

[21 & 22 GEO. 5.] *Public Works* [Ch. lxxi.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.



CHAPTER lxxi.

An Act to confirm a Scheme made by the Minister of Transport under the Public Works Facilities Act 1930 relating to the Padstow Harbour Commissioners. A.D. 1931.
—
[31st July 1931.]

WHEREAS under the provisions of the Public Works Facilities Act 1930 the Minister of Transport has made a Scheme which needs confirmation by Parliament : 20 & 21
Geo. 5. c. 50.

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 Scheme of the Minister of Transport which is set out in the schedule to this Act is hereby confirmed and shall have full validity and force. Scheme in schedule confirmed.

2. This Act may be cited as the Public Works Facilities Scheme (Padstow Harbour) Confirmation Act 1931. Short title.

[Ch. lxxi.] *Public Works* [21 & 22 GEO. 5.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

A.D. 1931.

SCHEDULE.

PADSTOW HARBOUR.

*Scheme under the Public Works Facilities Act 1930
authorising the Padstow Harbour Commissioners to
construct works to borrow money and for other
purposes.*

WHEREAS by virtue of the Padstow Harbour Acts and Orders 1844 to 1920 the Port of Padstow is vested in the Padstow Harbour Commissioners (in this Scheme referred to as "the Commissioners") incorporated by the Padstow Harbour Act 1910 :

And whereas in order to meet the trade and requirements of the said port it is expedient that the Commissioners should be empowered to construct the works by this Scheme authorised and to acquire the lands required therefor :

And whereas it is expedient that the Commissioners should be authorised to borrow moneys for the execution of the said works and for the other purposes of their undertaking :

And whereas the provisions contained in this Scheme are necessary for conferring those powers upon the Commissioners or are incidental supplemental and consequential provisions necessary for giving full effect to this Scheme :

And whereas the Minister of Transport is satisfied—

- (a) that the said works will materially contribute to the relief of unemployment ; and
- (b) that the relief to unemployment will be materially expedited by reason of the powers being conferred by this Scheme instead of by a local Act ; and
- (c) that the powers conferred by this Scheme are such as are customarily conferred on statutory undertakers by local Acts ; and
- (d) that the powers so conferred will not enable the Commissioners to undertake functions of a different nature from those already within their statutory powers :

And whereas plans and sections showing the lines situation and levels of the works authorised by this Scheme and a book

[21 & 22 GEO. 5.] *Public Works* [Ch. lxxi.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

of reference to such plans were duly deposited with the clerk of the county council of the county of Cornwall and are in this Scheme respectively referred to as the deposited plans sections and book of reference : A.D. 1931.

Now therefore the Minister of Transport in pursuance of the powers contained in the Public Works Facilities Act 1930 hereby makes the following Scheme :—

PART I.

PRELIMINARY.

1. This Scheme may be cited as the Padstow Harbour Scheme 1931 and the Padstow Harbour Acts and Orders 1844 to 1920 and this Scheme may be cited together as the Padstow Harbour Acts and Orders 1844 to 1931. Short and collective titles.

2. This Scheme shall commence and have effect on and from the date of the passing of the Act confirming the same which date is in this Scheme referred to as the commencement of this Scheme. Commencement.

3. This Scheme is divided into Parts as follows (namely) :— Division in Parts.
Part I.—Preliminary.
Part II.—Works and lands.
Part III.—Financial.
Part IV.—Miscellaneous.

4. In this Scheme unless there be something in the subject or context inconsistent with or repugnant to such construction the several words and expressions to which meanings are assigned by the Padstow Harbour Acts and Orders 1844 to 1920 or by the Acts wholly or partially incorporated therewith or with this Scheme shall subject to the provisions of this Scheme have the same respective meanings and the expressions— Interpretation.

“ the Commissioners ” means the Padstow Harbour Commissioners ;

“ the Act of 1910 ” means the Padstow Harbour Act 1910 ;

“ the Order of 1913 ” means the Padstow Harbour Order 1913 ;

“ the works ” means the works authorised by this Scheme or as the case may require any part thereof.

