid if she also conveys passengers or goods for hire.

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—
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Harbour.

Undertakers.

4. The Town Council shall be the undertakers for carrying this Order into execution. Undertakers.

Acquisition of Lands.

5. The Lands Clauses Acts (except so much thereof as relates to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking) are hereby incorporated with this Order and for the purposes of that incorporation the term "special Act" in those Acts shall mean this Order.

Incorporation of
Lands
Clauses Acts.

6. The undermentioned sections of the Order of 1913 namely—

Section 9 Power to take lands by agreement;

Section 10 Lands for extraordinary purposes;

Section 11 Power to take servitudes &c. by agreement;
and

Section 12 Power to retain sell &c. lands;

Incorporation of provisions of
Order of
1913 as to
acquisition
of lands.

are hereby incorporated with this Order and shall apply and have effect as if they had been enacted in this Order.

Limits.

7.—(1) The limits within which the Town Council shall have authority and within which the powers of the harbour master and the power to levy rates may be exercised shall comprise the harbour and so much of the Bay of Portknockie in the Moray Firth as is below high-water mark of ordinary spring tides and is comprised within an area bounded by an imaginary straight line commencing at a point on the sea shore at high-water mark of ordinary spring tides one hundred and eighty-seven yards or thereabouts measured in a south-westerly direction from the north-western corner of the south pier as existing at the commencement of this Order and extending from the said point due north for a distance of three hundred and twenty-three yards thence due east for a distance of two hundred and twenty-three yards and thence due south for a distance of one hundred and twenty yards to the point where the said imaginary straight line meets high-water mark of ordinary spring tides on the sea shore near Port Hill.

Harbour
limits.

(2) The said limits are shown upon a plan which has been signed in quadruplicate by an assistant secretary to the Ministry

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of Transport and of which one copy has been deposited at the Ministry of Transport one copy has been deposited at the Board of Trade one copy has been deposited with the principal sheriff clerk of the county of Banff and one copy has been deposited at the office of the Town Council.

(3) In the event of any discrepancy between the said limits as shown upon the said plan and the said limits as described in subsection (1) of this section the said limits as shown upon the said plan shall be deemed to be correct and shall prevail.

(4) Section 13 (Limits of Order) and section 14 (Deposit of plan of harbour limits) of the Order of 1913 are hereby repealed.

New Works.

Power to
construct
works.

8. Subject to the provisions of this Order and subject also to such alterations (if any) in the deposited plan and the deposited sections as the Board of Trade may require before the completion of the works the Town Council may in the lines and situations and according to the levels shown on the deposited plan and sections and within the limits of deviation shown on the said plan make and maintain the works.

Description
of works.

9. The works authorised by this Order are—

Work No. 1—An extension seawards of solid construction of the existing South Pier in a direction approximately north for a distance of fifty feet or thereabouts commencing at the northern end of the said existing pier and terminating on the bed of the sea :

Work No. 2—A solid wall or quay and roadway commencing by a junction with the said South Pier at a point distant one hundred and ninety feet or thereabouts measured along the eastern face of the said South Pier from the seaward end thereof and extending in a direction approximately south for a distance of eighty feet or thereabouts then in a direction approximately east for a distance of one hundred and ninety feet or thereabouts then in a direction approximately north for a distance of sixty-five feet or thereabouts and there terminating by a junction with the existing jetty at a point distant one hundred and seventy feet or thereabouts measured along the west face of the said jetty from the seaward end thereof :

Work No. 3—The excavation of and formation of a slope over the area bounded on the west by the existing South Pier on the south by the said wall or quay and roadway (Work No. 2) on the east by the said existing jetty and on the north by an imaginary straight line drawn in a westerly direction from a point on the

said existing jetty one hundred and thirty-seven feet or thereabouts measured from the northern end thereof to a point on the eastern face of the existing South Pier one hundred and seventy feet or thereabouts measured from the northern end thereof and also the excavation to a depth of three feet below the level of low water of ordinary spring tides of the area bounded on the west by the said South Pier on the south by the last-mentioned imaginary straight line on the east in part by the said existing jetty and in part by the extension thereof (Work No. 4 hereinafter described) and on the north by an imaginary straight line drawn in an easterly direction from the north-easternmost corner of the existing South Pier to the said extension of the existing jetty:

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Work No. 4—An extension of solid construction of the existing jetty in a direction approximately north for a distance of one hundred and thirty-three feet or thereabouts commencing at the northern end of the said jetty and terminating on the bed of the sea:

