

Harwich Harbour Act 1974

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ELIZABETH II



1974 CHAPTER i

An Act to consolidate with amendments statutory provisions relating to the Harwich Harbour Conservancy Board; to confer new powers on the Board; and for other purposes. [8th February 1974]

WHEREAS—

(1) The Harwich Harbour Conservancy Board were incorporated by the Harwich Harbour Act 1863 for the purpose of preserving and improving Harwich Harbour and for the management and regulation of the Harbour: 1863 c. 71.

(2) By subsequent Acts and Orders further powers were conferred upon the Conservancy Board:

(3) It is expedient that the enactments by which the powers, rights, authorities, privileges, duties and obligations of the Conservancy Board are set forth should be consolidated and amended as provided in this Act:

(4) It is furthermore expedient that other powers be conferred upon the Conservancy Board as contained in this Act and that the other provisions of this Act be enacted:

(5) The purposes of this Act cannot be effected without the authority of Parliament:

(6) A map marked "Map of Harwich Harbour" was in the month of May, 1973, deposited in the office of the Clerk of the Parliaments, House of Lords, in the Private Bill Office of the House of Commons and in the respective offices of the clerk of the East Suffolk County Council, the clerk of the Essex County Council and the manager and harbour master of the Conservancy Board and copies of the map have been deposited in the respective offices of the Secretary of State for the Environment and the Secretary of State for Trade and Industry:

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

PART I

PRELIMINARY

- Citation. 1. This Act may be cited as the Harwich Harbour Act 1974.
- Division of Act into Parts. 2. This Act is divided into Parts as follows:—
 Part I.—Preliminary.
 Part II.—Functions and powers.
 Part III.—Harbour regulation.
 Part IV.—Dues and charges.
 Part V.—Finance.
 Part VI.—Miscellaneous.
- Interpretation. 3.—(1) In this Act, unless the context otherwise requires—
 "the Board" means the Harwich Harbour Conservancy Board;
 "daily fine" means a fine for each day on which an offence is continued after conviction thereof;
 "dangerous goods" means any goods declared by the rules made under section 23 of the Merchant Shipping (Safety Convention) Act 1949 to be dangerous in their nature;
 "the deposited map" means the map showing the limits of the Harbour and of the Harwich seaward area deposited as recited above;
 "enactment" means any enactment, whether public general or local, and includes any order or byelaw having effect by virtue of an enactment;
 "electrical work" means any electric line (as defined in the Electric Lighting Act 1882) and any other works or things required to generate or supply electricity belonging
- 1949 c. 43.
- 1882 c. 56.

to, or maintained by, the Central Electricity Generating Board or the Eastern Electricity Board and “the electricity undertakers” means such one of those boards to which, or by which, the electrical work in question belongs or is maintained, or either of such boards, as the case may require;

“the Harbour” means Harwich Harbour as described in subsection (1) (a) of section 4 (Area of jurisdiction) of this Act;

“the harbour master” means the manager and harbour master of the Board and includes his authorised deputies and assistants and any person authorised by the Board to act in that capacity;

“the Harbours Clauses Act” means the Harbours, Docks and Piers Clauses Act 1847; 1847 c. 27.

“the Harwich seaward area” means the area described in subsection (1) (b) of the said section 4;

“hovercraft” has the same meaning as in the Hovercraft Act 1968; 1968 c. 59.

“land” includes land covered by water and any interest in land;

“level of high water” means the level of mean high-water springs;

“owner” when used in relation to any vessel includes the owner, agent, master, charterer or other person in charge of the vessel;

“the Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the undertaking” means the undertaking of the Board as from time to time authorised by any enactment;

“vessel” means every description of vessel, however propelled or moved, and includes hovercraft, any floating manufactured article, anything constructed or used to carry persons or goods by water, and, except for the purpose of levying rates, a seaplane on or in the water.

(2) References in this Act to reference points shall be construed as references to National Grid reference points.

(3) Except where the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by, or by virtue of, any subsequent enactment including this Act.

PART I
—cont.Area of
jurisdiction.

4.—(1) The Board and the harbour master shall have jurisdiction within—

(a) Harwich Harbour, being the area bounded by the following limits:—

(i) a straight line drawn from reference point TM 2835 3113 (the beacon on the seaward extremity of the groyne at Landguard Point as now existing) to reference point TM 2671 3147 (the beacon on the seaward extremity of the breakwater at Beacon Cliff);

(ii) a straight line drawn across the river Stour from reference point TM 0994 3258 to reference point TM 1032 3296 (points on the sea walls south and north respectively of the said river below the Cattawade Barrage);

(iii) a straight line drawn across the river Orwell from reference point TM 2507 3366 (the existing seaward extremity of Shotley Point) to reference point TM 2710 3444 (Fagbury Cliff) coterminous with the seaward limit of jurisdiction of the Ipswich Dock Commission; and

(iv) the level of high water on the shores of the river Stour and the river Orwell within the straight lines aforesaid, including all bays, creeks, pools, inlets and watercourses so far as the tide flows; and

(b) the Harwich seaward area, being the area of the sea to the level of high water and outside the Harbour within territorial waters and within a radius of four statute miles from reference point TM 2792 3121 (the seaward extremity of Landguard Point as existing in 1863).

(2) For the better identification of the limits of the Harbour and of the Harwich seaward area as respectively described in subsection (1) of this section, the said limits are delineated on the deposited map.

(3) The copies of the deposited map deposited in the respective offices of the clerk of the East Suffolk County Council, the clerk of the Essex County Council and the harbour master shall be kept at those offices and shall there be open to inspection by any person at all reasonable hours and shall be conclusive evidence of the extent of the Harbour and the Harwich seaward area.

Incorporation
of enactments.
1863 c. 71.

5.—(1) The following provisions of the Harbours Clauses Act, as applying to the undertaking by virtue of section 15 of the Harwich Harbour Act 1863, shall be excepted from incorporation:—

Sections 6 to 26, 37 to 42, 45, 48 to 50, 53, 66 to 68, 77, 81, 82, 84 to 90, 95, 97, 98 and 101.

(2) In construing the provisions of the Harbours Clauses Act as so applying—

PART I
—cont.

“ the special Act ” shall include this Act;

“ the promoters of the undertaking ” and “ the undertakers ” shall mean the Board;

“ the harbour dock or pier ” shall mean the Harbour;

“ vessel ” shall have the meaning given by section 3 (Interpretation) of this Act;

“ rates ” shall include mooring rates and fees.

(3) In its application to the undertaking each provision of the Harbours Clauses Act specified in columns (1) and (2) of Schedule 1 to this Act shall have effect as if the maximum fine which may be imposed on summary conviction of any offence under that provision were a fine not exceeding the amount specified in column (4) of that schedule instead of a fine of, or not exceeding, the amount specified in column (3) of that schedule.

6.—(1) The enactments specified in Part I of Schedule 3 to this Act, except the provisions thereof set out in Part II of that schedule, are hereby repealed. Repeal of existing enactments.

(2) Notwithstanding the repeal of enactments by subsection (1) of this section, the provisions set out in Part II of Schedule 3 to this Act, as having effect immediately before the commencement of this Act, shall continue and have full effect for, and in connection with, the purposes of this Act as if this Act were included among the Harwich Harbour Acts referred to therein, and nothing in this section shall affect the operation of the provisions of section 27 (For further protection of Harwich Harbour Conservancy Board) of the Bath Side Bay Development Act 1972 relating to the licensing of works authorised by that Act. 1972 c. xxxvi.

