

Pier and Harbour Order (Great Yarmouth) Confirmation Act, 1952

15 & 16 GEO. 6 & 1 ELIZ. 2 Ch. xxv

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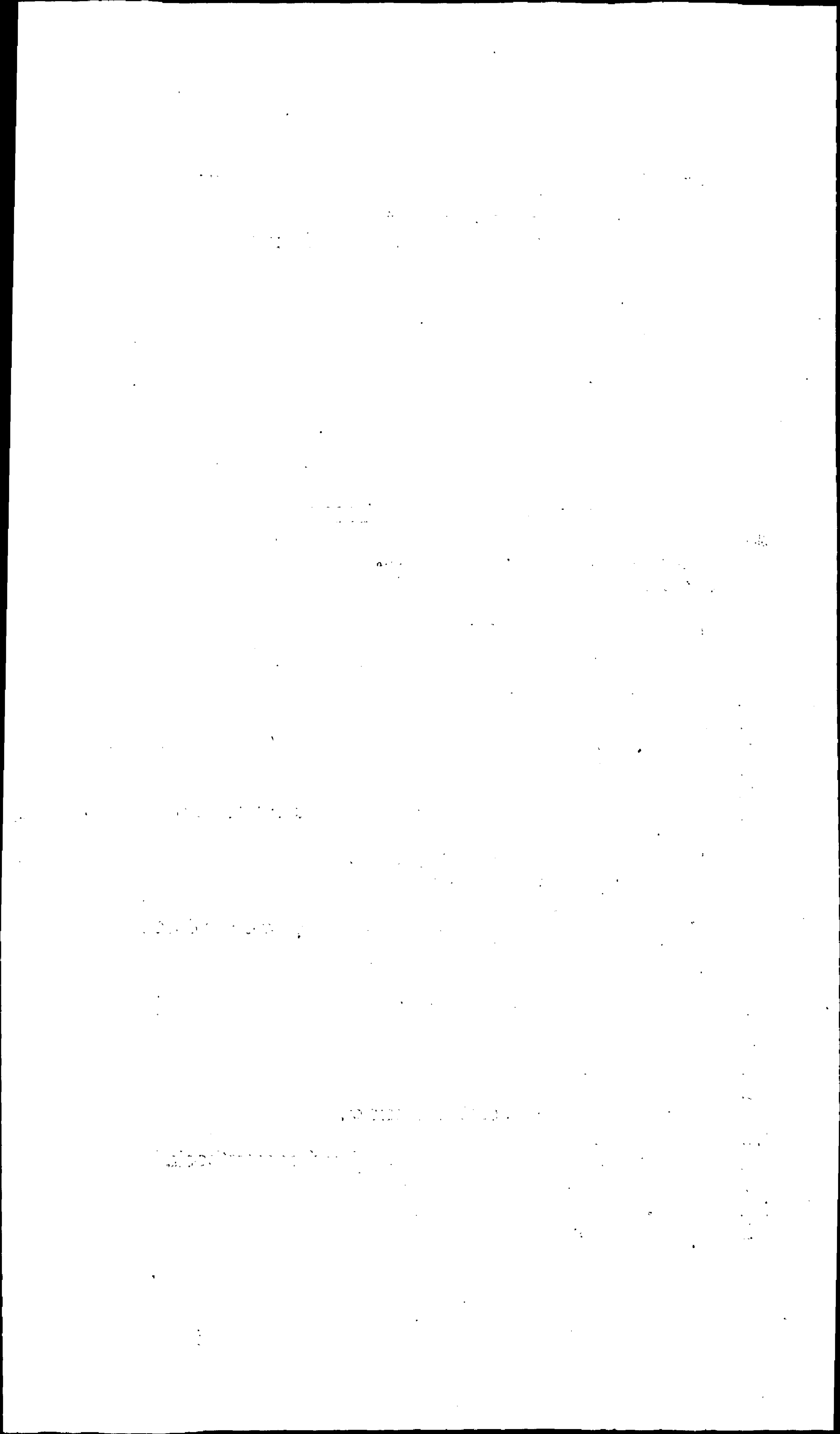
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CHAPTER xxv.

