



CHAPTER xvii

An Act to confer further powers upon the Harwich Harbour Conservancy Board and for other purposes.
[14th July 1949.]

WHEREAS the Harwich Harbour Conservancy Board were incorporated by the Harwich Harbour Act 1863 and by that Act and by the Harwich Harbour Acts 1864 and 1865 (which three Acts are by the last-mentioned Act defined as "the Harwich Harbour Acts") the Harwich Harbour Order 1920 (confirmed by the Pier and Harbour Orders Confirmation (No. 1) Act 1920) the Harwich Harbour Act 1928 and the Harwich Harbour Act 1938 powers were conferred upon the Conservancy Board for the improvement and better regulation of Harwich Harbour:

26 & 27 Vict.
c. lxxi.
27 & 28 Vict.
c. cii.
28 & 29 Vict.
c. cxx.
10 & 11 Geo. 5.
c. cxx.
18 & 19 Geo. 5.
c. v.
1 & 2 Geo. 6.
c. lvii.

And whereas it is expedient that provision should be made for the regulation of the use of Harwich Harbour by seaplanes and for empowering the Conservancy Board to levy rates and dues in respect of such user:

And whereas it is expedient that the provisions of the Harwich Harbour Act 1863 with regard to the election of an elective conservator should be amended and that new provisions should be made with regard to the confirmation of byelaws and as to the formation of a reserve fund:

And whereas it is expedient that further powers be conferred upon the Conservancy Board for the purposes aforesaid:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it 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:—

Short title and construction.

1.—(1) This Act may be cited as the Harwich Harbour Act 1949.

(2) The Harwich Harbour Acts and Order 1863 to 1938 and this Act may be cited together as the Harwich Harbour Acts and Order 1863 to 1949.

Incorporation of general Acts.

2. The following Acts so far as applicable for the purposes of and not inconsistent with the provisions of this Act are hereby incorporated with this Act:—

The Lands Clauses Acts ;

The Harbours Docks and Piers Clauses Act 1847.

10 & 11 Vict.
c. 27.

Interpretation.

3. In this Act—

“ the Conservancy Board ” means the Harwich Harbour Conservancy Board ;

“ the harbour ” means the Harwich Harbour as defined by the Harwich Harbour Acts ;

“ the jurisdiction ” means the jurisdiction of the Conservancy Board as defined by section 7 of the Harwich Harbour Act 1863 ;

“ the Harbours Clauses Act ” means the Harbours Docks and Piers Clauses Act 1847 and in construing the Harbours Clauses Act the expression “ the special Act ” shall mean this Act ;

“ the Act of 1863 ” means the Harwich Harbour Act 1863 ;

“ the Act of 1865 ” means the Harwich Harbour Act 1865 ;

“ the Act of 1928 ” means the Harwich Harbour Act 1928 ;

“ the Act of 1938 ” means the Harwich Harbour Act 1938 ;

“ the existing Acts ” means the Harwich Harbour Acts and Order 1863 to 1938 ;

“ the Minister ” means the Minister of Transport.

“ authorised rates ” and “ authorised rate ” mean respectively the rates or rate which the Conservancy Board are for the time being authorised to levy demand and recover in pursuance of the existing Acts and this Act ;

“ seaplane ” includes a flying boat and any other aircraft designed to float or manoeuvre on water ;

“ master ” when used in relation to any vessel means the person having the command or charge of the vessel for the time being.

4.—(1) In the existing Acts and this Act unless there be something in the subject or context repugnant to such construction—

“harbour master” shall extend to mean any harbour master appointed by the Conservancy Board and shall include the deputies and assistants of any such harbour master ;

“vessel” and “ship” shall extend to include any vessel ship lighter keel barge boat raft pontoon and craft of any kind however navigated propelled or moved and any seaplane on the surface of the water :

Meaning of
“harbour
master” and
“vessel.”

Provided that nothing in this subsection shall extend to authorise any harbour master or any other officer of the Conservancy Board to require the dismantlement of a seaplane or any part thereof or the making of any alteration modifying in any way its structure or equipment or otherwise affecting its air-worthiness.

(2) In the existing Acts “vessel” shall cease to have the meaning assigned to it by section 3 of the Harbours Clauses Act.