7. Notwithstanding the repeal of enactments by this Act, the Board shall continue incorporated as a body corporate by the name of the Harwich Harbour Conservancy Board, with perpetual succession and a common seal and with power to purchase, take, hold and dispose of lands, and the following enactments relating to the constitution of the Board, as having effect immediately before the commencement of this Act, shall continue in force until repealed by other enactment:— Continuance of incorporation.

in the Harwich Harbour Act 1863, sections 4 and 5; 1863 c. 71.
 in the Harwich Harbour Act 1865, sections 6 to 10 and 12; 1865 c. 120.
 in the Harwich Harbour Act 1949, section 12; and 1949 c. xvii.
 the Harwich Harbour Revision Order 1965.

8. Notwithstanding the repeal of enactments by this Act, the several persons who were respectively the chairman, vice-chairman and other conservators immediately before the commencement of this Act shall continue in office as chairman, vice-chairman and Present conservators continued in office.

PART I
—cont.

members of the Board respectively from and after the commencement of this Act for the same period and on the same terms and conditions as if the said enactments had not been repealed by this Act.

Saving for
existing
rights,
remedies, etc.

9. Notwithstanding the repeal of enactments by this Act—
- (1) all the estate, right, title and interest of the Board in and to all real and personal property vested in, or held by, the Board immediately before the commencement of this Act shall continue vested in, or held by, the Board, subject and without prejudice to any charges, incumbrances or claims which may affect the same;
 - (2) all acts, matters and things done or commenced, and all notices served, before the commencement of this Act under the enactments so repealed and all remedies which were in force or available at the commencement of this Act may be continued, enforced and completed as if this Act had not been passed;
 - (3) all deeds, conveyances, grants, assurances, assignments, leases, purchases, sales, mortgages, bonds, covenants, agreements, securities and contracts and all working arrangements entered into or made and subsisting at the commencement of this Act and then in force, and all liabilities and obligations incurred before the commencement of this Act, and, except where otherwise expressly provided in this Act, all the provisions of any enactment (other than the enactments so repealed) relating to the Board or their undertaking and in force at the commencement of this Act, shall continue to be binding and of as full force and effect in every respect against, or in favour of, the Board as they would or might have been against, or in favour of, the Board if this Act had not been passed;
 - (4) any action, arbitration, prosecution or other proceeding commenced or pending before the commencement of this Act by, with or against the Board may be continued, commenced or prosecuted by, with or against the Board as if this Act had not been passed;
 - (5) all byelaws, rules and regulations enforceable by the Board shall, so far as they are not inconsistent with the provisions of this Act and until repealed, cancelled, altered or superseded, remain in force in like manner and to the like extent as if this Act had not been passed;
 - (6) every officer and servant employed by the Board at the commencement of this Act shall continue to hold and enjoy his office and employment until he shall vacate, or be removed from, such office or employment upon

the same terms and conditions as he would have had or been subject to if this Act had not been passed, subject nevertheless and without prejudice to any powers, authorities or obligations vested in him, or to which he may be subject, under this Act;

PART I
—cont.

- (7) all rates on vessels and other charges, tolls, fees, rents, fines, forfeitures, penalties, damages and other sums of money due or accruing due to the Board at the commencement of this Act may be collected and recovered by the Board as if this Act had not been passed;
- (8) all mortgages and other securities granted or created by the Board before the commencement of this Act shall continue as valid and available against the Board and their undertaking as if this Act had not been passed;
- (9) all books and documents which if this Act had not been passed would have been admissible in evidence shall be admissible in evidence as if this Act had not been passed;
- (10) everything done, suffered and confirmed before the commencement of this Act shall be as valid as if this Act had not been passed.

PART II

FUNCTIONS AND POWERS

10. It shall be the duty of the Board, subject to the provisions of this Act, to take such steps from time to time as they may consider necessary or expedient for the conservancy, protection, regulation, maintenance and improvement of the Harbour and the approaches thereto within the Harwich seaward area, and the navigation thereof; and for those purposes, and without prejudice to the generality of the foregoing, the Board may—

General duties
of Board.

- (a) manage, regulate, improve and maintain the Harbour;
- (b) turn their resources to account so far as not required for the purposes of the Harbour; and
- (c) do all other things which in their opinion are expedient to facilitate the proper carrying on, or development of, the Harbour.

11.—(1) The Board may—

- (a) acquire by agreement, whether by way of purchase, lease or exchange, or by gift, any land, whether within or outside the Harbour, which they may require for the purposes of their functions under this Act;

Powers with
respect to
land.

PART II
—cont.

- (b) retain any land acquired by them for such time as they think fit;
- (c) sell, lease, exchange, whether with or without paying or receiving any money for equality of exchange, or otherwise dispose of, any land acquired by them which is no longer required for the purposes aforesaid in such manner and for such consideration and on such terms and conditions as they think fit; and
- (d) sell, exchange or dispose of any rents reserved on the sale, lease, exchange or other disposition of any such land or interest:

Provided that the Board shall not without the consent of the Secretary of State for the Environment dispose of any land otherwise than for a consideration worth not less than the current market value of that land, but a person acquiring any land from the Board shall not be concerned to inquire whether that consent is necessary or has been obtained.

(2) The Board may—

- (a) for the purposes of their undertaking, manage, use or develop land belonging to them as they think fit; and
- (b) may, with a view to selling or otherwise disposing of any right or interest in the land after the development is carried out—
 - (i) retain any part of any land belonging to them which is not required for the purposes of their undertaking and develop it, or procure its development for use by other persons; or
 - (ii) where the use of land belonging to them for the purposes of their undertaking can be combined with its use for other purposes, develop the land or procure its development for use wholly or partly by other persons.

(3) Where the Board intend to develop, or procure the development of, land belonging to them for purposes other than the purposes of their undertaking, and are of opinion that the land cannot by itself be developed satisfactorily, they may acquire adjoining land by agreement, whether by way of purchase, exchange, lease or otherwise, for the purpose of developing it, or of procuring its development, together with the other land.

(4) Any capital money received by the Board in respect of any transaction under this section shall be applied in or towards the repayment of moneys borrowed by the Board or for other purposes of the Board for which capital money may properly be applied.

(5) For the purpose of the acquisition by the Board of land by agreement, the provisions of Part I (other than sections 4 to 8 and sections 27 and 31) and of section 38 (3) of the Compulsory Purchase Act 1965 shall apply to the exclusion of the Lands Clauses Acts, and as if this Act were mentioned in Schedule 6 to the said Act of 1965; and the provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during construction shall be incorporated with this Act and, in construing the provisions so incorporated, "the special Act" shall mean this Act, "the Company" shall mean the Board, "the railway" shall mean any work constructed by the Board and for the measurement of distance the landward end of any such work shall be substituted for the centre of the railway.

PART II
—cont.

1965 c. 56.

1845 c. 20.

12.—(1) The Board may provide, place, lay down, maintain, renew, use or remove such moorings, buoys and similar apparatus within the Harbour and the Harwich seaward area as they consider necessary or desirable for the convenience of vessels.

Provision of
moorings.

(2) The Board shall not exercise the powers of this section so as to cause, or to be likely to cause any mooring, buoy or apparatus lying within a distance of 50 yards from the outfall of any water-course of a river authority, or any vessel using any such mooring, buoy or apparatus, to injure any river bank or unreasonably to obstruct or impede the free flow of water in, into or out of any river or any sluice in any river bank.

