

Certified a true copy
W. Colborne
Secretary
Ministry of Transport

Order made by the Minister of Transport subject to special parliamentary procedure
and laid before Parliament under the Statutory Orders (Special Procedure)
Act 1945, s.1.

STATUTORY INSTRUMENTS

1967 No.

HARBOURS, DOCKS, PIERS AND FERRIES
The Lancaster Port Commission Revision Order 1967

Made - - - 21st November 1967
Coming into Operation 1967

The Minister of Transport in exercise of the powers conferred on her by section 14 of the Harbours Act 1964(a), and of all other powers enabling her in that behalf, and on the application of the Lancaster Port Commission, hereby makes the following Order:—

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Lancaster Port Commission Revision Order 1967, and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(b).

Order divided into Parts

2. This Order is divided into Parts as follows:—

- Part I.—Preliminary.
- Part II.—Constitution.
- Part III.—Functions and Powers.
- Part IV.—Miscellaneous.

Incorporation of enactments

3. The Harbours Clauses Act 1847(c) (except sections 1, 6 to 13, 20, 25, 26, 59, 63, 69, 84 to 87, 97 and 98), so far as the same is applicable to the purposes of, and is not inconsistent with the provisions of, this Order is hereby incorporated with this Order:

Provided that in construing the Harbours Clauses Act 1847, as so incorporated:—

- (i) the expression "the harbour, dock or pier" shall mean the harbour works, the expression "the special Act" shall mean this Order and the expression "vessel" shall have the meaning assigned to the expression "ship", where used as a noun, by section 57 of the Harbours Act 1964:
- (ii) section 15 shall have effect as if the words "for every month during which such watch-house, boat-house, huts, or weighing materials shall continue out of repair or be not provided" were deleted:
- (iii) section 17 shall have effect as if the following proviso were added thereto—
"provided that such penalty shall not exceed one hundred pounds in total".
- (iv) section 19 shall have effect as if the following proviso were added thereto—
"provided that neither of such penalties shall exceed one hundred pounds in total".

(a) 1964 c. 40. (b) 9 & 10 Geo. 6. c. 18; 1965 c. 43. (c) 10 & 11 Vict. c. 27.

(v) section 28 shall have effect as if in the said section for the words from "or any packet boat" to "any such packet boat or packet" there were substituted the words "or any vessel employed by or under the authority of the Postmaster General for the conveyance under contract of postal packets as defined by the Post Office Act 1953(a), not being a vessel also conveying passengers or goods for hire or reward, or any mail bag as so defined conveyed by any such vessel".

Interpretation

4.—(1) In this Order unless the context otherwise requires the several words and expressions to which meanings are assigned by the enactments incorporated with this Order shall have the same respective meanings; and—

"the Commission" means the Lancaster Port Commission, and "the Commissioners" means the members for the time being of the Commission;

"the Clerk" means the person appointed, or deemed to have been appointed, as Clerk to the Commissioners under article 34 of this Order;

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"the deposited plan" means the plan prepared in triplicate, sealed with the official seal of the Minister and marked "The deposited plan referred to in the Lancaster Port Commission Revision Order 1967", one copy of which has been deposited and is available for inspection at the offices of the Clerk, and one each at the offices of the Minister and of the Board of Trade;

"enactment" means any enactment, whether public, general or local, and includes any order having effect by virtue of an enactment;

144
"the former Acts" means the Acts repealed by article 45 of this Order;

"the harbour works" means the works authorised and constructed under the former Acts by the commissioners and trustees therein appointed, and their successors, as existing immediately before the commencement of this Order;

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

"the level of high-water" means the level of mean high-water springs;

"the Minister" means the Minister of Transport;

"the Port" means the Port of Lancaster, the limits whereof are shown within the red line delineated on the deposited plan;

"rates" means the tonnage dues and all other charges or payments in respect of goods landed on, loaded from or carried over the harbour works other than charges in the nature of rent or in respect of work performed, services rendered or facilities provided, in respect of goods so loaded, landed or carried;

"register of traders" means the register prepared by the Clerk pursuant to article 8 of this Order;

"tidal work" means so much of any work authorised by this Order (and in articles 19 to 21 of this Order includes so much of the harbour works) as is on, under or over tidal waters or tidal lands below the level of high water;

"the Trinity House" means the Corporation of Trinity House of Deptford Strond;

"the trustees" means the successors of the trustees named in the Act 23 Geo. II c. 12 in office immediately before the commencement of this Order;

"the undertaking" means the undertaking of the Commission as from time to time authorised.

(2) The Interpretation Act 1889(b), applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(a) 1953 c. 36.