An Act to confirm a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 relating to Great Yarmouth.

[1st August 1952.]

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 confirmation thereof by Act of Parliament:

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

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

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

2. This Act may be cited as the Pier and Harbour Order Short title. (Great Yarmouth) Confirmation Act 1952.

SCHEDULE

GREAT YARMOUTH NEW BRITANNIA PIER

Provisional Order to authorise the Great Yarmouth New Britannia Pier Company to borrow money and to levy and recover increased rates and charges to provide for the revision of the rates and charges and for other purposes.

Short and
collective titles.

1.—(1) This Order may be cited as the Great Yarmouth New Britannia Pier Order 1952.

(2) The Great Yarmouth New Britannia Pier Act 1899 and this Order may be cited together as the Great Yarmouth New Britannia Pier Act and Order 1899 and 1952.

Commencement.

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.

Interpretation.

3. In this Order unless the context otherwise requires—

“the Act of 1899” means the Great Yarmouth New Britannia Pier Act 1899;

“authorised rates” means the rates which the Company are for the time being authorised to levy demand receive and recover under or by virtue of the Great Yarmouth New Britannia Pier Act and Order 1899 and 1952 or any order made under section 16 (Revision of rates) of this Order;

“the Company” means the Great Yarmouth New Britannia Pier Company;

“the directors” means the directors for the time being of the Company;

“the Minister” means the Minister of Transport;

“the pier” means the Great Yarmouth New Britannia Pier as constructed by the Company and the land buildings works plant property and conveniences connected therewith as for the time being existing;

“rates” includes tolls and charges;

“the undertaking” means the undertaking of the Company in connection with and including the pier.

Undertakers.

4. The Company shall be the undertakers for carrying this Order into execution.

Incorporation
of Acts.

5.—(1) The following Acts are incorporated with this Order except as expressly varied thereby:—

The Companies Clauses Consolidation Act 1845 except the provisions thereof with respect to the conversion of borrowed money into capital;

Part III (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts:

Provided that in the application to the Company of Part III of the said Act of 1863 section 22 shall be read and have effect as if the words “and to the same amount as” were omitted therefrom.

(2) For the purpose of the incorporation of the said Acts the expression "the special Act" shall mean this Order the expression "the Company" shall mean the Company and the expression "the undertaking" shall mean the undertaking of the Company.

6.—(1) In the application to this Order of the Harbours Docks and Piers Clauses Act 1847 the expression "special Act" shall mean this Order.

Application of Harbours Docks and Piers Clauses Act 1847.

(2) Sections 12 and 13 16 to 19 and 84 to 87 of the Harbours Docks and Piers Clauses Act 1847 shall not be incorporated with this Order.

7. The Company may subject to the provisions of this Order but without obtaining any certificate of a justice under section 40 of the Companies Clauses Consolidation Act 1845 borrow on mortgage of the undertaking in respect of the capital raised by the Company before the commencement of this Order any sum or sums not exceeding in the whole thirty-eight thousand pounds.

Power to borrow.

8.—(1) The Company may for the purposes of or in connection with the undertaking borrow or raise moneys on temporary loans by means of overdrafts from bankers or otherwise or by the issue of notes or bonds of a currency of not less than five years and of not more than ten years.

Company may incur temporary loans.

(2) The powers of raising moneys conferred by this section shall be alternative to and not in addition to any powers for the time being of the Company to borrow on mortgage of the undertaking or to raise moneys by the issue of debenture stock.

(3) The aggregate amount outstanding at any one time of the moneys raised under this section shall not exceed twenty thousand pounds.

9. It shall not be lawful to exercise the powers of borrowing conferred by this Order otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Saving for powers of Treasury.