13.—(1) The Board may from time to time, as may appear to them to be necessary or proper for the preservation or improvement of navigation, deepen, widen, dredge, scour and improve the bed and foreshore of the Harbour and the Harwich seaward area and blast any rock therein.

Power to
dredge.

(2) Any materials taken up or collected in the course of such operations shall be the property of the Board and may be used, sold, removed, deposited or otherwise disposed of as the Board may think fit:

Provided that the Board shall not lay down or deposit any materials in any place below the level of high water, in the case of materials so laid down or deposited within the Harbour, in any quantity exceeding 10,000 cubic metres in the course of one operation, or, in the case of materials so laid down or deposited outside the Harbour, in any quantity, except in such position as the Secretary of State for Trade and Industry may approve and subject to such conditions or restrictions as he may impose.

(3) In carrying out operations under this section the Board shall not damage or injuriously affect any sewer outfall or subaqueous pipe or sewer vested in, or any work for the protection

PART II
—cont.

of land constructed or maintained as a coast protection work by, the Felixstowe Urban District Council without the consent of that council.

(4) Not less than 28 days before operations for deepening, widening, dredging, scouring or improving the bed and foreshore or blasting rock are carried out in exercise of the powers of subsection (1) of this section within a distance of 50 yards, or, in the case of blasting operations, 150 yards, from—

- (a) any subaqueous cable belonging to, or used by, the Post Office; or
- (b) any electrical work;

the Board shall give notice in writing of the intended operations to the Post Office or the electricity undertakers (as the case may be).

Power to raise
and remove
wrecks.

14.—(1) The Board may raise, remove, blow up or otherwise destroy or dispose of any vessel which is sunk, stranded or abandoned, (whether before or after the passing of this Act) in the Harbour or the Harwich seaward area or any approach thereto.

(2) Where the Board have exercised any of their powers under subsection (1) of this section, they may cause the vessel or its cargo or anything associated with the vessel to be sold in such manner as they think fit and may, out of the proceeds of the sale, retain the expenses incurred by them in the exercise of their powers under this section and any expenses incurred by them in marking, buoying, watching, lighting or otherwise controlling the vessel or its cargo, in removing or saving the cargo or anything associated with the vessel, or giving warning to shipping of the presence of the vessel and shall pay the surplus, if any, to the person entitled thereto.

(3) If the proceeds of sale are insufficient to reimburse the Board for the said expenses, they may recover as a simple contract debt from the person who, at the time of the sinking, stranding or abandonment of the vessel, is or was the registered owner thereof, or from the administrators or executors of such owner, or from any person claiming succession in title from such owner, any such expenses which are not reimbursed out of the proceeds of sale or, in the case of an appeal under subsection (4) of this section against the amount demanded, such sum as may be awarded under that subsection.

(4) At any time before the expiration of 14 days from the date of service of a demand for the payment of any amount under subsection (3) of this section the person on whom the demand is made may, if he is dissatisfied with the amount demanded, appeal to the Secretary of State for Trade and Industry who shall appoint

an arbitrator to determine whether any, and if so what, sum should properly be payable in respect of the Board's expenses aforesaid; and the decision of the arbitrator shall be final and binding on both parties, and the costs of the appeal and award shall be borne by the parties in such manner as the arbitrator may determine and be recoverable as a simple contract debt.

PART II
—cont.

(5) Except where there is, in the opinion of the harbour master, an emergency, subsection (1) of this section shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by that subsection, the Board 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 the Board receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, he shall be at liberty to do so, and the Board shall not exercise the powers of the subsection 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 or the business at the Harbour which may be given to him by the harbour master.

(6) If the owner of a vessel to whom notice is to be given under subsection (5) of this section is not known to the Board, or if his place of business or abode is not so known or is outside the United Kingdom, the notice may be given by displaying it at the office of the Board for the period of its duration.

(7) The powers conferred by this section shall be in addition to the powers exercisable by the Board under sections 530 and 532 of the Merchant Shipping Act 1894.

1894 c. 60.

(8) Except in a case which is, in the opinion of the Board, a case of emergency the Board shall, as early as practicable before raising, removing or destroying, under the powers of this section or of the said section 530, any vessel lying within a distance of 200 yards from—

(a) any subaqueous cable belonging to, or used by, the Post Office; or

(b) any electrical work;

give notice in writing to the Post Office or the electricity undertakers (as the case may be) of their intention to do so.

15.—(1) In addition to the powers conferred on the harbour master by section 57 of the Harbours Clauses Act and on the Board by the Merchant Shipping Act 1894 and by this Act, the Board may sell, break up or otherwise dispose of any vessel laid by or neglected as unserviceable in the Harbour or on land immediately adjoining the Harbour.

Power to deal with unserviceable vessels.

PART II
—cont.

(2) The Board may retain out of the proceeds of sale of any such vessel, or any part thereof, any expenses incurred by them in respect of the vessel or in marking, buoying, lighting or otherwise controlling the vessel or warning shipping of its presence and any expenses incurred by the harbour master under section 57 of the Harbours Clauses Act, and shall pay the surplus, if any, to the person entitled thereto.

(3) If the proceeds of sale are insufficient to reimburse the Board for the said expenses, or there is no sale, the Board may recover the deficiency, or, where there is no sale, the whole of the expenses, from the owner as a simple contract debt.

(4) Except in the case of emergency, the Board shall, before exercising their powers under this section, give seven clear days' notice in writing of their intention to do so to the registered owner of the vessel and by advertisement in each of three successive weeks in a local newspaper:

Provided that, if the owner or his place of business or abode is not known to the Board or is outside the United Kingdom, the notice may be given by displaying it at the office of the Board for the period of its duration.

Removal of
obstructions
other than
vessels.

16.—(1) The Board may remove anything, other than a vessel, causing or likely to become an obstruction to, or cause interference with, navigation in any part of the Harbour or the Harwich seaward area or any approach thereto.

(2) If anything removed by the Board under subsection (1) of this section is so marked as to be readily identifiable as the property of any person, the Board shall, within 28 days of its coming into their custody, give written notice to that person stating that, upon proof of ownership to the reasonable satisfaction of the Board, possession may be retaken at a place named in the notice within the period specified in the notice (being not less than 14 days after the notice is served) and, if possession of the thing removed is not so retaken, it shall at the end of that period vest in the Board.

(3) (a) Notwithstanding the provisions of subsection (2) of this section, the Board may, at such time and in such manner as they think fit, dispose of anything removed under subsection (1) of this section which is not so marked as to be readily identifiable as the property of any person or which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

(b) If anything disposed of by the Board under this subsection is sold, the Board may retain out of the proceeds of sale any expenses incurred by them under this section, and any surplus—

(i) shall be paid to any person who within three months from the time when the thing came into the custody of

- the Board proves to the reasonable satisfaction of the Board that he was the owner thereof at that time; or
- (ii) if within the said period no person proves his ownership at the said time, shall vest in the Board.

(4) If the proceeds of sale of anything removed under this section are insufficient to reimburse the Board for the said expenses, or there is no sale, the Board may recover the deficiency, or, where there is no sale, the whole of the expenses, from the person who was the owner at the time when the thing removed came into the custody of the Board or who was the owner at the time of its abandonment or loss.

17. Without prejudice to the power of sale conferred by section 530 of the Merchant Shipping Act 1894, the Board shall hold and dispose of any wreck (within the meaning of Part IX of that Act) raised or removed under section 14 (Power to raise and remove wrecks) or section 16 (Removal of obstructions other than vessels) of this Act, or any surplus of the proceeds of sale of any such wreck, in accordance with such direction, if any, as may be given to them by the receiver of wreck; and, on exercising the power of sale conferred by either of the said sections in the case of any property, the Board shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Board under that section.

