



CHAPTER lxxxiii.

An Act to confer further powers on the Southampton Harbour Board and for other purposes.

[28th July 1939.]

WHEREAS by the Southampton Harbour Act 1863 26 & 27 Vict. c. cxix. the Southampton Harbour and Pier Board were constituted and by the Southampton Harbour Act 1877 40 & 41 Vict. c. lxxxii. the name of the said board was changed to the Southampton Harbour Board :

And whereas by the Southampton Harbour Act 1913 3 & 4 Geo. 5. c. lxxxii. the said Southampton Harbour Board were dissolved and a new Board (hereinafter referred to as "the Board") were as therein mentioned constituted under the same name :

And whereas by the Southampton Harbour Acts 1863 to 1924 powers and authorities have been conferred on the Board and their predecessors for the improvement of the port and harbour of Southampton and the Board and their predecessors have under the authority of the said Acts from time to time improved the said port and harbour and extended the quays and works connected therewith :

And whereas it is expedient that all public and other rights over a portion of the said port and harbour should be extinguished and that the said portion of the said port and harbour should be reserved for purposes of or in connection with seaplanes and other aircraft :

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And whereas it is expedient that provisions be enacted as in this Act contained with respect to rates and dues leviable by the Board in respect of seaplanes and other aircraft entering using or leaving the said port and harbour :

And whereas it is expedient that the other powers in this Act contained should be conferred upon the Board and that the other provisions in this Act contained should be enacted :

And whereas the objects aforesaid cannot be attained 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 and
collective
titles.

1. This Act may be cited as the Southampton Harbour Act 1939 and the Southampton Harbour Acts 1863 to 1924 and this Act may be cited together as the Southampton Harbour Acts 1863 to 1939.

Interpreta-
tion.

2. In this Act unless there be something in the subject or context repugnant to such construction—

“The Board” means the Southampton Harbour Board;

“The clerk” means the clerk to the Board;

“The existing Acts” means the Southampton Harbour Acts 1863 to 1924;

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

“The port” means the port of Southampton as defined in section 5 of the Southampton Harbour Act 1887;

“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;

10 & 11 Vict.
c. 27.

50 & 51 Vict.
c. lii.

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“The reserved area” means the area coloured pink on the map marked “Reserved area map” of which map copies have been signed in quintuplicate by the Right Honourable the Earl of Onslow the chairman of the committee of the House of Lords to which the Bill for this Act was referred one copy of which has been deposited at the office of the Clerk of the Parliaments one in the Committee and Private Bill Office of the House of Commons one at the office of the Board of Trade one at the office of the Ministry of Transport and one at the principal office of the Board;

“The Minister” means the Minister of Transport; and

“The revenues of the Board” includes the revenues of the Board from time to time arising from their undertaking or from any land or other property for the time being belonging to the Board.

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

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

Meaning of
“harbour-
master”
and
“vessel.”

“vessel” and “ship” shall 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 water:

Provided that nothing in this subsection shall extend to authorise any harbour-master or any other officer of the 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 1847.

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Restrictions
on use of
reserved
area.

4.—(1) Subject to the provisions of this section all rights public or private of navigation of harbour of way and of fishing and all other rights whatsoever in or upon or under the reserved area including all rights of access thereto are hereby extinguished and it shall not be lawful for any person or any vessel (other than a seaplane) without the consent of the Board to enter the said area save for purposes in connection with seaplanes or seaplane services.

(2) (a) Within a reasonable time after the passing of this Act the Board may with the sanction of the Corporation of the Trinity House of Deptford Strond cause such buoys or other marks to be laid down and lighted and such other steps to be taken as may be necessary for the purpose of indicating to persons using the port the extent of the reserved area.

(b) The Board may maintain and as often as circumstances require renew any buoys or marks laid down as aforesaid.

(3) Any person and the master of any vessel entering the reserved area in contravention of the provisions of this section shall on summary conviction be liable to a penalty not exceeding fifty pounds.

(4) Nothing in this section shall affect the rights and powers of the Board under the existing Acts or this Act in relation to the reserved area.

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

5.—(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 Board may demand levy collect and receive on or in respect of seaplanes entering or using or leaving the port 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 Board under the existing Acts on or in respect of vessels.

(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 as the Board may determine.

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(3) The provisions of section 28 of the Harbours Clauses Act 1847 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.

6. The Board may confer vary or extinguish exemptions from and compound with any person with respect to the payment of rates or dues authorised by this Act but so that where the circumstances are alike preference shall not be given to one person over another and that anything done under this section shall not prejudice the other provisions of this Act.

Power to confer exemptions and compound for rates.

7.—(1) The powers of the Board to make byelaws under section 83 of the Harbours Clauses Act 1847 shall be extended to authorise them to make byelaws for regulating the use by seaplanes of the reserved area or such other parts of the port as may be prescribed by such byelaws.

Byelaws.