5.—(1) The following Acts and parts of Acts as amended by any subsequent Act so far as the same are applicable for the purpose and are not varied by or inconsistent with the Incorporation of Acts.

[Ch. lxxi.] *Public Works* [21 & 22 GEO. 5.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

A.D. 1931. — provisions of this Scheme are incorporated with and form part of this Scheme (that is to say) :—

The Lands Clauses Acts (except section 92 of the Lands Clauses Consolidation Act 1845) as varied by the Acquisition of Land (Assessment of Compensation) Act 1919 :

Provided that in lieu of section 92 of the Lands Clauses Consolidation Act 1845 the following provisions shall have effect :—

No person shall be required to sell a part only of any house building or manufactory or of any land which forms part of a park or garden belonging to a house if he is willing and able to sell the whole of the house building manufactory park or garden unless the arbitrator determines that in the case of a house building or manufactory such part as is proposed to be taken can be taken without material detriment to the house building or manufactory or in the case of a park or garden that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house and if he so determines he may award compensation in respect of the severance of the part so proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell that part of the house building manufactory park or garden ;

The Harbours Docks and Piers Clauses Act 1847 with the exceptions and variations specified in the Order of 1913 ;

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and of sections 77 to 85 (inclusive) of that Act.

(2) For the purpose of such incorporation—

(a) in the said Acts the expression “special Act” shall be construed to mean “this Scheme” ;

(b) in the Lands Clauses Acts the expressions “the undertaking” and “the promoters of the undertaking” shall be construed to mean “the undertaking of the Commissioners” and “the Commissioners” respectively ;

(c) in the Railways Clauses Consolidation Act 1845 the expressions “the Company” shall be construed to mean “the Commissioners” and “the railway” and “the centre of the railway” shall be construed to mean “the works” ;

[21 & 22 GEO. 5.] *Public Works* [Ch. lxxi.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

(d) in section 28 of the Harbours Docks and Piers Clauses Act 1847 the expression "vessel" shall be deemed to include any aeroplane seaplane hydroplane or other aircraft belonging to or employed in the service of His Majesty. A.D. 1931

PART II.

WORKS AND LANDS.

6. Subject to the provisions of this Scheme and subject also to such alterations (if any) in the deposited plans and sections as the Board of Trade may require or sanction before the completion of the works the Commissioners may in the lines and according to the levels shown on the deposited plans and sections make and maintain the works hereinafter described or some part or parts thereof together with all necessary works machinery appliances and conveniences in connection therewith and incidental thereto. Power to construct works.

7. The works are—

In the urban district of Padstow in the county of Cornwall—

Work No. (1) A jetty or breakwater (of solid construction) commencing in the quay wall of the premises known as Brabyn's Yard at a point 100 yards or thereabouts north-east of the north end of the North Quay Slipway and extending thence in a southerly direction for a distance of 167 yards or thereabouts and there terminating;

Work No. (2) A jetty or breakwater (of solid construction) being an alteration and extension of the existing jetty known as the New Pier commencing at a point 4 yards or thereabouts south of the northern end of the said existing jetty and extending thence in a northerly direction for a distance of 73 yards or thereabouts and there terminating.

Description of works.

8. In constructing and maintaining the works the Commissioners shall leave a permanent opening between Work No. 1 and Work No. 2 of a width of not less than three hundred feet. As to opening between Works Nos. 1 and 2.

9. Subject to the provisions of this Scheme the Commissioners may within the limits of deviation shown on the deposited plans divert alter or extend any sewers drains culverts pipes lines and apparatus which it may be necessary to divert alter extend or interfere with in connection with the construction or maintenance of the works: Power to alter pipes &c.

Provided that the Commissioners shall not divert alter or otherwise interfere with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General except under and subject to the provisions of that Act.

[Ch. lxxi.] *Public Works* [21 & 22 GEO. 5.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

A.D. 1931.

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For protection of electrical undertakers.

10. Nothing in this Scheme shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1928 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section.