18.—(1) The Board may, by notice, require the owner or occupier of a landing place or embankment which in their opinion is, or is likely to become, by reason of its insecure condition or want of repair, dangerous to persons or vessels using the Harbour or injurious or a hindrance to navigation in any part of the Harbour, to remedy its condition to the satisfaction of the Board within a reasonable time specified in the notice.

(2) A person aggrieved by a notice served by the Board under this section may appeal to a magistrates' court.

(3) If a person fails to comply with a notice given under this section within the time stated therein or, if he appeals and the appeal is not allowed, within the time stated in the notice or such other time as the court may substitute therefor—

- (a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and to a daily fine not exceeding £20; and
- (b) the Board may carry out the works they consider necessary to remedy the condition of the landing place or embankment in question and may recover the expenses of so doing from the person on whom the notice was served as a simple contract debt.

PART II
—cont.

1961 c. 48.

1930 c. 44.

1969 c. xlix.

(4) Nothing in this section shall prejudice or affect the requirements of section 31 of the Land Drainage Act 1961 or any byelaw for the time being in force under section 47 of the Land Drainage Act 1930 as extended by section 19 of the said Act of 1961; nor shall the powers of this section apply to any tidal work authorised by the Essex River and South Essex Water Act 1969 or any work constructed or provided by, or under the jurisdiction of the Essex River Authority or the East Suffolk and Norfolk River Authority in the exercise of their statutory powers.

(5) Nothing in this section shall relieve any person acting on the requirement of the Board from liability for damage caused by him to any electrical work.

(6) A notice under subsection (1) of this section shall have annexed to it a copy of this section.

Restriction
on works,
dredging and
moorings.

19.—(1) No person other than the Board shall—

- (a) construct, alter, renew or extend any work (not being moorings, buoys or similar apparatus to which paragraph (c) of this subsection applies) within the Harbour or the Harwich seaward area below the level of high water unless he is licensed to do so by a works licence granted under section 20 (Licensing of works) of this Act and except in accordance with any conditions subject to which the licence is granted and in accordance with plans, sections and particulars approved under the said section 20;
- (b) deepen, widen or dredge, or take up or collect material from the bed or foreshore of the Harbour or the Harwich seaward area unless he is licensed to do so by a dredging licence granted under section 21 (Licensing of dredging) of this Act and except in accordance with any conditions subject to which the licence is granted and in accordance with plans, sections and particulars approved under the said section 21;
- (c) place, lay down, alter, renew or extend moorings, buoys and similar apparatus within the Harbour or the Harwich seaward area unless he is licensed to do so by a licence granted under section 24 (Licensing of moorings) of this Act and except in accordance with any conditions subject to which the licence is granted:

Provided that, except as may be otherwise so provided, this subsection shall not apply to the construction, alteration, renewal or extension of any work, or to any deepening, widening, dredging, or taking up or removal of materials—

- (i) which is specifically authorised by any enactment; or

(ii) by the Essex River Authority or the East Suffolk and Norfolk River Authority in exercise of their functions under the Land Drainage Act 1930, the Land Drainage Act 1961 or the Water Resources Act 1963.

1930 c. 44.

1961 c. 48.

1963 c. 38.

(2) Any person who contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

(3) Nothing in this section shall affect the powers of the Post Office under the Telegraph Acts 1863 to 1916.

(4) Nothing in this section shall apply to the making, erection, construction, alteration, renewal, repair, extension or maintenance of any electrical work within the Harbour by the electricity undertakers under, and in accordance with, any authority conferred on them by or under the Electricity (Supply) Acts 1882 to 1936 and the Electricity Acts 1947 and 1957 and any enactment incorporated therewith, or to the carrying out by the electricity undertakers in an emergency of any works referred to in subsection (1) (a) or (b) of this section which are necessary for the protection, or to ensure the efficient operation, of any electrical work:

Provided that any such operations or works shall be carried out subject to any general directions which may from time to time be given by the Board to the electricity undertakers concerned, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of such operations or works, and, in the case of works carried out in an emergency, subject to the giving of information thereof to the Board by the electricity undertakers without delay.

20.—(1) (a) The Board may, upon such terms and conditions as they think fit, grant to any person, subject to section 22 (Crown property) of this Act, a licence (in this Act referred to as “a works licence”) to construct, alter, renew or extend works within the Harbour or the Harwich seaward area below the level of high water.

Licensing
of works.

(b) Without prejudice to the generality of the foregoing, conditions subject to which a works licence is granted under this section may include a condition specifying a period, not less than two years from the grant of the licence, on the expiration of which the licence shall become void unless the works to which the licence relates have by then been substantially commenced.

(2) Application for a works licence shall be made in writing to the Board and shall—

(a) be accompanied by such plans, sections and particulars as the Board may reasonably require of the works to which the application relates;

PART II
—cont.

(b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted; and in granting such licence the Board may require modifications in the plans, sections and particulars so submitted.

(3) In carrying out works in pursuance of a works licence the holder of the licence shall not—

(a) damage or injuriously affect any sewer outfall or subaqueous pipe or sewer vested in, or any work for the protection of land constructed or maintained as a coast protection work by, the Felixstowe Urban District Council without the consent of that council; or

(b) damage or injuriously affect any electrical work, or interfere with, or adversely affect, the operation of any such work, without the consent of the electricity undertakers.

(4) If within three months from the receipt of an application under subsection (2) of this section the Board do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.

1878 c. 76.

(5) For the purposes of section 7 of the Telegraph Act 1878 any work proposed to be carried out under a works licence granted in accordance with subsection (1) of this section shall be deemed to be a work proposed to be done in the execution of an undertaking authorised by an Act of Parliament.

(6) So much of any works constructed, altered, renewed or extended in pursuance of a works licence as is not within any local authority area or petty sessions area shall be deemed for all purposes to be within the local authority area and petty sessions area to which it is nearest.

Licensing of
dredging.

21.—(1) (a) The Board may, upon such terms and conditions as they think fit, grant to any person, subject to section 22 (Crown property) of this Act, a licence (in this Act referred to as “a dredging licence”) to deepen, widen, dredge, or take up or collect material from, the bed and foreshore of the Harbour or the Harwich seaward area.

(b) Without prejudice to the generality of the foregoing, conditions subject to which a dredging licence is granted under this section may include a condition specifying a period, not exceeding twelve months from the grant of the licence, on the expiration of which the licence shall become void unless the operations to which the licence relates have by then been substantially commenced.

(2) Application for a dredging licence shall be made in writing to the Board and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in pursuance of the licence, and in granting any such licence the Board may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the receipt of an application under subsection (2) of this section the Board do not grant a dredging licence in accordance with the application, they shall be deemed to have refused the application.

(4) Any materials taken up or collected in pursuance of a dredging licence shall be the property of the holder of the licence and he may use, sell or otherwise dispose of, or remove or, subject as herein provided, lay down or deposit, the materials as he thinks fit:

Provided that no such materials shall be laid down or deposited in any place below the level of high water except in such position as may be approved by the Board and subject to such conditions or restrictions as may be imposed by the Board.