10. The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 as amended in its application to the Company and of section 11 (Debenture stock) of the Act of 1899.

Debenture stock.

11. All moneys raised or to be raised by the Company on mortgage or by the issue of debenture stock under the provisions of this Order shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the commencement of this Order :

Priority of mortgages and debenture stock over other debts.

Provided that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease

granted or made to or vested in the Company which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock.

Appointment of a receiver.

12. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of interest or principal or principal and interest the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one-tenth of the amount for the time being borrowed by the Company and not paid off.

Protection of lenders.

13. Any person advancing money to the Company shall not be bound to require any further or other evidence of the power of the Company to borrow the money advanced by such person than such as is afforded by—

(a) a certificate signed by two of the directors and countersigned by the secretary of the Company that the Company are not exceeding the powers of borrowing conferred upon them by this Order; and

(b) by an inspection of the register of mortgages by section 45 of the Companies Clauses Consolidation Act 1845 required to be kept by the Company.

Application of money borrowed.

14.—(1) The money borrowed under this Order shall be applied only to the purposes of the Act of 1899 or of this Order to which capital money may properly be applied and not otherwise.

(2) The Company may apply to any of the purposes of this Order to which capital is properly applicable any money which they have raised or are authorised to raise under the Act of 1899.

Increase of rates etc.

15. As from the commencement of this Order the Company may increase by an amount not exceeding one hundred per centum all or any of the rates which by section 39 (Power to levy rates) of the Act of 1899 they are authorised to levy demand receive and recover.

Revision of rates.

16.—(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 shipowners; or

(b) by any local authority or body representative of the users of the pier; or

(c) by the Company;

that under the circumstances then existing the authorised rates should be revised in whole or in part the Minister if he thinks fit may make an order revising all or any of the authorised rates referred to in the application 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 subsection.

(2) An application made to the Minister under subsection (1) of 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 under subsection (1) of this section for an increase or a decrease of the authorised rates an order has been made or the Minister has decided not to make an order no further application for an increase or a decrease (as the case may be) of any of the rates 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 consult with such of the bodies or authorities mentioned therein as appear to him to be appropriate including the Company where they are not the applicants and for the purpose of ascertaining such bodies or authorities may require public notice of the application to be given and where an objection to an application is made by the Company or by any such body or authority as aforesaid and is not withdrawn the Minister unless it appears to him that the objection is of a trivial nature shall cause an inquiry to be held in reference to the application.

(5) Subject to the proviso to this subsection the Minister shall not by an order under subsection (1) of this section make any such revision of the authorised rates as in his opinion would so far as can be estimated be likely to result in the annual revenue of the Company being insufficient or more than sufficient to enable the Company with efficient management of the undertaking to make adequate provision for paying all proper expenses of and connected with the working management and maintenance of the undertaking including interest on loan capital (regard being had by him to any capital which the Company may reasonably be expected to expend) making good depreciation providing for any contributions which the Company may reasonably and properly carry to any reserve fund contingency fund or sinking fund and meeting all other costs charges and expenses if any properly chargeable to revenue together with a reasonable return upon the paid-up share capital of the Company :

Provided that in any case where the Minister is satisfied that there are special circumstances affecting the undertaking taking into account the financial condition of the undertaking during such period preceding the date on which an application is made under subsection (1) of this section as the Minister considers to be appropriate the Minister may revise the authorised rates in such manner as he thinks just and reasonable with due allowance for such special circumstances notwithstanding that such revision is likely to result in the revenue of the Company being insufficient to enable the Company to make adequate provision for all of the matters referred to in the foregoing provisions of this subsection.

(6) The authorised rates as revised by an order under subsection (1) of this section shall not in any case be less than the Company were authorised to levy demand and recover under or by virtue of the Act of 1899.

(7) The provisions of section 290 of the Local Government Act 1933 shall apply to inquiries which the Minister may cause to be held under this section as if the Company were a local authority.