Period for completion of works.

11. If the works are not completed within five years from the commencement of this Scheme then on the expiration of that period the powers by this Scheme granted to the Commissioners for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Application of provisions of Act of 1910 and Order of 1913 with reference to works.

12. The following provisions of the Act of 1910 and of the Order of 1913 shall extend and apply to the exercise of the powers of this Scheme as if the same were with all necessary modifications expressly re-enacted in this Scheme (that is to say) :—

The Act of 1910—

Section 6 (Limits of deviation);

Section 7 (Works below high-water mark not to be commenced without consent of Board of Trade);

Section 10 (Survey of works by Board of Trade);

Section 12 (Lights on works during construction);

Section 13 (Permanent lights on works);

Section 14 (Provision against danger to navigation);

Section 15 (Lifebuoys to be kept at pier);

Section 29 (Lifeboat crew exempt from tolls);

Section 34 (Annual return to Board of Trade with respect to sinking fund);

Section 35 (Annual account to be sent to Board of Trade).

The Order of 1913—

Section 10 (Power to improve works);

Section 11 (Penalty for obstructing or injuring works);

Section 22 (Appointment of a receiver);

Section 28 (New works to form part of undertaking);

Section 30 (Recovery of penalties);

Section 33 (Works to be in parish and urban district of Padstow):

Provided that in construing the provisions of section 10 subsection (2) of the Order of 1913 a reference to the Minister

[21 & 22 GEO. 5.] *Public Works* [Ch. lxxi.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

of Transport shall be substituted for the reference to the Board of Trade. A.D. 1931.

13. Subject to the provisions of this Scheme the Commissioners may enter upon take and use all or any of the lands shown on the deposited plans and described in the deposited book of reference which they may require for the purposes of the works Provided that nothing herein shall authorise the compulsory acquisition of land which is the property of any local authority or has been acquired by any statutory undertakers for the purposes of their undertaking. Power to take lands.

14. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may subject to the provisions of those Acts and of this Scheme grant to the Commissioners for the purposes of this Scheme any easement right or privilege (not being an easement right or privilege of water in which other persons than the grantors have an interest) in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such easements rights and privileges respectively. Power to grant easements.

15. In respect of any land which the Commissioners are authorised by this Scheme to purchase compulsorily the Commissioners may at any time after notice to treat has been served and after giving to the owner and occupier of the land not less than fourteen days' notice enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845 but subject to the payment of like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with. Power of entry on land.

16. All private rights of way over any lands which are under the powers of this Scheme authorised to be acquired compulsorily shall as from the date of their acquisition be extinguished if the Commissioners shall so determine and give notice in writing of such their determination to the owner of any right of way referred to therein Provided that the Commissioners shall make full compensation to all parties interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts as incorporated with this Scheme with reference to the taking of lands otherwise than by agreement. As to private rights of way over lands taken compulsorily.

17. The powers granted by this Scheme for the compulsory purchase of lands shall cease on the expiration of three years from the commencement of this Scheme. Period for compulsory purchase of lands.

[Ch. lxxi.] *Public Works* [21 & 22 GEO. 5.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

A.D. 1931.
—
Abatement
of work
abandoned
or decayed.

18.—(1) Where any work constructed by the Commissioners under the powers of this Scheme and situate wholly or partially on under or over the shore or bed of the sea or of any creek bay arm of the sea or navigable river communicating therewith below high-water mark of ordinary spring tides is abandoned or suffered to fall into decay the Board of Trade may by notice in writing either require the Commissioners at their own expense to repair and restore such part of such work as is situate below high-water mark of ordinary spring tides or any portion thereof or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Board of Trade may think proper.

(2) Where any part of any such work which has been abandoned or suffered to fall into decay is situate above the high-water mark of ordinary spring tides and is in such condition as to interfere or to cause reasonable apprehension that the same may interfere with the right of navigation or other public rights over the foreshore the Board of Trade may include any such part of such work or any portion thereof in any notice under this section.