(5) In the carrying out of operations in pursuance of a dredging licence the holder of the licence shall not—

- (a) damage or injuriously affect any sewer outfall or subaqueous pipe or sewer vested in, or any work for the protection of land constructed or maintained as a coast protection work by, the Felixstowe Urban District Council without the consent of that council; or
- (b) lay down or deposit materials in any place so as to cover any subaqueous cable belonging to, or used by, the Post Office and shall not otherwise damage or injuriously affect any such cable or, without the consent of the Post Office, interfere with, or adversely affect, the operation of any such cable; or
- (c) damage or injuriously affect any electrical work, or interfere with, or adversely affect, the operation of any such work, without the consent of the electricity undertakers.

(6) Not less than 28 days before operations are carried out in pursuance of a dredging licence within a distance of 150 yards of any subaqueous cable belonging to, or used by, the Post Office, the holder of the licence shall give notice in writing to the Post Office of the intended operations.

22. A person to whom a works licence or a dredging licence is granted by the Board shall require the consent of the Crown Estate Commissioners on behalf of Her Majesty to construct, Crown property.

PART II
—cont.

alter, renew or extend any works on, or to dredge, take up or collect material from, any part of the bed and foreshore of the Harbour or the Harwich seaward area belonging to Her Majesty in right of Her Crown.

Appeals in
respect of
works or
dredging
licences.

23.—(1) An applicant for a works licence or a dredging licence who is aggrieved by—

- (a) the refusal of the Board to grant the licence; or
- (b) any terms or conditions subject to which the licence is granted; or
- (c) any modifications required by the Board in the plans, sections and particulars submitted by the applicant; or
- (d) the withholding of approval by the Board under the proviso to subsection (4) of section 21 (Licensing of dredging) of this Act or any conditions imposed under that proviso;

may within 28 days from the date on which the Board notifies the applicant of their decision, or the date on which the Board are under subsection (4) of section 20 (Licensing of works) or subsection (3) of section 21 (Licensing of dredging) of this Act deemed to have refused the application, appeal—

- (i) in the case of a works licence, to the Secretary of State for Trade and Industry; or
- (ii) in the case of a dredging licence, subject to paragraph (iii) below, to the Secretary of State for the Environment; or
- (iii) in the case of a decision under the proviso to subsection (4) of the said section 21, to the Secretary of State for Trade and Industry;

whose decision shall be binding upon the parties.

(2) A person who makes an appeal under this section shall give to the Board notice of his appeal accompanied by a copy of his statement of appeal and the Board shall, within 42 days from the receipt of such notice, send to the Secretary of State for Trade and Industry or the Secretary of State for the Environment (as the case may be) their observations on the appeal.

(3) (a) On an appeal under this section the Secretary of State for Trade and Industry or the Secretary of State for the Environment (as the case may be) may—

- (i) dismiss the appeal; or
- (ii) require the Board to grant the licence or (as the case may be) to give their approval upon such terms or conditions and with such modifications (if any) of plans, sections

or particulars as the Secretary of State for Trade and Industry or the Secretary of State for the Environment (as the case may be) shall specify.

PART II
—cont.

(b) The Board shall give effect to any requirement made by the Secretary of State for Trade and Industry or the Secretary of State for the Environment under this subsection.

24.—(1) The Board may from time to time grant licences to any person to place, lay down, alter, renew or extend, or maintain, and use moorings, buoys and similar apparatus for vessels in the Harbour: Licensing of moorings.

Provided that the Board shall not unreasonably refuse to grant a licence to an owner or lessee of any land not leased by the Board to place, lay down, alter, renew or extend, or maintain, and use moorings, buoys and similar apparatus on that land, and any question whether the grant of a licence has or has not been unreasonably refused shall be determined by the Secretary of State for the Environment.

(2) Any licence granted under this section shall be valid only for a period of three years commencing with the date on which it takes effect.

(3) The Board may charge a reasonable fee for granting a licence under this section.

(4) For the purposes of section 7 of the Telegraph Act 1878 1878 c. 76. any work proposed to be carried out in pursuance of a licence granted in accordance with subsection (1) of this section shall be deemed to be a work proposed to be done in execution of an undertaking authorised by an Act of Parliament.

(5) Without prejudice to the provisions of subsection (1) (c) of section 19 (Restriction on works, dredging and moorings) of this Act, in the case of any existing moorings, buoys or similar apparatus which may have been placed or laid down within the Harbour before the passing of this Act without the permission of the Board, the Board may, by notice to the person using any such mooring, buoy or similar apparatus, require the same to be removed unless, on an application made under this section, the Board grant a licence in respect of the maintenance and use thereof.

(6) Nothing in this section shall prejudice or affect the requirements of section 31 of the Land Drainage Act 1961 or any byelaw for the time being in force under section 47 of the Land Drainage Act 1930 as extended by section 19 of the said Act of 1961. 1961 c. 48.
1930 c. 44.

PART II
—cont.

(7) In altering, renewing, extending or maintaining any moorings, buoys or similar apparatus in pursuance of a licence granted under this section, the holder of the licence shall not damage or injuriously affect any electrical work or, without the consent of the electricity undertakers, interfere with or adversely affect the operation of any electrical work.

Prohibition on
pollution,
etc., of
Harbour.

25.—(1) No person shall without lawful authority or excuse—

- (a) put or cause or suffer to fall into the waters of the Harbour any article or any solid matter; or
- (b) put any such thing in a place where it is likely to be carried into the waters of the Harbour by floods or tides; or
- (c) put and allow to remain for 48 hours in a place adjoining the Harbour any such thing which will or is likely to be blown or pass into the waters of the Harbour;

so as to pollute the waters of the Harbour or endanger or impede shipping.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable on summary conviction, in the case of an offence under paragraphs (a) or (b) of subsection (1), to a fine not exceeding £100 and, in the case of an offence under paragraph (c) of subsection (1), to a fine not exceeding £100 and to a daily fine not exceeding £20.

(3) When an offence against subsection (1) of this section is committed from a vessel, the master or owner of the vessel may be proceeded against.

(4) (a) Without prejudice to the provisions of subsection (2) of this section, any person who contravenes paragraphs (a) or (b) of subsection (1) of this section shall be liable in civil proceedings to make good any damage sustained by the Board, or by a vessel, arising by reason of such contravention.

(b) The Board may remove anything which is in the waters of the Harbour or adjoining the Harbour in contravention, or as a result of a contravention, of subsection (1) of this section, and any expenses incurred by the Board in carrying out such removal shall, for the purposes of paragraph (a) of this subsection, be taken to be damage sustained by the Board arising by reason of such contravention:

Provided that in any proceedings under this subsection for the recovery of the expense of making good any damage, it shall be a defence to show that the damage occurred by reason of an accident

beyond the control of the person against whom the proceedings are brought or that he had taken all reasonable precautions and exercised all due diligence to avoid the damage occurring or the likelihood thereof.

PART II
—cont.

26. The Board may construct, purchase, contract for or hire and may maintain and use such tugs and other vessels as may be required by them for carrying out their functions, and may sell or dispose of any such tugs or vessels.

Vessels and
towage
services.

27. The Board may purchase, contract for or hire, maintain, operate, sell or otherwise dispose of machinery, plant, vehicles and equipment and may let upon hire, with or without the services of any of their employees, on such terms as they think fit, any such machinery, vehicles or equipment.

Machinery,
vehicles, etc.

28. For the protection of the Felixstowe Dock and Railway Company (hereafter in this section referred to as "the Company") the following provisions shall, unless otherwise agreed between the Board and the Company, apply and have effect:—

For
protection of
Felixstowe
Dock and
Railway
Company.