(8) The power of the Minister to make an order under subsection (1) of this section shall be exercisable by statutory instrument.

Meetings
of Company.

17. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 or in any Act or Order relating to the Company the Company may by a resolution of a general meeting at any time determine that the future ordinary meetings of the Company shall be held once only in each year in such month as the Company may from time to time determine and the Company may from time to time in like manner alter or rescind any such resolution.

Annual
accounts.

18. If and so long as the ordinary meetings of the Company shall be held once only in each year section 116 of the Companies Clauses Consolidation Act 1845 shall in its relation to the Company be read and have effect as if the words "preceding year" were substituted therein for the words "preceding half-year".

Annual account
to be sent to
Minister.

19.—(1) The Company shall within four months after the date to which their annual accounts and balance sheet are made up send a copy of the same to the Minister and to the Great Yarmouth Port and Haven Commissioners and the sixteenth section of the General Pier and Harbour Act 1861 Amendment Act shall apply to and include the Company and any and every such accounts.

(2) The Company shall as from the expiration of that period be liable to a penalty not exceeding twenty pounds for every refusal or neglect to comply with the foregoing provisions.

(3) The accounts of the Company referred to in this section and in section 50 of the Harbours Docks and Piers Clauses Act 1847 respectively shall be made up to the end of the twenty-ninth day of September in each year.

Notices of
meetings.

20. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 notice of all meetings of the Company whether ordinary or extraordinary may (if the directors so determine) be given by a prepaid letter sent by post to each shareholder or stockholder instead of by public advertisement:

Provided that—

(a) any such letter shall be directed according to the registered address of each shareholder or stockholder and posted not later than seven clear days before the date of the meeting; and

(b) in proving that any such notice has been given it shall be sufficient to prove that the letter containing the notice was properly addressed and posted as a prepaid letter not later than the time prescribed by this section.

Register of
shareholders and
shareholders'
address book.

21. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be obligatory upon the Company—

(a) to keep separately a register of shareholders and a shareholders' address book but in lieu thereof the Company may

if they think fit keep one register only containing such particulars as are required by the said Act to be entered in the register of shareholders and the shareholders' address book respectively ; or

(b) to authenticate by the affixing of their common seal or otherwise the register of shareholders or any register which the Company may keep in lieu thereof under the powers of this section.

22. The quorum of a meeting of directors may be fixed by the directors and unless so fixed shall be three. Quorum of directors.

23. The following provisions of the Act of 1899 are hereby repealed :—

Section 9 (Power to borrow) ;

Section 10 (For appointment of a receiver) ;

Section 16 (Quorum) ;

The proviso to section 39 (Power to levy rates) ; and

Section 41 (Annual account to be sent to Board of Trade and Commissioners).

24. All costs charges expenses of and incidental to the preparing and obtaining of this Order and otherwise incurred in reference thereto shall be paid by the Company. Costs of Order.

Table of Statutes referred to in this Act

Short title	Session and chapter
Companies Clauses Consolidation Act 1845 ...	8 & 9 Vict. c. 16.
Harbours Docks and Piers Clauses Act 1847 ...	10 & 11 Vict. c. 27.
General Pier and Harbour Act 1861	24 & 25 Vict. c. 45.
General Pier and Harbour Act 1861 Amendment Act 1862	25 Vict. c. 19.
Company Clauses Act 1863	26 & 27 Vict. c. 118.
Great Yarmouth New Britannia Pier Act 1899 ...	62 & 63 Vict. c. civ.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Borrowing (Control and Guarantees) Act 1946...	9 & 10 Geo. 6. c. 58.

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*Pier and Harbour Order
(Great Yarmouth)
Confirmation Act, 1952*

15 & 16 GEO. 6
& 1 ELIZ. 2

LONDON : PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 9d. net

PRINTED IN GREAT BRITAIN

(77549)