(b) 52 & 53 Vict. c. 63.

(3) Any reference in this Order to an enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment including this Order.

PART II

CONSTITUTION

Present Commissioners to continue in office until 1968

5.—(1) Notwithstanding any repeal effected by this Order—

(a) between the commencement of this Order and the 30th April 1968, the Mayor of Lancaster for the time being shall hold office as a Commissioner; and

(b) each member of the Commission in office immediately before the commencement of this Order other than the Mayor of Lancaster, shall (unless he shall previously die or resign or become disqualified to be a Commissioner) continue to hold office as a Commissioner until the 30th April 1968.

(2) (a) Any vacancy arising in the Commission between the commencement of this Order and the 30th April 1968 which does not reduce the number of Commissioners below ten shall not be filled.

(b) Any vacancy arising in the Commission between the commencement of this Order and the 1st April 1968 which reduces the number of Commissioners below ten shall be filled by an appointment made by the Minister, after consultation with the Commissioners and with such other persons or body of persons as the Minister deems it desirable to consult and the person so appointed shall (unless he shall previously die or resign or become disqualified to be a Commissioner) continue in office until the 30th April 1968.

Constitution of the Commission

6.—(1) On and after the 1st May 1968 the Commission shall consist of not less than nine and not more than eleven members, of whom seven shall be appointed members, two shall be elected members and two may be co-opted.

(2) The appointed members of the Commission shall be appointed as follows:—

By the Minister	...	...	...	...	...	...	...	two
By the Lancaster, Morecambe and District Chamber of Commerce								two
By the Lancaster City Council	...	...	...	...	...	...	...	one
By the Lancaster Rural District Council	...	...	...	...	...	...	...	one
By the Royal Yachting Association	...	...	...	...	...	...	...	one

(3) The elected members of the Commission shall be elected in accordance with the provisions of article 10 of this Order.

(4) The Commissioners may co-opt not more than two additional members who will be eligible to serve as Commissioners during the period specified by the Commission at the time of their co-option:

Provided that if a co-opted member is an officer of the Commission, he shall, notwithstanding the terms of his co-option, cease to be a co-opted member when he ceases to be an officer of the Commission but shall be eligible to become an appointed or elected member.

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Appointment of Commissioners

7.—(1) Not later than the 1st April in the year 1968 and in every third year thereafter the Minister and each of the appointing bodies named in paragraph (2) of article 6 of this Order shall appoint the members respectively therein specified and each person so appointed shall (unless he shall previously die or resign or become disqualified to be a Commissioner) serve as a Commissioner for a period of three years from the 1st May following his appointment.

(2) Every appointment made under this article shall be notified in writing to the Clerk not later than the 7th April following the appointment.

Register of traders

8.—(1) The Clerk shall, on or before the 1st March in the year 1968 and in every third year thereafter, prepare a register of traders in which he shall enter the name and address of every person resident in, or carrying on business in, the British Islands on whose behalf rates have been paid to the Commissioners in the year ending the preceding 31st December amounting in the aggregate to £150, and shall show against each name the number of votes that person is entitled to exercise pursuant to paragraph (2) of this article.

(2) Each person whose name has in any year been so entered on the register of traders shall be qualified to vote at any election for elected members of the Commission held in April of that year, and shall be entitled to give one or more votes in respect of each vacancy, according to the scale set out in Schedule 1 to this Order.

(3) Any form provided or sanctioned by the Commissioners for use in connection with the payment of rates shall contain a column for the insertion therein of the name and address of the person on whose behalf the rates are paid.

Nomination of candidates for election

9.—(1) Not later than the 15th March in the year 1968 and in every third year thereafter persons whose names appear on the register of traders may submit to the Clerk nominations of persons for election as Commissioners.

(2) A person shall be duly nominated for election only if a nomination paper is received by the Clerk not later than the 15th March in the year of election and the nomination paper—

- (a) is signed by the proposer and seconder of the candidate;
- (b) in a case where the person nominated is a member of a partnership or a director, member or employee of a company and is nominated in that capacity, contains a statement signed by the proposer and seconder and by the person nominated that such person is a member of the partnership or a director, member or employee of the company; and
- (c) contains a declaration signed by the candidate that, if elected, he would be willing to serve as a Commissioner.

Election of members

10.—(1) If in any year of election the number of persons duly nominated pursuant to article 9 of this Order is—

- (a) two or less, the Clerk shall certify the fact under his hand and thereupon the person or persons so nominated shall be deemed to be elected as Commissioners;
- (b) more than two, an election shall be held in accordance with the provisions of Schedule 2 to this Order.