(1) In this section "the Company's limits" means the limits of jurisdiction of the Company under the Felixstowe Dock and Railway Acts 1879 to 1968:

(2) The Board shall not—

(a) provide, place, lay down, use or remove moorings, buoys or similar apparatus within the Company's limits under section 12 (Provision of moorings); or

(b) deepen, widen, dredge, scour or improve the bed and foreshore within the Company's limits or blast rock or deposit material within those limits under section 13 (Power to dredge);

without the consent of the Company, which consent shall not be unreasonably withheld:

(3) Subsection (1) (b) of section 19 (Restriction on works, dredging and moorings) of this Act shall not apply to the deepening, widening or dredging of, or the taking up or collection of material from, the bed or foreshore by the Company within the Company's limits and the channels and approaches thereto outside those limits for the purpose of facilitating navigation to and from the navigation channel maintained by the Board and the accommodation of vessels within the Company's limits:

PART II
—cont.

(4) The Board shall not, without the consent of the Company—

(a) grant a works licence for the construction, alteration, renewal or extension of works within the Company's limits;

(b) grant a dredging licence for the deepening, widening or dredging of, or the taking up or collection of material from, the bed or foreshore within the Company's limits;

(c) approve, under subsection (4) of section 21 (Licensing of dredging) of this Act, the laying down or depositing of materials within the Company's limits; or

(d) grant a licence, under section 24 (Licensing of moorings) of this Act, for the placing, laying down, alteration, renewal, extension, maintenance or use of any mooring, buoy or similar apparatus within the Company's limits:

(5) The Company shall not be required to pay any fee for the grant of a licence under section 24 (Licensing of moorings) of this Act for the placing, laying down, alteration, renewal, extension, maintenance or use of any mooring, buoy or similar apparatus within the Company's limits:

(6) Any difference arising between the Board and the Company under this section shall be determined by an arbitrator to be agreed upon between the parties, or, failing agreement, appointed, on the application of either party after notice in writing to the other of them, by the President of the Institution of Civil Engineers.

For
protection of
Essex and
East Suffolk
and Norfolk
River
Authorities.

29. For the protection of the Essex River Authority and the East Suffolk and Norfolk River Authority (hereafter in this section referred to together as "the river authorities" and separately as "the river authority"), the following provisions shall, unless otherwise agreed in writing between the Board and the river authorities or the river authority concerned, apply and have effect:—

(1) In this section—

"appropriate river authority" in relation to a sea defence work or watercourse means the river authority in whom it is vested or who have control over it;

"dredging operation" means an operation authorised by section 13 (Power to dredge) of this Act;

“ sea defence work ” includes a river wall or sea defence work for the time being vested in, or under the control of, the river authority for the purposes of the Land Drainage Act 1930 and the Land Drainage Act 1961, or the Water Resources Act 1963, and the Cattawade Barrage;

PART II
—cont.

1930 c. 44.
1961 c. 48.
1963 c. 38.

“ watercourse ” means a watercourse, as defined in the Land Drainage Act 1930, subject to the control of the river authority;

“ wreck raising operation ” means an operation authorised by section 14 (Power to raise and remove wrecks) of this Act:

(2) (a) The Board shall, before commencing any dredging operation or any wreck raising operation—

(i) which is within 150 yards of any sea defence work; or

(ii) which may interfere with the efficiency of a watercourse for land drainage purposes;

deliver to the appropriate river authority for their approval, which shall not be unreasonably withheld, a plan defining the nature, extent and manner of the operation (and, in the case of a dredging operation, particulars as to the place and manner of disposal of materials taken up or collected in the course of the operation);

(b) An operation to which sub-paragraph (a) of this paragraph applies shall not be carried out otherwise than in accordance with such plan and in such manner as may be approved by the appropriate river authority in accordance with that sub-paragraph or as may be settled by arbitration:

Provided that if the appropriate river authority do not within two months after the delivery of such plan signify to the Board their disapproval thereof, and the grounds for their disapproval, they shall be deemed to have approved the plan:

(c) The Board shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but in such a case they shall give to the appropriate river authority notice as soon as reasonably practicable, and a plan defining the nature and extent of the operation as soon as reasonably practicable thereafter, and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:

PART II
—cont.

1960 c. 54.

- (3) In giving their approval to a plan delivered under paragraph (2) of this section the appropriate river authority may attach to their approval such conditions (including conditions requiring the construction of protective works by, and at the expense of, the Board during the carrying out of a wreck raising operation or of a dredging operation) as are reasonably necessary—

(a) in the case of a dredging operation, to prevent pollution of any stream (including any controlled waters within the meaning of the Clean Rivers (Estuaries and Tidal Waters) Act 1960), or of water contained in underground strata, arising from the disposal of materials taken up or collected in the course of the operation; and

(b) in the case of a wreck raising operation or a dredging operation to prevent pollution of any such stream, to safeguard a sea defence work or watercourse against damage or to secure that the efficiency of a watercourse for land drainage purposes is not impaired:

- (4) If by reason of the carrying out of any dredging operation or wreck raising operation a sea defence work is interfered with, or the efficiency of a watercourse for land drainage purposes is impaired, the appropriate river authority may—

(a) make good the sea defence work or watercourse to restore it to its former standard of efficiency; or

(b) where necessary, construct some other work in substitution therefor;

and may recover from the Board the reasonable cost of so doing, and for the purposes of this paragraph such cost shall include a proper proportion of the overhead charges of the appropriate river authority, and any such cost of executing works needed for remedying any subsidence of the sea defence work or of the substituted work during such reasonable period as may be agreed between the Board and the appropriate river authority or, failing agreement, settled by arbitration:

- (5) If the appropriate river authority have reasonable ground for believing that a sea defence work or watercourse is likely to be damaged or the efficiency of a watercourse for land drainage purposes is likely to be impaired in any of the circumstances mentioned in the last foregoing paragraph, they may carry out such protective works as may be agreed between the appropriate river authority and the Board or as, failing

agreement, may be settled by arbitration, and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the river authority) from the Board:

PART II
—cont.

- (6) The Board shall not under the powers of section 16 (Removal of obstructions other than vessels) of this Act remove anything placed or constructed by the appropriate river authority in exercise of their statutory powers:
- (7) Any difference arising between the Board and the river authority under this section shall be determined by an arbitrator to be agreed upon between the parties, or, failing agreement, appointed on the application of either party after notice in writing to the other of them, by the President of the Institution of Civil Engineers.

PART III

HARBOUR REGULATION

30. A master who navigates his vessel in the Harbour or in the Harwich seaward area— General rules for navigation.

- (a) without due care and attention; or
- (b) in a manner liable to injure or endanger persons, other vessels, the banks of the Harbour (whether above or below the level of high water) or any structure or installation in or adjoining the Harbour;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

31.—(1) The owner or master of a vessel adrift in the Harbour or in the Harwich seaward area shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50. Vessels adrift.

(2) It shall be a defence to the owner or master of a vessel charged with an offence under subsection (1) of this section to prove that the vessel did not become adrift as the result of any neglect or default on his part.

32.—(1) The Board may, after consultation with the Chamber of Shipping of the United Kingdom in the case of any exercise of the powers, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety General directions to vessels.

PART III
—cont.

of navigation in the Harbour and the Harwich seaward area, and, without prejudice to the generality of the foregoing, for any of the following purposes:—

- (a) for designating areas, routes or channels in the Harbour and the Harwich seaward area which vessels are to use, or refrain from using, for movement or mooring;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for the purposes of this subsection.