Work No. 5—A solid pier commencing on the southern side of the existing North Pier at a point one hundred and eighty feet or thereabouts measured along that pier in an easterly direction from the junction therewith of the North Breakwater and extending in a direction approximately south for a distance of fifty feet or thereabouts and terminating on the bed of the sea:

Work No. 6—A solid wall or quay and roadway commencing by a junction with the existing wall and roadway at the southern end of the existing jetty at a point opposite or nearly opposite the existing weigh-bridge and extending approximately in the direction of the curved line of the existing road on the southern and eastern sides of the harbour for a distance of six hundred feet or thereabouts and terminating by a junction with the quay and roadway at the commencement of the existing North Pier:

Work No. 7—The excavation of and formation of slopes over the area bounded on the west in part by the existing jetty and in part by an imaginary curved line approximately parallel to the line of the said wall or quay and roadway (Work No. 6) and distant therefrom two hundred feet or thereabouts on the north by the existing quay and roadway leading to the North Pier and on the east south-east and south by the said wall or quay and roadway (Work No. 6) and the excavation to a depth of three feet below the level of low water

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of ordinary spring tides of the area bounded on the north by the said existing quay and roadway leading to the North Pier on the east and south by the afore-said imaginary curved line and on the west in part by the said existing jetty in part by the said extension of that jetty (Work No. 4) in part by an imaginary straight line drawn from the north-westernmost corner of the said Work No. 4 to the south-westernmost corner of the said pier (Work No. 5) and in part by the said Work No. 5.

Abandonment of works authorised by Order of 1913.

10. The works authorised by section 15 (Power to construct works) and described in section 16 (Description of works) of the Order of 1913 shall be and the same are hereby abandoned and the said sections 15 and 16 shall be and the same are hereby repealed.

Application of provisions of Order of 1913 with reference to works &c.

11.—(1) The sections of the Order of 1913 of which the numbers and marginal notes are as follows shall extend and apply to the works and to the powers by this Order conferred upon the Town Council in the same manner and to the same extent as if the said sections had been enacted in this Order with reference thereto respectively :

- Section 17 Power to deviate;
- Section 18 Penalty for obstructing works;
- Section 19 Power to make footways &c.;
- Section 20 Power to construct or lease warehouses and other buildings tramways &c.;
- Section 21 For protection of telegraph lines of Postmaster General;
- Section 22 For protection of electric light undertakers;
- Section 23 Power to maintain dredgers &c.;
- Section 24 Power to purchase and hire dredgers &c.;
- Section 55 Provision for life-saving apparatus;
- Section 56 Life-saving apparatus may be attached to harbour;
- Section 57 Lifebuoys to be kept;
- Section 58 Lights during construction of works;
- Section 59 Lights after completion of works;
- Section 60 As to buoys and lights in case of decay of works;
- Section 62 Application of Harbours Clauses Act 1847;
- Section 63 Recovery of penalties;
- Section 64 Exemptions and savings for Government departments;

Section 65 Local lighthouse authority;

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Section 69 Harbour to be within police burgh of Portknockie.

*Portknockie
Harbour.*

(2) The works shall for all purposes including the levying demanding and recovery of rates tolls dues and charges form part of the harbour and the harbour undertaking of the Town Council and the expressions "the harbour" and "the harbour undertaking" where used in the Order of 1913 shall be construed and apply and have effect accordingly.

12. If in the opinion of the Town Council it shall become necessary in order to ensure safe and convenient access to the harbour that the width of the entrance to the harbour between the North Pier and the termination of Work No. 1 by this Order authorised should be increased the Town Council may remove so much of the North Pier as may be necessary for that purpose and carry out such works as may be incidental to such removal and any works carried out by the Town Council under this section shall for all purposes be deemed to be works authorised by this Order Provided that the section of this Order of which the marginal note is "Powers to cease in certain events" shall not apply to any works to be executed under or in pursuance of this section.

Provision as
to entrance
to harbour.

13. Subject to the provisions of this Order any of the works to be constructed on over or under tidal lands below high-water mark of ordinary spring tides shall be constructed only in accordance with such plans and sections and subject to such restrictions and regulations as previous to such works being commenced have been approved by the Board of Trade in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade.

Works below
high-water
mark to be
subject to
approval of
Board of
Trade.

Any alteration or extension of any such works shall be subject to the like approval.

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 cost of the Town Council and the amount of such cost shall be a debt due from the Town Council to the Crown and shall be recoverable as a Crown debt or summarily.

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

Survey of
works by
Board of
Trade.

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Harbour.*
Abatement
of work
abandoned
or decayed.

15. If a work constructed by the Town Council 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 Town Council and the amount of such expense shall be a debt due from the Town Council to the Crown and be recoverable as a Crown debt or summarily.