(2) Each member deemed to be elected or elected as a Commissioner under this article shall (unless he shall previously die or resign or become disqualified to be a Commissioner) serve as a Commissioner for a period of three years from the 1st May following his election.

Failure to fill vacancy

11. If by reason of the death, disqualification or withdrawal of a candidate nominated for election as a member of the Commission or for any other reason a vacancy cannot be filled in accordance with the provisions of this Order, the Commissioners shall as soon as practicable elect a person to fill the vacancy.

Casual vacancies

12. If at any time after the 1st May 1968 a casual vacancy shall arise in the office of a member of the Commission—

- (a) if the member is an appointed member the Minister or the body, as the case may be, by whom the member was appointed shall as soon as practicable appoint another person to be a member;
 - (b) if the member is an elected member the Commission shall as soon as practicable nominate another person to fill the vacancy;
- and the person so appointed or nominated shall hold office during the same period as the person in whose place he has been appointed or nominated would have held office if the vacancy had not arisen.

Members re-eligible

13. A person who has held office as an appointed or elected member of the Commission shall be again eligible for appointment or election.

Provisions affecting the Commission

14. The provisions of Schedule 3 to this Order shall have effect with respect to the Commission.

PART III

FUNCTIONS AND POWERS

Lands, property and works to continue vested in Commissioners

15. Notwithstanding the repeals effected by article 44 of this Order, the lands and property acquired by the commissioners and trustees and their successors acting in execution of the former Acts, and the harbour works, shall from the commencement of this Order be vested in the Commissioners, subject to the rights, liabilities, duties and incidents applicable to the said commissioners and trustees and their successors and in operation immediately before the commencement of this Order, and for and in connection with the purposes aforesaid every reference in any enactment and in any conveyance or other deed to the commissioners and trustees of the Port of Lancaster shall be read and construed as a reference to the Commissioners.

Limits of authority of Commissioners

16. The limits within which the Commissioners shall have authority, and within which the powers of the Commissioners and of the harbour master may be exercised, shall comprise the Port.

General duties as to improvement of Port and accommodation and facilities

17. It shall be the duty of the Commissioners subject to the provisions of this Order to take such steps from time to time as they may consider necessary for the maintenance or improvement of the Port and the accommodation and facilities afforded therein or in connection therewith, and for these purposes and without prejudice to the generality of the foregoing the Commissioners may construct, equip, maintain, improve and manage any docks, quays, wharves, jetties, lighthouses, locks or piers and buildings and other works in connection therewith, and may exercise any other powers conferred on them by this Order.

Tidal works not to be executed without approval of Board of Trade

18.—(1) A tidal work shall not be constructed, altered or extended except in accordance with plans and sections approved by the Board of Trade and subject to any conditions and restrictions imposed by the Board before the work is begun.

(2) If a tidal work is constructed, altered or extended in contravention of this article or of any condition or restriction imposed under this article—

(a) the Board may by notice in writing require the Commissioners at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of thirty days from the date when the notice is served upon the Commissioners, they have failed to comply with the requirements of the notice, the Board may execute the works specified in the notice; or

(b) if it appears to the Board urgently necessary so to do, they may themselves remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Board in so doing shall be recoverable from the Commissioners as a simple contract debt.

Provision against danger to navigation

19.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Commissioners shall forthwith notify the Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

(2) If the Commissioners fail to notify the Trinity House as required by this article or to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

20.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Board of Trade may by notice in writing require the Commissioners at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Board think proper.

(2) Where any works (whether harbour works or works authorised by this Order or partly one and partly the other) have been abandoned or suffered to fall into decay and lie partly above and partly below the level of high water and that part of such works which lies above such level is in such a condition

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as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Board of Trade may include that part of such works, or any portion thereof, in any notice under this article.

(3) If on the expiration of thirty days from the date when a notice under this article is served upon the Commissioners they have failed to comply with the requirements of the notice the Board of Trade may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Commissioners as a simple contract debt.

Survey of tidal works

21. The Board of Trade may at any time if they deem it expedient order a survey and examination of a tidal work constructed by the Commissioners or of the site upon which it is proposed to construct the work and any expenditure incurred by the Board of Trade in any such survey and examination shall be recoverable from the Commissioners as a simple contract debt.

Permanent lights on tidal works

22.—(1) After the completion of a tidal work the Commissioners shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Trinity House shall from time to time direct.

(2) If the Commissioners fail to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Lights on tidal works during construction

23.—(1) The Commissioners shall at or near a tidal work during the whole time of the construction, alteration or extension thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Board of Trade shall from time to time direct.