(2) Directions given under subsection (1) of this section may apply—

- (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction; and
- (b) to the whole of the Harbour and the Harwich seaward area, or to a part designated, or the designation of which is provided for, in the direction; and
- (c) at all times or at times designated, or the designation of which is provided for, in the direction;

and every direction given under this section shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c) of this subsection.

(3) The Board may, after such consultation as aforesaid, revoke or amend directions given under this section.

Special
directions to
vessels.

33.—(1) A direction under this section may be given by the harbour master to a vessel in a part of the Harbour or the Harwich seaward area designated by the Board as an area in which the power to give directions under this section shall be exercisable by the harbour master.

(2) A direction under this section may be given for requiring a vessel to comply with a requirement made in or under a general direction given under section 32 (General directions to vessels) of this Act and, so far as required for the ease, convenience or safety of navigation, for either of the following purposes:—

- (a) regulating or requiring the movement, mooring or unmooring of a vessel;

(b) regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores otherwise than at a dock or pier.

(3) A direction under this section may be given in any manner considered by the harbour master to be appropriate.

(4) In case of conflict between any directions lawfully given by the harbour master and any directions given by the dock-master of the Felixstowe Dock and Railway Company, the directions given by the harbour master shall prevail.

34.—(1) Notice of the designation of an area of the Harbour or the Harwich seaward area under subsection (1) of section 33 (Special directions to vessels) of this Act, or of the revocation of such a designation, and, except in an emergency, notice of a general direction given under section 32 (General directions to vessels) of this Act, or of the amendment or revocation of any such general direction, shall, so soon as practicable after it is made or given, be published by the Board once in Lloyd's List and Shipping Gazette newspaper or some other newspaper specialising in shipping news, and, if the notice relates to the making of a designation or the giving or amendment of a general direction, it shall state a place at which copies of the designation or direction may be inspected and bought and the price thereof.

Publication
of designations
and general
directions.

(2) In an emergency, notice of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the harbour master to be appropriate.

35.—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

Failure to
comply with
directions.

(2) It shall be a defence to the master of a vessel charged with an offence under subsection (1) of this section to prove that he had reasonable ground for supposing that compliance with the direction in question would be likely to imperil his vessel or that in the circumstances compliance was impracticable.

36.—(1) Without prejudice to any other remedy available to the Board, if a special direction is not complied with within a reasonable time, the harbour master may put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

Enforcement of
directions.

(2) If there is no one on board a vessel to attend to a special direction, the harbour master may proceed as if the direction had been given and not complied with:

PART III
—cont.

Provided that the powers of this subsection shall not be exercised—

- (a) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or
- (b) in relation to a lighter unless it is obstructing or interfering with navigation.

(3) Expenses incurred by the Board in the exercise of the powers of subsection (1) of this section shall be recoverable by them as if they were a charge of the Board in respect of the vessel.

Master's
responsibility
in relation to
directions.

37. The giving of a general direction or a special direction shall not diminish, or in any other way affect, the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

General
byelaws.

38.—(1) The Board may by byelaws make provision for any matter falling within their duties under section 10 (General duties of Board) of this Act and in particular, but without prejudice to the generality of the foregoing, for any of the following purposes:—

- (a) for regulating the use of the Harbour and the Harwich seaward area, including the movement of vessels therein and the time, manner and condition in which vessels shall enter or leave the Harbour or any installation therein, the speed of vessels within the Harbour and the Harwich seaward area, and the laying down of moorings and the anchoring, mooring, unmooring and placing of vessels in the Harbour and the Harwich seaward area;
- (b) with respect to the lights and signals to be carried, or the steps to be taken, for avoiding collision by vessels navigating in the Harbour and the Harwich seaward area;
- (c) for regulating—
 - (i) the loading and unloading of goods;
 - (ii) the embarkation and disembarkation of passengers; or
 - (iii) the loading, removal and disposal of ballast; within the Harbour otherwise than at a dock or pier;
- (d) for preventing and removing obstructions or impediments within the Harbour and the Harwich seaward area not authorised by or under any enactment;
- (e) for the removal, placing and disposal of vessels laid by or neglected within the Harbour as unserviceable;
- (f) for the protection of vessels in the Harbour and the Harwich seaward area from the dangers of fire;

- (g) for regulating the conduct of boatmen, ferrymen and others plying in the Harbour and of persons resorting to any works constructed by the Board;
- (h) subject to subsection (4) of this section, for prohibiting vessels, or any class of vessels, not being vessels authorised to do so by or under any enactment, from plying for hire in the Harbour and the Harwich seaward area except under a licence granted by the Board and in accordance with any terms and conditions upon which the licence is granted;
- (i) for imposing upon persons offending against any of the byelaws fines, recoverable on summary conviction, not exceeding £100 and, in the case of a continuing offence, a further fine so recoverable not exceeding £40 for each day during which the offence continues after conviction thereof.

(2) Any expenses incurred by the Board in respect of any obstruction, impediment or vessel under byelaws made by virtue of paragraphs (d) or (e) of subsection (1) of this section shall be recoverable by the Board as a simple contract debt from the owner or other person having the control of that obstruction, impediment or vessel.

(3) Without prejudice to any liability of any person for an offence against any byelaws of the Board, any person who fails to comply with any direction lawfully given by the harbour master under those byelaws shall be liable on summary conviction to a fine not exceeding £20.

(4) Any person aggrieved by the refusal, suspension or revocation of any such licence as is mentioned in subsection (1) (h) of this section, or who alleges that any term or condition attached to such a licence or any fee demanded therefor under section 45 (Charges for services and facilities) of this Act is unreasonable, may make a complaint in respect thereof to a magistrates' court, who may make such order on the complaint as they think just, and any person aggrieved by the order may appeal against it to the Crown Court.

39.—(1) Subject to the provisions of this Act, the Board may make byelaws for all or any of the following purposes:—

- (a) for prescribing the lights and signals to be carried, exhibited or made by vessels within the Harbour or the Harwich seaward area;
- (b) for prescribing the lights and signals to be exhibited or made by vessels aground within the Harbour or the Harwich seaward area;
- (c) for prescribing the lights and signals to be exhibited or made by wreck-marking vessels, or by other devices used for marking obstructions, within the Harbour or the Harwich seaward area;

Byelaws as to lights and signals, etc.

PART III
—cont.

- (d) for prescribing steering and sailing rules for the regulation of vessels within or entering or leaving the Harbour or the Harwich seaward area;
- (e) for prescribing the lights and signals to be exhibited or made at the entrance to any dock, or at any wharf, pier or other work, for assisting the navigation of vessels within the Harbour.

(2) In this section “ signals ” includes sound signals.

(3) Different byelaws may be made under this section in relation to different classes of vessel.

Byelaws as to
dangerous
goods.

40.—(1) The Board may make byelaws as to the loading and discharging by vessels within the Harbour of dangerous goods and generally as to the precautions to be observed with respect to vessels carrying dangerous goods while in the Harbour, and such byelaws may in particular provide—

- (a) for regulating the places at which vessels are to load and discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;
- (b) for regulating the places at which vessels carrying dangerous goods are to be moored;
- (c) for the due enforcement of the byelaws.

(2) Where a person is charged with an offence against a byelaw in force under this section it shall be a defence for him to prove that the offence was not caused or facilitated by any act or neglect on his part or on the part of any person engaged or employed by him and, if the person charged is the owner or master of a vessel, that all reasonable steps were taken by the master to prevent the commission of the offence.

(3) Byelaws made under this section may make provision for imposing on persons offending against any of the byelaws penalties not exceeding, on summary conviction, a fine of £100 and, on conviction on indictment, imprisonment for a term of six months, either in addition to, or in substitution for, a fine.