Powers to
cease in cer-
tain events.

16.—(1) If within two years from the commencement of this Order the works 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 Minister of Transport.

(2) If the works 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 has been then completed unless those powers are by the special direction of the Minister of Transport 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 Minister of Transport to the effect that the works have not been substantially commenced or that they have been virtually suspended for twelve consecutive months shall for the purposes of this Order be conclusive evidence of the facts stated in such certificate.

Rates.

Increase of
rates.

17.—(1) From and after the commencement of this Order the rates tolls dues and charges which the Town Council are by the Order of 1913 authorised to levy receive and recover and which are respectively specified in the schedule to the Order of 1913 shall be and are hereby respectively increased by an amount equal to one hundred per centum of the respective amounts thereof specified in the said schedule and the Order of 1913 and this Order shall be read and construed and have effect accordingly.

(2) Section 36 (Board of Trade may reduce rates) of the Order of 1913 shall extend and apply to the rates tolls dues and charges by this Order authorised to be levied received and recovered in the same manner and to the same extent as if the said section had been enacted in this Order with reference thereto.

Finance.

Power to
Town Coun-
cil to provide
moneys for

18. The Town Council may and shall provide such moneys as may become necessary for the purposes of this Order and of the Order of 1913 or any of them and of the harbour undertaking

and the maintenance management and improvement thereof and the payment of expenses in connection therewith out of the harbour revenue or if that shall be insufficient out of moneys to be raised by means of the assessment by this Order authorised to be imposed and levied.

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Harbour*

purposes of
Order.

19.—(1) Subject to the provisions of this Order the Town Council may as from and after the fifteenth day of May one thousand nine hundred and twenty-two if they think fit if and so far as may be necessary for the purposes mentioned in the last preceding section of this Order or any of such purposes and for the purpose of paying any expense of and connected with the provision of the moneys therein referred to charge in equal proportion all owners and occupiers of lands or premises within the burgh with an assessment which shall be levied and recovered in the same manner as the general improvement rate authorised by the Police Acts is levied and recovered and all the provisions of those Acts with respect to the mode of imposing levying and recovering the general improvement rate shall mutatis mutandis extend and apply to the said assessment hereby authorised.

Power to
Town Coun-
cil to impose
and levy
assessment.

(2) The said assessment so leviable shall be in addition to any assessments levied by the Town Council under the Police Acts.

(3) The words “ or if that shall be insufficient out of moneys “ to be raised by means of the assessment by this Order authorised “ to be imposed and levied ” in the section of the Order of 1913 of which the marginal note is “ Power to Town Council to provide moneys for purposes of Order ” are hereby repealed.

20. The Town Council may accept and apply towards the purposes of the harbour undertaking any moneys which may be granted or contributed to them for those purposes or any of them.

Power to
accept grants
of money.

21.—(1) The Town Council may in addition to any sums borrowed by them and outstanding at the commencement of this Order from time to time borrow at interest not exceeding seven per centum per annum or such higher rate as may be sanctioned by the Secretary for Scotland—

Power to
borrow.

(a) For the purposes of the harbour undertaking and this Order such sum or sums as may be required for those purposes not exceeding in the aggregate fifty thousand pounds;

(b) With the consent of the Secretary for Scotland such further sum or sums as may from time to time be required for the purposes aforesaid; and

(c) For paying the costs charges and expenses of this Order the sum requisite for that purpose.

(2) In order to secure the repayment of money borrowed under this section and the payment of interest thereon the Town

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Harbour.*

Council may mortgage or charge the assessment by this Order authorised to be levied or the harbour revenue or both of them subject always as to the harbour revenue to any existing mortgage or charge thereon.

Power to
take credit
from bank.

22. The Town Council for the purpose of raising any money by this Order authorised to be borrowed may accept and take from any bank or banking company credit to such amount as they think expedient on a cash account to be opened and kept with such bank or banking company in the name of the Town Council according to the usage of bankers in Scotland.

Periods for
repayment
of borrowed
money.

23. All moneys borrowed by the Town Council under this Order shall be repaid within the respective periods following (in this Order referred to as "the prescribed periods") (that is to say)—

- (a) As to moneys borrowed under paragraph (a) of subsection (1) of the section of this Order the marginal note whereof is "Power to borrow" within forty years from the date or dates of borrowing the same :
- (b) As to moneys borrowed under paragraph (b) of the said subsection within such period from the date or dates of borrowing the same as the Secretary for Scotland may prescribe :
- (c) As to moneys borrowed under paragraph (c) of the said subsection within five years from the commencement of this Order.

Power to
re-borrow.