(2) Notwithstanding the provisions of the Harbours Clauses Act 1847 relating to the procedure for the making and confirmation of byelaws by the Board all byelaws made under or by virtue of this section shall be subject to the provisions contained in subsections (2) to (7) and (10) of section 250 and in sections 251 and 252 of the Local Government Act 1933 and those provisions shall for the purposes of this section be construed as if the Board were a local authority within the meaning of those sections and the clerk were the clerk to the local authority.

23 & 24
Geo. 5. c. 51.

(3) The confirming authority for the purpose of the said section 250 shall be the Minister :

Provided that in the case of any code or series of byelaws which the Minister and the Board of Trade shall deem primarily to concern the interests of navigation the provisions of this subsection shall apply as if the Board of Trade were substituted for the Minister and the allowance of such byelaws by the Minister or the Board of Trade respectively shall be sufficient evidence of compliance with the provisions of this section.

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Removal of
stranded
sunk or
abandoned
vessels.

8.—(1) Whenever any vessel is sunk stranded or abandoned in the port the Board may cause that vessel to be raised or removed or to be blown up or otherwise destroyed so as to clear the port thereof.

57 & 58 Vict.
c. 60.

(2) The Board may cause any such vessel and the furniture tackle and apparel thereof or any part thereof which shall be raised or salvaged and also all or any part of the cargo goods chattels and effects which may be raised or salvaged from any such vessel to be sold in such manner as they think fit (subject to such notice being given of the intended sale as is prescribed by the first proviso to section 530 of the Merchant Shipping Act 1894) and out of the proceeds of sale may reimburse themselves for the expenses incurred by them under this section and also for any expenses incurred by them in marking buoying watching lighting or otherwise controlling the vessel and shall hold the surplus (if any) of the proceeds of sale in trust for the persons entitled thereto Provided that the Board shall before selling any such cargo goods chattels or effects as aforesaid pay all duties which may be payable to His Majesty in respect of the cargo goods chattels or effects to be sold and they may retain the amount of the duties so paid out of the proceeds arising from the sale of such cargo goods chattels or effects.

(3) If the proceeds of sale are insufficient to reimburse the Board for the said expenses and duties the Board may recover the deficiency or in case of an appeal under subsection (4) of this section such sum as is awarded by the arbitrator to be payable in respect of the deficiency from the person who at the time of the sinking stranding or abandonment of the vessel was the owner of the vessel or from the executors or administrators of such owner either summarily as a civil debt or in any court of competent jurisdiction.

(4) If on demand being made under this section for payment of any deficiency the person on whom the demand is made is dissatisfied with the amount demanded he may within fourteen days after the receipt of the demand appeal to the Board of Trade who shall appoint an arbitrator to determine and award whether any and (if so) what sum is payable in respect of the deficiency

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and the award of the arbitrator appointed by the Board of Trade that no sum is payable or as to the sum payable (as the case may be) shall be conclusive and binding on both parties. The costs of the appeal and the award shall be in the absolute discretion of the arbitrator and he shall award and order how those costs are to be borne and paid and any costs so awarded and ordered to be paid by either party may be recovered by the other party in the same manner as the sum payable in respect of the deficiency is recoverable under subsection (3) of this section.

(5) The powers of the Board under subsection (1) of this section shall not be exercised in respect of a vessel if the owner within twenty-four hours after the sinking stranding or abandonment thereof takes such steps as may in the opinion of the harbour-master be necessary for the raising or removal thereof and does all things necessary to raise and remove the vessel as speedily as possible to the satisfaction of the harbour-master.

(6) The powers conferred on the Board by this section shall be in addition to and not in derogation of any other powers exercisable by them for or with respect to the removal of wrecks.

(7) Except for the purpose of removing any obstruction to the port nothing in this section shall entitle the Board to remove any wreck (as defined in section 510 of the Merchant Shipping Act 1894) to the prejudice or in derogation of the rights with respect to such wreck of the receiver of wreck under the provisions of Part IX of the said Merchant Shipping Act and if the Board shall for any such purpose as aforesaid remove any such wreck they shall (without prejudice to the rights of sale conferred upon them by the foregoing provisions of this section) hold and dispose of the same or any such surplus of the proceeds of sale thereof as is referred to in subsection (2) of this section in accordance with such directions (if any) as may be given to them by the said receiver.

9. In addition to the powers conferred on the Board and the harbour-master by section 57 of the Harbours Clauses Act 1847 and to the powers conferred on the Board by the Merchant Shipping Act 1894 the

Further power to deal with unseaworthy vessels.

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Board may on giving notice of their intention by advertisement inserted three times in each of two newspapers circulating locally and in writing to the owner thereof if ascertainable sell break up or otherwise dispose of or cause to be sold broken up or otherwise disposed of any vessel laid by or neglected as unseaworthy in the port and may receive the moneys (if any) arising therefrom and may retain out of such moneys any expenses incurred by the Board in respect or on account of such vessel and also any charges or expenses incurred by the Board or the harbour-master under section 57 of the Harbours Clauses Act 1847 or section 530 of the Merchant Shipping Act 1894 rendering the balance if any to the owner and if there be no such moneys or if any such moneys be insufficient to cover such expenses or charges the Board may recover such expenses or charges or the unsatisfied balance thereof from the owner either summarily as a civil debt or in any court of competent jurisdiction.