(2) If the Commissioners fail to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Borrowing powers

24.—(1) The Commissioners may from time to time borrow on the security of the revenues of the undertaking a sum or sums not exceeding in the aggregate two hundred thousand pounds.

(2) All moneys borrowed under this article shall be applied in carrying on the general purposes of the undertaking to which capital is properly applicable.

(3) Any money borrowed under this article shall be repaid within such period not exceeding sixty years from the date of the borrowing as the Commissioners with the consent of the Minister may, having regard to the circumstances of each case, determine which period shall be the prescribed period for the purposes of this Order.

Reborrowing

25.—(1) Any moneys borrowed under this Order and discharged otherwise than by means of a sinking fund or by instalments may be reborrowed if required for the purposes of the undertaking and so from time to time.

(2) Any moneys reborrowed under this article shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such reborrowing is made.

Mode of payment off of money borrowed

26. The Commissioners shall pay off all moneys borrowed by them under the powers of this Order either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months or when the money is repayable by half-yearly instalments within six months from the date of borrowing.

Temporary borrowing

27. In addition to the power to borrow on the security of the revenues of the undertaking conferred on the Commissioners by article 24 of this Order the Commissioners may for the purposes of or in connection with the undertaking borrow by way of temporary loans or overdrafts from banks or otherwise any sums which they may temporarily require—

(a) for the purpose of defraying expenses pending the receipt of revenues receivable by them in respect of the period of account in which those expenses are chargeable:

Provided that the aggregate amount outstanding at any time of the moneys so borrowed shall not exceed ten thousand pounds; and

(b) for the purpose of defraying pending the borrowing of money (such borrowing being within the powers conferred on the Commissioners by the said article at the time of the exercise of their temporary powers under this article) expenses intended to be defrayed by means of such borrowing.

Protection of lender from inquiry

28. A person lending money to the Commissioners under the borrowing powers contained in this Order shall not be bound to inquire as to the observance by the Commissioners of any provisions of this Order or be bound to see to the application or be answerable for any loss, mis-application or non-application of the money lent by him or of any part thereof.

Saving for powers of Treasury

29. It shall not be lawful to exercise the powers of borrowing conferred upon the Commissioners by this Order (other than the powers of borrowing to pay the costs, charges and expenses referred to in article 45 of 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(a).

Sinking fund

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

(a) 9 & 10 Geo. 6 c. 58.

- (a) by payment to the fund throughout the prescribed period of such equal annual sums as will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed (a sinking fund so formed being 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 at a rate not exceeding such rate as the Minister may approve will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed (a sinking fund so formed being 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 moneys for the repayment of which the sinking fund is formed be immediately invested in statutory securities but the Commissioners may from time to time 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 Commissioners towards the equal annual payments to the fund.

(4) The Commissioners may at any time apply the whole or any part of a sinking fund in or towards the discharge of the moneys for the repayment of which the sinking fund was formed:

Provided that in the case of an accumulating sinking fund the Commissioners shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund or 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 at any time 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 Commissioners.

(6) If at any time 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 surplus of a 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 capital purposes as the Commissioners with the consent of the Minister may determine.

(8) 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 Commissioners in addition to the payments provided for by this Order.

(9) In this article "statutory securities" means any securities in which trustees are for the time being authorised by law to invest trust moneys.

Return to Minister

31.—(1) The Clerk to the Commissioners shall within three months after the expiration of each financial year transmit to the Minister a return showing the provision made by the Commissioners for the repayment of moneys borrowed by them under the authority of this Order.

(2) The return shall show such particulars, shall be made up to such date and shall be in such form as the Minister may require and shall be certified by the treasurer or other persons whose duty it is to keep the accounts of the Commissioners.

(3) If it appears to the Minister from any returns made under this article or otherwise that the Commissioners—

- (a) have failed to pay any instalment or annual payment required to be paid; or
- (b) have failed to appropriate to the discharge of any loan any sum required to be so appropriated; or
- (c) have failed to set apart any sum required for a sinking fund; or
- (d) have applied any portion of a sinking fund to a purpose other than those authorised;

the Minister may direct that such sum as is specified in the direction not exceeding the amount in respect of which default has been made shall be paid or applied in such manner and by such date as may be so specified and the Commissioners shall comply with that direction and notify the Minister as soon as they have done so.

Adjustments to sinking fund

32.—(1) If at any time it appears to the Commissioners that the amount in a sinking fund together with the sums which will be payable thereto in accordance with the provisions of this Order and in the case of an accumulating sinking fund with the accumulations thereon will not be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed the Commissioners shall either temporarily or permanently make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose and if it appears to the Minister that any such increase is necessary the Commissioners shall increase the payments to such extent as the Minister may direct.