24.—(1) The Town Council shall have power—

- (a) To borrow for the purpose of paying off any moneys previously borrowed under this Order or the Order of 1913 which are intended to be forthwith repaid ; or
- (b) To borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the Town Council in repaying moneys previously borrowed under this Order or the Order of 1913 and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the period prescribed for the repayment of that loan which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

(3) The Town Council shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys.

(4) The Town Council shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid—

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Harbour.

- (a) By instalments or annual payments; or
- (b) By means of a sinking fund; or
- (c) Out of moneys derived from the sale of land; or
- (d) Out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

25.—(1) If the Town Council determine to repay by means of a sinking fund any moneys borrowed under this Order or the Order of 1913 the sinking fund shall be formed and maintained either—

Sinking fund.

- (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 by way of compound interest at a rate not exceeding four pounds per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is hereinafter called an accumulating sinking fund.

(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 deposited in some joint stock bank of issue in Scotland to be increased by accumulation in the way of compound interest or otherwise invested in securities in which trustees in Scotland may lawfully invest trust money (not being securities of the Town Council) and the Town Council shall be at liberty from time to time to vary and transpose the investments.

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

(4) The Town Council 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 Town Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest

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Harbour.*

which would have been produced by the sinking fund or the part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) 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 equal annual payments to the fund are based any deficiency shall be made good by the Town Council.

(6) 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 centum per annum on which the equal annual payments to the fund are based any such excess may be applied towards such annual payments.

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

(8) If it appears to the Town Council 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 (in the case of an accumulating sinking fund) the probable accumulations thereon will 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 Town Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided that if it appears to the Secretary for Scotland that any such increase is necessary the Town Council shall increase the payments to such extent as the said Secretary may direct.

(9) If the Town Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(10) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with (in the case of an accumulating sinking fund) the probable accumulations thereon will in the opinion of the Secretary for Scotland be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Town Council may reduce the payments to be made to the sinking fund either temporarily or permanently to such an extent as the said Secretary shall approve.

(11) If the amount in any sinking fund at any time together with (in the case of an accumulating sinking fund) the probable accumulations thereon will in the opinion of the Secretary for Scotland be sufficient without any further payments thereto to

repay the loan in respect of which it is formed within the prescribed period the Town Council may with the consent of the said Secretary discontinue the equal annual payments to the sinking fund until he shall otherwise direct.

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Harbour.*

(12) 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 or purposes as the Town Council with the consent of the Secretary for Scotland may determine.

26.—(1) The town clerk shall within two months after the expiration of each year during which any sum is required to be paid as an instalment or annual payment or to be appropriated or paid to a sinking fund in pursuance of the provisions of this Order or in respect of any money raised thereunder and at any other time when the Secretary for Scotland may require such a return to be made transmit to the said Secretary a return in such form as may be prescribed by him and if required by him verified by statutory declaration of the town clerk showing for the year next preceding the making of such return or for such other period as the said Secretary may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment or of the sums accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year.

Return as to
sinking fund
&c. to be
made to
Secretary for
Scotland.

(2) The town clerk in the event of any wilful default by him in making the return under this section shall for each offence be liable to a penalty not exceeding twenty pounds.

(3) If it appears to the Secretary for Scotland by the return under this section or otherwise that the Town Council have failed to pay any instalment or annual payment or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund under this Order (whether such instalment or annual payment or sum is required by this Order or by the said Secretary in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purposes other than those authorised by this Order the said Secretary may by order direct that the sum mentioned in that order not exceeding double the amount in respect of which the default has been made shall be paid or applied as in that order mentioned and that order shall be enforceable by decree of either division of the Inner House of the Court of Session in Scotland on a summary application presented for that purpose.

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Harbour.*Application
of certain
financial
provisions of
Order of
1913.

27. The sections of the Order of 1913 of which the numbers and marginal notes are as follows are hereby incorporated with this Order and shall apply and have effect as if they had been enacted in this Order namely—

Section 43. Application of borrowed money;

Section 45. Incorporation of provisions of Police Acts;

Section 48. For appointment of a judicial factor;

Section 49. Protection of lenders.

Contingency
fund.

28. The Town Council may if they think fit for the purpose of forming and maintaining a contingency fund not exceeding at any time the sum of three thousand pounds to meet any extraordinary claim or demand or any unforeseen accident or extraordinary damage which may happen or be caused to the harbour appropriate and set apart subject to the provisions of this Order as to application of the harbour revenue any amount which they think fit in any year out of the harbour revenue and shall deposit any such amount in some joint stock bank of issue in Scotland to be increased by accumulation in the way of compound interest or otherwise invested in securities in which trustees in Scotland may lawfully invest trust money (but not in securities of the Town Council) until required for any of the aforesaid purposes.