Power to provide launches.

10. The Board may provide equip maintain and use such launches or other boats as they think expedient in connection with the guidance regulation and control of vessels (including seaplanes whether on the surface of water or not) using the port and may make and recover summarily such reasonable charges as they shall decide for and in respect of the use of any launches or boats so provided for and in connection with the conveyance of persons or goods to and from seaplanes.

Extension of section 10 of Act of 1924. 14 & 15 Geo. 5. c. xxxi.

11. The powers of the Board under section 10 (Provision and use of moorings and other services) of the Southampton Harbour Act 1924 shall be extended to authorise the Board to place or provide and on such terms and conditions (including money payments) as they think fit to permit to be placed or provided in the port dolphins buoys and other apparatus with or without lights for the use guidance regulation and control of seaplanes entering or using or leaving the port and the provisions of that section shall (so far as appropriate) apply to any apparatus placed or provided under this section as though such apparatus had been placed or provided under the said section 10 :

Provided that the amount of any charges made by the Board under this section in respect of the use

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by seaplanes of moorings placed or provided by the Board shall be such as may from time to time be approved by the Minister.

12. Section 52 of the Harbours Clauses Act 1847 in its application to the Board and the harbour-master shall not be construed to require the harbour-master to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section but in pursuance of that section for all or any of the purposes therein mentioned the harbour-master shall be entitled to give general directions applicable to particular classes of vessels. Directions of harbour-master.

13. Section 53 of the Harbours Clauses Act 1847 in its application to the 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.

14.—(1) The Board on the one hand and any person on the other hand may enter into and carry into effect contracts for or with respect to any of the purposes or provisions of this Act. As to contracts of Board.

(2) Any contract required to be in writing to which the Board are a party and which if entered into by an individual would not be required to be under seal may be signed on behalf of the Board by the clerk or by some other person duly authorised in that behalf by the Board.

15.—(1) The Board may upon and subject to such terms and conditions as they think fit delegate to any person all or any of their rights powers and duties under this Act and in any case in which the Board exercise the powers of this section the provisions of this Act relating to or in any way affecting the delegated rights powers and duties shall be read and have effect as if the person to whom the same were delegated had been referred to therein in lieu of the Board. Delegation of powers.

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(2) The Board may at any time revoke any delegation made by them under the powers of this section on giving not less than one month's previous notice in writing to the person to whom such delegation was made but no such revocation shall invalidate or affect anything theretofore duly done or suffered in pursuance of such delegation or affect any right privilege obligation or liability acquired accrued or incurred under such delegation.

Power to employ persons for purposes of Act.

16. The Board may do all such acts and employ such persons as may be required for any of the purposes of this Act or for the purpose of securing the observance of any byelaws made by the Board.

Consents by Board.

17.—(1) Any consent to the doing of any act or thing given by the Board under any Act or Order from time to time relating to the Board may be given subject to such terms and conditions as the Board think fit to impose.

(2) Any breach of any term or condition attached by the Board to any such consent shall be deemed as regards liability to a penalty and other consequences equivalent to the doing of the act or thing without the required consent.

(3) Any such consent shall be valid and effectual if given by the clerk or by some other person duly authorised in that behalf by the Board.

Penalty for obstructing execution of Act.

18. A person who wilfully obstructs any person acting in the execution of this Act or any byelaw made under or by virtue of this Act shall in any case in which no other provision is made by the said Act be liable to a fine not exceeding five pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

Expenses of execution of Act.

19. All expenses incurred by the Board in the exercise of the powers of this Act may be paid out of the revenues of the Board.

Recovery of demands.

20. Proceedings for the recovery of any demand made under the authority of any Act or Order from time to time relating to the Board whether provision

is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in an action founded on contract or tort.

21. Where the payment of more than one sum by any person is due under the provisions of any Act or Order from time to time relating to the Board any summons or warrant issued for the purposes of any one or more of such Acts or Orders in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him.

Several sums in one summons.

22. Save as otherwise expressly provided by any Act or Order from time to time relating to the Board all offences against any such Act or Order and all penalties forfeitures costs and expenses imposed or recoverable thereunder or under any byelaw made thereunder or by virtue thereof may be prosecuted and recovered in a summary manner :

Recovery of penalties &c.

Provided that the costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

23. The Minister may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of any consents or approval 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 Board were a local authority.

Inquiries by Minister of Transport.

24. Nothing in this Act shall destroy or prejudice any existing rights of navigation or passage for vessels (other than seaplanes) along in or through the port (other than the reserved area) but such rights may be exercised in the same manner as if this Act had not been passed.

Saving existing rights of navigation.

25. Nothing in this Act shall take away or derogate from any right power or authority of the harbour-master under the existing Acts.

Saving for rights of harbour-master.

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Crown
rights.

26. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown.

Costs of
Act.

27. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Board.

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