(2) If the Commissioners desire to accelerate the repayment of any moneys borrowed they may with the approval of the Minister increase the amounts payable to the sinking fund.

(3) If the amount in a sinking fund together with the sums which will be payable thereto in accordance with the provisions of this Order and also in the case of an accumulating sinking fund together with the accumulations thereon will in the opinion of the Minister be more than sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed the Commissioners may reduce the payment to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Minister be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed.

(4) If at any time the amount in a sinking fund together with the accumulations thereon in the case of an accumulating sinking fund will in the opinion of the Minister be sufficient to repay the moneys for the repayment of which the sinking fund is formed within the fixed period the Minister may authorise the Commissioners to suspend the annual payments to the sinking fund until the Minister otherwise directs.

Audit of accounts

33. The audit of the annual account or statement of accounts of the Commission required by virtue of section 50 of the Harbours Clauses Act 1847,

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and section 42 of the Harbours Act 1964 shall be carried out by a person who would be qualified under the Companies Act 1948(a), for appointment as auditor of the Commission if the Commission were a company other than an exempt private company.

Power to appoint, suspend and remove officers and servants

34.—(1) The Commissioners may from time to time appoint; suspend and remove such officers and servants as the Commissioners think requisite.

(2) The persons employed by the Commissioners immediately before the commencement of this Order shall be deemed to have been appointed under this article.

Byelaws as to signals and lights on vessels and confirmation of byelaws

35.—(1) The powers of the Commissioners of making byelaws under section 83 of the Harbours Clauses Act 1847, as incorporated with this Order shall extend so as to enable the Commissioners to make byelaws prescribing the lights and signals to be exhibited on board or to be made or given by vessels whilst in the Port.

(2) The provisions of subsections (3) to (7) of section 250, and section 252, of the Local Government Act 1933(b), shall apply to all byelaws to be made by the Commissioners after the commencement of this Order in respect of the undertaking as if the Commissioners were a local authority, and in the application of the said last-mentioned provisions the Minister shall be the confirming authority.

(3) The byelaws which may from time to time be made by the Commissioners in exercise of the powers in that behalf conferred on them by section 83 of the Harbours Clauses Act 1847, and by paragraph (1) of this article may provide for imposing a penalty not exceeding twenty pounds for the breach or non-observance of any of the byelaws.

Directions of harbour master

36. Section 53 of the Harbours Clauses Act 1847, in its application to the Commissioners 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, and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

Recovery of rates, etc.

37. In addition to the remedy given by section 44 of the Harbours Clauses Act 1847, and whether the demand required by that section has been made or not, the Commissioners may recover any rates, light dues, rents or other charges which they are authorised to demand and take as a debt in any court of competent jurisdiction.

Disposal of land

38.—(1) The Commissioners may dispose of land belonging to them and no longer required for the purposes of the undertaking in such manner whether

(a) 11 & 12 Geo. 6 c. 38.

(b) 23 & 24 Geo. 5. c. 51.

by way of sale, exchange, lease, the creation of any easement, right or privilege or otherwise, for such period, upon such conditions and for such consideration as they think fit.

(2) Capital money received by the Commissioners in respect of a transaction under paragraph (1) of this article shall be applied in such manner as the Minister may approve in or towards the extinguishing of any loan raised by the Commissioners for the purposes of this Order or otherwise for any purpose for which capital money may properly be applied.

Power to dredge

39.—(1) Subject to the provisions of this Order the Commissioners may from time to time—

- (a) deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the Port and widen, straighten, take up or cut through any banks, flats, sea-shores, docks, sluices or cuts in the Port, for the purposes of affording uninterrupted use thereof;
- (b) use, appropriate, sell or otherwise dispose of the material from time to time removed from the port.

(2) In the exercise of the powers conferred by this article the Commissioners shall not, without the consent of the Postmaster General, interfere with, damage or injuriously affect any submarine cable placed or maintained by the Postmaster General.

(3) The Commissioners shall give not less than twenty-eight days written notice to the Postmaster General of their intention to exercise any of the powers of paragraph (1)(a) of this article in a case involving—

- (a) blasting operations within 150 yards, or
 - (b) any other operations within 50 yards,
- of any such submarine cable.

(4) No materials removed under the powers conferred by this article shall be laid down or deposited—

- (a) in such a place or manner as to cover any such submarine cable or in any way to obstruct or impede any work of or connected with the inspection or repair of such a cable; nor
- (b) below the level of high-water except in such places and in accordance with such restrictions or regulations as may be approved or prescribed by the Board of Trade.