(3) If during the period of thirty days from the date when the notice is served upon the Commissioners they have failed to comply with such notice the Board of Trade may execute the works required to be done by the notice at the expense of the Commissioners and the amount of such expense shall be a debt due from the Commissioners to the Crown and shall be recoverable either as a debt due to the Crown or summarily as a civil debt.

PART III.

FINANCIAL.

Power to
borrow
money.

19. The Commissioners in addition to the sums already borrowed or authorised to be borrowed by them may from time to time borrow at interest on the credit of the several rates leviable under the Padstow Harbour Acts and Orders 1844 to 1920 and other property vested in the Commissioners—

- (a) for the purposes of this Scheme and of the works authorised by this Scheme any sum or sums of money not exceeding in the whole the sum of forty thousand pounds;
- (b) with the consent of the Minister of Transport such further sum or sums as may from time to time be required for any of the purposes of this Scheme;
- (c) such sum as may be required for the payment of the costs charges and expenses of this Scheme;

and the powers and provisions of the Padstow Harbour Act 1844 and the Act of 1910 with respect to borrowing and re-borrowing

[21 & 22 GEO. 5.] *Public Works* [Ch. lxxi.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

of money and the formation and maintenance of a sinking fund and to mortgages shall apply to moneys borrowed under this Scheme. A.D. 1931.
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20. The Commissioners shall pay off all moneys borrowed by them under the last preceding section of this Scheme within the respective periods following which periods shall be the prescribed periods for the purposes of this Scheme (that is to say) :—
 Periods for repayment of money borrowed.

As to money borrowed for the purpose (a) mentioned in that section within a period not exceeding fifty years from the date of borrowing the same ;

As to money borrowed for the purpose (b) mentioned in that section within such period as the Minister of Transport may prescribe ;

As to money borrowed for the purpose (c) mentioned in that section within five years from the commencement of this Scheme.

21. The money borrowed under this Scheme shall be applied only to purposes to which capital money may properly be applied and not otherwise. Application of money borrowed.

22. The Commissioners may appropriate and apply to all or any of the purposes of this Scheme being purposes to which capital is properly applicable any of the moneys which they have borrowed or are authorised to borrow and which are not required for the purposes to which they are made specially applicable. Power to apply funds.

23. A person lending money to the Commissioners under this Scheme shall not be bound to inquire as to the observance by the Commissioners of any of the provisions of this Scheme or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or of any part thereof. Protection of lender from inquiry.

24. The Southern Railway Company may appropriate and apply for all or any of the purposes of this Scheme being purposes to which capital is properly applicable any of the moneys which they have raised or are authorised to raise and which are not required for the purposes to which they are made specially applicable. Southern Railway Company may apply funds.

PART IV.

MISCELLANEOUS.

25. The Commissioners and the Southern Railway Company may subject to the provisions of this Scheme enter into and carry into effect agreements with reference to the construction maintenance management use and working of the works or any part Agreement between Commissioners and Southern

[Ch. lxxi.] *Public Works* [21 & 22 GEO. 5.]
Facilities Scheme (Padstow Harbour)
Confirmation Act, 1931.

A.D. 1931. thereof and the exercise by that company on behalf of the
Railway Commissioners of the powers granted by this Scheme with respect
Company. to the works.

Application of provisions of Telegraph Act 1878. 26. When confirmed by Parliament this Scheme shall for the purposes of the Telegraph Act 1878 be deemed to be an Order confirmed by Act of Parliament.

Saving rights of Duchy of Cornwall. 27. The consent of His Royal Highness the Prince of Wales in right of His Duchy of Cornwall signified to this Scheme shall not be taken as a consent to the surrender of and nothing in this Scheme contained shall prejudice or affect any property rights powers authorities or privileges of His Royal Highness or of the possessor of the Duchy of Cornwall for the time being.

Costs of Scheme. 28. All costs charges and expenses of and incident to the preparing for obtaining and confirming of this Scheme or otherwise in relation thereto shall be paid by the Commissioners out of the moneys to be borrowed and received under the authority of this Scheme or out of the revenues of their undertaking.

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