5. Section 52 of the Harbours Clauses Act in its application to the Conservancy Board and the harbour master shall extend to empower the Conservancy Board to prohibit the mooring of vessels in any particular part or parts of the harbour.

Directions
of harbour
master.

6. Section 53 of the Harbours Clauses Act in its application to the Conservancy Board and the harbour master shall not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel but such directions may be given verbally or otherwise communicated to such master but a notice that is not in writing shall not be deemed to be sufficient unless in the opinion of the court before whom any case may be heard it was not reasonably practicable to serve a written notice on the master of the vessel.

Orders of
harbour
master need
not be in
writing.

7.—(1) Subject to the provisions of the Air Navigation Act 1920 and any Act amending or extending that Act and of any order made under or in pursuance thereof and notwithstanding anything in the existing Acts or this Act the Conservancy Board may demand levy collect and receive on or in respect of seaplanes entering or using or leaving the harbour such reasonable rates or dues as may from time to time be approved by the Minister which rates or dues shall be in lieu of the rates and dues leviable by the Conservancy Board under the existing Acts on or in respect of vessels.

Rates on
seaplanes.
10 & 11 Geo. 5.
c. 80.

(2) The rates and dues authorised by this section in respect of seaplanes shall be paid by and be recoverable summarily from either the owner or the pilot or other person in charge of such seaplane.

(3) The provisions of section 28 of the Harbours Clauses Act shall so far as applicable extend and apply to any rates or dues authorised by this section as though those rates and dues were authorised by the existing Acts.

Power to take rates in respect of vessels remaining in harbour.

8. The Conservancy Board may in addition to the rates already authorised to be taken demand and take in respect of every vessel exceeding thirty tons which shall remain in the harbour for a period exceeding one month from the date of its arrival the sum of one half-penny per net registered ton or such larger sum as the Minister may from time to time approve for each month or for any period less than a month during which such vessel shall remain in the harbour after the expiry of such first-mentioned period.

For protection of British Transport Commission.
10 & 11 Geo. 6.
c. 49.

9.—(1) In this section “the commission” means the British Transport Commission and any reference to the commission in relation to any functions of the commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive.

(2) The provisions of the last preceding section shall not apply with respect to any vessel belonging to or chartered by the commission which shall remain in the harbour as aforesaid at any wharf quay pier or jetty belonging or leased to or worked by the commission or at any moorings for the time being owned by the commission.

Revision of rates.

10.—(1) If it is represented by application in writing to the Minister—

(a) by any chamber of commerce or shipping or any representative body of traders or any person who in the opinion of the Minister is a proper person for the purpose ; or

(b) by the Conservancy Board ;

that under the circumstances then existing the authorised rates or any of them should be revised the Minister if he thinks fit may make an order revising the authorised rates referred to in the application or any of them and may fix the date as from which such order shall take effect and thenceforth such order shall remain in force until the same expires or is revoked or modified by a further order of the Minister made in pursuance of this section.

(2) An application made to the Minister under this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in such manner as he may require.

(3) Where upon an application for revision of authorised rates or an authorised rate an order has been made or the Minister has decided not to make an order no further application for a revision of the rates or rate to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

(4) Before making an order under subsection (1) of this section the Minister shall cause an inquiry to be held in reference thereto and the provisions of the section of this Act of which the marginal note is "Inquiries by Minister" shall apply to such inquiry as if it were an inquiry held in pursuance of that section:

Provided that in cases where no objection has been made to the application or where any objection which has been made has either been withdrawn or appears to the Minister to be of a trivial nature the Minister may if he thinks fit dispense with such inquiry.

11. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Act and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Conservancy Board were a local authority. Inquiries by Minister.
23 & 24 Geo. 5.
c. 51.

12.—(1) Notwithstanding anything in the Act of 1863 or in the Act of 1865 the following provisions shall apply with respect to the conservator elected by the owners and occupiers of lands in the parishes of Mistley and Manningtree in the county of Essex (hereinafter referred to as "the elective conservator"):

- (a) The elective conservator in office at the passing of this Act shall remain in office until the first Thursday in August one thousand nine hundred and forty-nine and shall then go out of office;
- (b) Every elective conservator elected after the passing of this Act shall be elected for the period of five years and shall go out of office on the first Thursday in August in the fifth year following his election;
- (c) An elective conservator going out of office shall be eligible for re-election;
- (d) Section 6 (Time for annual election) of the Act of 1865 shall be read and have effect as if for the words "the first Thursday in August in each year" there were substituted the words "the first Thursday in August in the year one thousand nine hundred and forty-nine and in each fifth year thereafter."