For protection of Trimpell Ltd.

40.—(1) In this article—

“the company” means Trimpell Limited and their successors in title to the mains;

“the mains” means the existing eighteen-inch and twelve-inch water mains belonging to the company which are laid across the bed of the river Lune.

39 (2)(a) Before exercising their powers under article ~~40~~ (Power to dredge) of this Order within a distance of 200 yards of the mains the Commissioners shall, except in a case which is, in the opinion of the Commissioners, one of emergency (in which case the Commissioners shall give the company notice thereof as soon as is practicable), submit to the company for their reasonable

approval plans and sections defining the nature, extent and manner of the operations to be carried out in the exercise of those powers; except as aforesaid the powers shall not be exercised otherwise than in accordance with such plans and sections as may be reasonably approved by the company or as may be settled by the Minister under sub-paragraph (c) of this paragraph and in such manner as may be reasonably approved by the company.

(b) If the company do not signify their approval or disapproval of such plans and sections within twenty-eight days after their submission they shall be deemed to have approved the same.

(c) The approval of the company under this paragraph shall not be unreasonably withheld and if it appears to the Commissioners that any such approval has been unreasonably withheld they may appeal to the Minister whose decision shall be binding on both parties.

(3) Except in a case which is, in the opinion of the Commissioners, a case of emergency, the Commissioners shall before raising, removing or destroying any vessel sunk, stranded or abandoned in the Port and within a distance of 200 yards of the mains give the company as long notice as is practicable of their intention to do so.

Power with respect to disposal of wrecks

41.—(1) In relation to any vessel sunk, stranded or abandoned (whether before or after the commencement of this Order) in such a manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto:—

(a) subject to sub-paragraph (b) of this paragraph, and to any enactment for the time being in force limiting liability the Commissioners may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under section 530 of the Merchant Shipping Act 1894(a) any expenses reasonably incurred by them under that section which are not reimbursed out of the proceeds of any sale effected under that section;

(b) except in a case which is in the opinion of the Commissioners a case of emergency, paragraph (a) of this article shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying the Commissioners have given to the owner of the vessel not less than 48 hours' notice of their intention to do so; and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under sub-paragraph (b) of paragraph (2) of the next following article, he shall be at liberty to do so, and the Commissioners shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Commissioners.

(2) Notice under the last foregoing paragraph to the owner of any vessel may be served by the Commissioners either by delivering it to him or by sending it to him by registered or recorded delivery post addressed to him at his last known place of business or abode in the United Kingdom, or, if the owner

(a) 57 & 58 Vict. c. 60.

or any such place of business or abode is not known to the Commissioners by displaying the notice at the offices of the Commissioners for the period of its duration.

(3) Except in a case which is in the opinion of the Commissioners a case of emergency, the Commissioners shall before raising, removing or destroying any vessel under the powers conferred upon them by the said section 530 within a distance of one hundred and fifty yards of any submarine cable placed or maintained by the Postmaster General give to the Postmaster General in writing as long notice as is practicable of their intention to do so.

(4) In this Article the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof.

Protection of Crown interests in wrecks

42.—(1) Without prejudice to section 741 of the Merchant Shipping Act 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906(a), the powers conferred on the Commissioners by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) except with the consent of the Secretary of State for Defence (hereinafter referred to as the Secretary of State), which may be given with or without such a direction as is referred to in sub-paragraph (b) of paragraph (2) of this article, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—
 - (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
 - (ii) was appropriated to the service, under the direction and control of the Secretary of State of Her Majesty's ships of war.

(2) The Commissioners shall give notice in writing to the Secretary of State and to the Board of Trade of any decision of the Commissioners to exercise in relation to any vessel referred to in sub-paragraph (b) of paragraph (1) of this article any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of the Commissioners a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State and the Board of Trade, before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Commissioners a direction by the Secretary of State or the Board of Trade that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where, in any such case as aforesaid, the Commissioners proceed to exercise those powers without the consent and before the expiration of the period mentioned in sub-paragraph (a) of this paragraph or after a direction has been

(a) 6 Edw. 7, c. 48.