Application
of harbour
revenue.

29.—(1) The Town Council shall apply the harbour revenue and all moneys received for or in respect of the assessment by this Order authorised to be made for the purposes and in the order following and not otherwise (that is to say)—

- (i) In paying the costs of and connected with the preparation obtaining and confirming of this Order so far as those costs are not paid out of money borrowed under this Order;
- (ii) In paying any feu duties and rents payable in respect of the lands and property belonging to or leased by the Town Council in connection with the harbour undertaking;
- (iii) In paying the expenses properly chargeable to revenue of carrying on managing and maintaining the harbour undertaking;
- (iv) In paying year by year the interest on moneys borrowed under the Order of 1893;
- (v) In paying the instalments of principal from time to time becoming due in respect of moneys borrowed under the Order of 1893;
- (vi) In paying year by year the interest on moneys borrowed under this Order or under the Order of 1913;

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Harbour.*

- (vii) In paying the instalments as they become due in discharge of any moneys borrowed under this Order or under the Order of 1913 and repayable by instalments and in forming a sinking fund in accordance with this Order for payment of principal moneys borrowed under this Order or under the Order of 1913;
- (viii) In creating and maintaining if they think fit a contingency fund in manner specified in the section of this Order of which the marginal note is "Contingency fund";
- (ix) In repaying to the burgh all sums which have been provided by means or out of the assessment authorised by this Order to be levied and have been applied for the purposes of the harbour undertaking whether in respect of money borrowed or otherwise;
- (x) Subject to and after answering the purposes aforesaid the surplus revenue (if any) shall be applied by the Town Council in the general improvement of the harbour undertaking.

(2) Section 52 (Separate accounts of harbour undertaking to be kept) and section 53 (Annual return to Board of Trade) of the Order of 1913 shall apply and have effect as if they had been enacted in this Order.

30. The sections of the Order of 1913 hereinafter mentioned that is to say—

Repeal of
certain exist-
ing financial
provisions of
Order of
1913.

Section 39 Power to Town Council to impose and levy special rate;

Section 40 Power to borrow;

Section 41 Power to take credit from bank;

Section 42 Periods for repayment of money borrowed;

Section 44 Power to re-borrow;

Section 46 Sinking fund;

Section 47 Annual return to Secretary for Scotland with respect to sinking fund;

Section 50 Contingency fund;

Section 51 Application of rates;

are hereby repealed but without prejudice to the exercise by the Town Council prior to the commencement of this Order of any powers conferred upon them by the said sections or any of them.

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Miscellaneous.

Portknockie
Harbour.
Byelaws.

31.—(1) The byelaws which may from time to time be made by the Town Council in exercise of the power in that behalf conferred upon them by section 83 of the Harbours Clauses Act 1847 may provide for imposing a penalty not exceeding forty shillings for the breach or non-observance of any of such byelaws.

(2) No byelaw made by the Town Council after the commencement of this Order shall come into operation until it has received the allowance and confirmation of the Minister of Transport and that allowance and confirmation shall be sufficient for all purposes.

(3) Sections 84 and 85 of the Harbours Clauses Act 1847 shall not be incorporated with this Order.

(4) Section 54 (Byelaws) of the Order of 1913 is hereby repealed but without prejudice to any byelaws made thereunder or to the enforcement of such byelaws and such byelaws shall continue in force and have effect as if the same had been made under and in pursuance of this section.

Crown rights.

32. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained shall authorise the Town Council 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 heritages 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 the said Commissioners and Board are hereby respectively authorised to give).

Crown
minerals.

33.—(1) Notwithstanding the provisions contained in the section of this Order of which the marginal note is "Crown rights" or in the section of the Order of 1913 of which the marginal note is "Saving of rights of Crown" or in any public statute His Majesty and His lessees for their respective interests may work any minerals belonging to the Crown under or adjacent to the lands and works of the Town Council authorised to be taken or constructed by this Order or by the Order of 1913 but in the event of any such right being at any time intended to be exercised the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to mines lying under or near

the railway shall apply when the workings reach a point the distance of which from the nearest of such lands would not if measured horizontally exceed one-half the depth of such workings below the surface level of such lands and in the applications of those provisions the term "Company" shall mean the Town Council and the term "railway" shall mean the said lands and works.

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Harbour.

(2) Section 67 (Saving of rights of Crown to work minerals) of the Order of 1913 is hereby repealed.

34. All costs charges and expenses of and incident to the preparing obtaining and confirmation of this Order and otherwise incurred in reference thereto shall be paid by the Town Council.

Costs of
Order.

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