(2) Section 4 (Election to be according to this Act) and section 5 (Time for elective conservator going out) of the Act of 1865 are hereby repealed:

10 & 11 Vict.
c. 16. Provided that sections 17 20 to 23 and 25 to 33 (all inclusive) of the Commissioners Clauses Act 1847 referred to in the said section 4 of the Act of 1865 shall not have effect with regard to the election of an elective conservator.

Amendment of
byelaws.

13. As from the passing of this Act any byelaw made by the Conservancy Board and any repeal or alteration of any byelaw shall be deemed to be duly confirmed if confirmed by the Minister and such confirmation shall be deemed to be made "in the prescribed manner" for the purpose of section 85 (No byelaws to come into operation until allowed in the manner prescribed and approved by one of the judges) of the Harbours Clauses Act.

Extension of
powers of
Conservancy
Board.

14.—(1) The powers conferred upon the Conservancy Board by section 3 (Removal of stranded sunk or abandoned vessels) of the Act of 1928 with reference to vessels sunk stranded or abandoned in the harbour shall extend to and may be exercised by the Conservancy Board with reference to vessels sunk stranded or abandoned outside the harbour but within the jurisdiction or in or near any approach thereto but subject to the provisions and restrictions in the said section contained.

(2) Section 3 of the Act of 1938 is hereby repealed.

Reserve fund.

15. The Conservancy Board may if they think fit for the purpose of forming and maintaining a reserve fund not exceeding at any time the sum of fifty thousand pounds which fund shall be applicable to answer any deficiency at any time happening in the income of the Conservancy Board or to meet any extraordinary claim or demand in respect of the undertaking or for payment of the cost of renewing any part of the works forming part thereof appropriate and set apart subject to the provisions of the Act of 1863 and the Act of 1865 as to application of revenue any amount which they think fit in any year out of the revenue received by the Conservancy Board. The Conservancy Board shall deposit any such amount in some joint stock bank to be increased by accumulation in the way of compound interest or otherwise or shall invest the same in statutory securities until required for any of the purposes aforesaid. This section shall take effect notwithstanding the provisions of section 21 (Application of rates) of the Act of 1863 or section 38 (Tolls etc. to be applied as under 26 and 27 Vict. c. lxxi) of the Act of 1865.

Power to
purchase
lands by
agreement.

16. In addition to the powers conferred upon the Conservancy Board by section 13 (As to purchase of land by the Conservancy Board) of the Act of 1863 the Conservancy Board may by agreement acquire (whether by purchase lease or exchange) and hold

any land which in their opinion it is desirable that they should acquire for or in connection with any of the purposes of their undertaking.

17.—(1) The Conservancy Board may—

- (a) retain and hold and use for such time as they think fit any land or interest in land acquired by them under this Act ;
- (b) sell lease exchange or otherwise dispose of any such land or interest no longer required for the purposes of their undertaking in such manner and for such consideration and on such terms and conditions as they think fit (whether in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of payment in any other form) ;
- (c) sell exchange or dispose of any rents reserved on the sale lease exchange or other disposition of any such land or interest ;
- (d) make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition ;
- (e) on any such exchange give or take money for equality of exchange :

Retention and
disposal of
lands.

Provided that the Conservancy Board shall not without the consent of the Minister sell lease exchange or otherwise dispose of any such land or any interest therein at a price or rent or for a consideration of a value less than the current market value of the land or interest but a purchaser or lessee shall not be concerned to inquire whether the consent of the Minister is necessary or has been obtained.

(2) Nothing in this section shall release the Conservancy Board or any person purchasing or acquiring any land or interest in land from them under this section from any rents covenants restrictions reservations terms or conditions made payable by or contained in any conveyance lease or other deed or instrument by which the land or interest has been conveyed or leased to or otherwise acquired by the Conservancy Board or any persons from or through whom the Conservancy Board have derived title to it.

18. All costs charges and expenses of and incident to the preparing applying for obtaining and passing of this Act shall be paid by the Conservancy Board. Costs of Act.