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served on them as aforesaid, they shall not in the exercise of those powers use any explosives and if, before the expiration of the period aforesaid, such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by paragraph (2) of article 41 of this Order: / (a)

Provided that—

- (i) the Commissioners shall not be required to give notice under this paragraph in respect of any vessel in respect of which they have received a consent under sub-paragraph (b) of paragraph (1) of this article, but any direction such as is referred to in sub-paragraph (b) of this paragraph accompanying that consent shall be deemed for the purposes of this paragraph and of paragraph (3) of the said article 41 to have been duly served under sub-paragraph (b) of this paragraph;
- (ii) the prohibition on the use of explosives imposed by this paragraph shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Board of Trade for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Commissioners by the said section 530, the Commissioners shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894, raised, removed or recovered under that section and any surplus proceeds of sale within the meaning of that section, in accordance with such directions (if any) as may be given to them by the receiver of wrecks; and on exercising the said power of sale in the case of any property the Commissioners shall discharge any sums payable in respect of that property by way of duties of customs or excise, purchase tax, or surcharge in respect of sugar or molasses, and any sums so discharged shall be deemed to be expenses incurred by the Commissioners under that section.

(4) Any limitation on the powers of the Commissioners in relation to any vessel arising by virtue of paragraph (1) or paragraph (2) of this article shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Trinity House by section 531 of the said Act of 1894.

Application of light duties dues

43. Section 19 of the Furness Railway Act 1894(a), is hereby amended by the addition after paragraph (4) of a new paragraph as follows:—

“(4A) in the maintenance, repair or improvement of the docks, quays, wharfs and other works for the time being vested in the Commissioners and the approaches thereto for the time being within the jurisdiction of the Commissioners, and in the construction of new works.”

PART IV

MISCELLANEOUS

Repeals

44.—(1) On the commencement of this Order the Acts specified in Schedule 4 to this Order shall be repealed.

(2) Notwithstanding the repeals effected by this article all byelaws, rules, regulations, orders, licences, scales of charges and lists of rates and light dues

(a) 57 & 58 Vict. c. ccvii.

which immediately before the commencement of this Order are or were existing and valid shall until altered or revoked or until their expiration continue in force and may be enforced in like manner and with the same penalties as if made for the like purposes respectively under the provisions of this Order.

Costs of Order

45. The Commissioners shall out of any moneys for the time being in their hands pay and discharge all the costs, charges and expenses of the Commissioners of and incident to the preparing applying for and obtaining of this Order.

Given under the official Seal of the Minister of Transport the 21st November 1967.

cap.

(L.S.)

DENIS O'NEILL

An Under Secretary of the
Ministry of Transport.

SCHEDULES

Article 8

SCHEDULE 1

NUMBER OF VOTES TO WHICH PERSONS ON REGISTER OF
TRADERS ARE ENTITLED.

A person whose name appears on the register and who has paid in the year in question rates which amount in the aggregate to—

						Votes
£150	but do not amount to	£2,500	...	...	...	1
2,500	" "	5,000	...	...	...	2
5,000	" "	7,500	...	...	...	3
7,500	" "	10,000	...	...	...	4
10,000	" "	12,500	...	...	...	5
12,500	" "	25,000	...	...	...	10
25,000	" "	50,000	...	...	...	20
50,000	" "	75,000	...	...	...	30
75,000	" "	100,000	...	...	...	40
100,000	" "	125,000	...	...	...	50
125,000	" "	150,000	...	...	...	60
150,000	" "	175,000	...	...	...	70
175,000	" "	200,000	...	...	...	80
200,000	" "	225,000	...	...	...	90
225,000	or more ...	...	...	...	...	100

PROVISIONS FOR THE ELECTION OF COMMISSIONERS

Returning officer

1. The Chairman of the Commissioners shall be the Returning Officer for the election.

Voting papers

2. Not later than ten days before the day appointed for the election the Clerk shall send to each voter whose name appears on the register of traders a voting paper on which shall be stated—

- (i) the number of votes to which the voter is entitled;
- (ii) the name of each candidate arranged alphabetically, together with his address and occupation.

Voting procedure

3.—(1) The voter may place an "X" against the names of the two candidates for whom he wishes to vote, and each "X" shall be deemed to represent the number of votes indicated in the register of traders as the number to which the voter is entitled.

The voting paper shall be signed—

- (i) by the person to whom it is addressed, or in the case of a corporate body its secretary or clerk, or
- (ii) by a proxy appointed by instrument of proxy signed as aforesaid lodged with the Clerk not later than the day appointed for the election.

(2) The voting paper shall be returned to the Clerk to arrive not later than 10 a.m. on the day appointed for the election.

Poll

4.—(1) On the day appointed for the election the Returning Officer shall ascertain from the voting papers received by the Clerk the number of votes cast for each candidate and shall declare elected the two candidates receiving respectively the highest and the next highest number of votes.

(2) Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

(3) A declaration by the Returning Officer of the election of any candidate shall be evidence of that fact.

PROVISIONS AFFECTING THE COMMISSION.

1.—(1) The Commission shall be a body corporate with a Common Seal and power to hold land.

(2) The application of the seal of the Commission shall be authenticated by the signatures of the Chairman or some other member of the Commission authorised by the Commission in that behalf and of the Clerk or some other person authorised by the Commission to act in his stead in that behalf; and every document purporting to be an instrument issued by the Commission and to be sealed as aforesaid or to be signed on behalf of the Commission shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

2. The Commissioners shall at their first meeting after each triennial appointment of members appoint one of their number to be Chairman for the three years following and any Chairman on vacating office shall, if qualified to continue as a member of the Commission, be re-eligible for appointment as Chairman.

3. If any casual vacancy occurs in the office of Chairman the Commissioners shall as soon as practicable appoint another member to fill the vacancy and every person so appointed shall continue in office so long as the person in whose place he has been appointed would have been entitled to continue in office.

4. If at any meeting of the Commission the Chairman is not present at the time appointed for the meeting the members present shall choose some other member to be Chairman of that meeting.

5. The Commissioners may act notwithstanding a vacancy in the membership thereof, and no act of the Commissioners shall be deemed to be invalid by reason of any defect in the appointment of any of the members.

6. In the case of an equality of votes at a meeting of the Commission the Chairman of the meeting shall have a second or casting vote.

7. The quorum required for a meeting of the Commissioners shall be three and the Commissioners shall meet at least once in each month.

8. If a Commissioner has any pecuniary interest in any contract or proposed contract to which the Commission is or would be a party and is present at a meeting of the Commission at which that contract is the subject of consideration, he shall at that meeting as soon as practicable after the commencement thereof disclose that fact and shall not vote on any question with respect to that contract.

9. Subject to the provisions of this schedule the procedure and business of the Commission shall be regulated in such manner as the Commissioners may from time to time determine.

Article 44

SCHEDULE 4
ACTS REPEALED

Regnal year and chapter of Act	Title of Act
23 Geo. II c. 12	An Act for improving the Navigation of the River Loyne, otherwise called Lune, and for building a Quay or Wharf near the Town of Lancaster, in the County Palatine of Lancaster
12 Geo. III c. 81	An Act to explain and amend an Act made in the Twenty-third year of the Reign of His Late Majesty King George the Second, for improving the Navigation of the River Loyne, otherwise called Lune; and for building a Quay or Wharf near the Town of Lancaster, in the County Palatine of Lancaster.
29 Geo. III c. 39	An Act to explain, amend, and render more effectual several Acts made in the Twenty-third Year of the Reign of His Late Majesty King George the Second, and the Twelfth Year of the Reign of His present Majesty, for improving the Navigation of the River Loyne, otherwise called Lune, and for building a Quay or Wharf near the town of Lancaster, in the County Palatine of Lancaster; and for other purposes therein mentioned.
47 Geo. III Sess. 2, c. 37 xxvii	An Act to explain, amend, and render more effectual several Acts for improving the Navigation of the River Loyne, otherwise Lune, and for building a Quay or Wharf near Lancaster in the County Palatine of Lancaster.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Order reconstitutes the Lancaster Port Commission, the authority responsible for the port of Lancaster by reducing its membership from seventeen to a number not less than nine nor more than eleven, of whom seven are to be appointed and two may be elected as indicated below, with power for the Commissioners to co-opt a further two members.

The appointed members will be appointed every third year from 1968 as follows:—

By the Minister of Transport	two
By the Lancaster, Morecambe and District Chamber of Commerce	two
By the Lancaster City Council	one
By the Lancaster Rural District Council	one
By the Royal Yachting Association	one

The Order enables two members to be elected every third year from 1968 by traders, being persons resident in and carrying on business in the British Islands, on whose behalf tonnage and other dues and charges of the port are paid to the extent of £150 per trader in the year prior to the election.

The remaining provisions of the Order have the effect of—

- (a) incorporating the Harbours, Docks and Piers Clauses Act, 1847, with certain sections excepted;
- (b) defining the duties of the port authority and conferring on them appropriate powers, which include powers to borrow, and to dispose of land;
- (c) making transitional arrangements to enable the new constitution to be effective from 1st May 1968;
- (d) amending the Furness Railway Act, 1894, so as to allow the revenue from light dues to be applied to expenditure on improvement of the existing works of the port authority, and on new works;
- (e) repealing certain Acts of 1794 to 1807 governing the management of the port;
- (f) defining the limits of the port.

This order is subject to special parliamentary procedure under the Statutory Orders (Special Procedure) Acts 1945 and 1965.

The applicants for this Order are the Lancaster Port Commissioners, 21, Castle Hill, Lancaster.