1875 c. 17.
1928 c. 32.

(4) This section does not apply to dangerous goods to which byelaws made by the Board under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply.

Confirmation
of byelaws.

41.—(1) Byelaws made by the Board under this Act shall not come into operation until they have been confirmed by the Secretary of State for the Environment.

(2) (a) At least 28 days before an application for confirmation of byelaws is made by the Board to the Secretary of State for the Environment, notice of the intention to apply for confirmation and of the place at which, and the times during which, a copy of the byelaws shall be open to inspection shall be published as follows:—

- (i) once in the London Gazette;
- (ii) once in each of two successive weeks in a local newspaper circulating in the counties of East Suffolk and Essex.

(b) Not later than the first date on which the notice under paragraph (a) of this subsection is published, the Board shall send a copy of the notice to the clerks of the East Suffolk County Council, the Essex County Council, the East Suffolk and Norfolk River Authority, the Essex River Authority and to the Secretary of State for Defence.

(c) During a period of at least 28 days before application is made for confirmation of the byelaws a copy of the byelaws shall be kept at the office of the Board and shall at reasonable hours be open to public inspection without payment.

(d) The Board shall supply a copy of the byelaws, or of part of the byelaws, to a person who shall apply for it on payment of a reasonable charge.

(3) During the period of 28 days after completion of the publication of any notice required by subsection (2) (a) of this section any person may make in writing to the Secretary of State for the Environment any objection to, or representation respecting, the byelaws to which the notice relates.

(4) The Secretary of State may confirm the byelaws in the form submitted to him with such modifications as he thinks fit:

Provided that where the Secretary of State proposes to make a modification which appears to him to be substantial, he shall inform the Board and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Board and by other persons who have been informed of it.

(5) When confirmed the byelaws shall be published by the Board.

42.—(1) Except in case of emergency, the owner or master of a vessel—

- (a) which it is intended to bring into the Harbour carrying dangerous goods; or

Notice before
entry of
dangerous
goods.

PART III
—cont.

- (b) which is within the Harbour and on which it is intended to place dangerous goods;

shall, not less than 12 hours before that vessel enters the Harbour or before the dangerous goods are placed on board (as the case may be), give notice to the harbour master of the nature and quantity of the dangerous goods in question and, if such notice is not given, the owner or master of the vessel shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100:

Provided that the owner or master of a vessel may give to the harbour master a standing notice that the vessel may be carrying dangerous goods of any nature and quantity specified in the notice and, where such notice is given and is not withdrawn, the vessel shall be deemed to be carrying dangerous goods of the nature and quantity so specified unless the owner or master of the vessel gives to the harbour master notice that the vessel is not carrying dangerous goods or is carrying dangerous goods of a different nature or quantity, such notice being given, in the case of the entry of the vessel to the Harbour from seaward, not less than six hours before such entry and, in the case of the placing of goods on board in the Harbour, or the entry of the vessel to the Harbour from landward, not less than two hours before such placing or entry.

(2) Where the owner or master of the vessel is charged with an offence under subsection (1) of this section it shall be a defence to prove that he did not know, and could not with reasonable diligence have ascertained, the nature of the goods in respect of which the proceedings are taken.

(3) This section does not apply to dangerous goods to which byelaws made by the Board under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply.

1875 c. 17.
1928 c. 32.

Entry of
dangerous
goods.

43.—(1) The Board may—

- (a) refuse entry into the Harbour of any goods which in their opinion would endanger, or be liable to endanger, persons or property; or
- (b) permit the entry of any such goods subject to such terms and conditions (including specification of the part or parts of the Harbour where such entry is permitted) as they think fit.

(2) The Board shall publish a schedule of such goods—

- (a) entry of which is forbidden by them; and
- (b) entry of which is permitted by them only upon terms and conditions specified in the schedule.

(3) A person who after publication of the schedule referred to in subsection (2) of this section—

PART III
—cont

- (a) brings, or causes or permits to be brought into the Harbour any goods the entry of which is forbidden; or
- (b) fails in relation to any goods brought into the Harbour to comply with any terms or conditions imposed by the Board under subsection (1) of this section;

shall—

- (i) be guilty of an offence and liable to a fine not exceeding, on summary conviction, £100, and, on conviction on indictment, to a fine; and
- (ii) indemnify the Board against all claims, demands, proceedings, costs, damages and expenses which may be made against, or recovered from, or incurred by, the Board in consequence of the commission of the offence;

and the Board may remove the goods in question and may recover from the owner or offender the costs of such removal and of placing or storing the goods elsewhere.

PART IV

DUES AND CHARGES

44. In addition to their power to demand, take and recover ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Board may demand, take and recover in respect of any floating article, which is not a ship within the meaning of the said Act of 1964, entering, using or leaving the Harbour such dues as they think fit; and the provisions of sections 30 to 34 of the said Act of 1964 shall, with any necessary modifications, apply to the dues authorised by this section as they apply to ship, passenger and goods dues.

Charges on certain floating plant, etc.
1964 c. 40.

45.—(1) The Board may demand, take and recover such reasonable charges for any services and facilities provided by them as they may from time to time determine.

Charges for services and facilities.

(2) Subject to subsection (4) of section 38 (General byelaws) of this Act, the Board may demand, take and recover such reasonable fees as they may from time to time determine in respect of such licences as are mentioned in subsection (1) (h) of that section.

46. Dues and charges shall be payable subject to such conditions as the Board may from time to time specify in their published list of charges.

Conditions relating to payment of charges.

PART IV
—cont.

As to payment
of charges.

47.—(1) Dues and charges which the Board are for the time being authorised to demand, take and recover in respect of vessels shall be payable on the entry to the Harbour of any vessel in respect of which they are payable and may be demanded, taken and recovered by such persons, at such places, at such times and under such regulations as the Board may from time to time appoint.

1952 c. 44.

(2) An officer, as defined in the Customs and Excise Act 1952, may refuse clearance of any vessel if he is satisfied that payment of any dues or charges payable to the Board in respect of that vessel have not been made or satisfactorily secured.

(3) Dues and charges payable to the Board shall be payable by the owner of any vessel in relation to which they are payable.

(4) Where dues or charges payable to the Board may be recovered by them from more than one person, the said persons shall be jointly and severally liable.

Deposit for
charges.

48. The Board may require any person who is liable, or intends to become liable, to pay dues or charges to the Board to deposit with their collector, or to guarantee, such sum as, in the opinion of the Board, is reasonable having regard to the amount or probable amount of the dues or charges, and, where a person so required fails to deposit or guarantee the sum of money required, the Board may detain in the Harbour the vessel in respect of which the dues or charges have been or will be incurred until compliance with the requirement or payment of the dues or charges.

Recovery of
charges.

49. In addition to any other remedy given by this Act or by the Harbours Clauses Act as incorporated with this Act, and whether the demand required by section 44 of the Harbours Clauses Act has been made or not, the Board may recover any dues or charges payable to them as a debt in any court of competent jurisdiction.

Penalty for
evading
payment of
charges.

50. If the owner of any vessel at any time eludes or evades or attempts to elude or evade payment of, or wrongfully refuses to pay, any dues or charges payable by such owner to the Board at the time when they become payable, he shall be liable to pay to the Board a sum equal to three times the amount of such dues or charges, which sum shall be a debt due to the Board and shall be recoverable by the Board as a simple contract debt.

Entry on
vessels.

51.—(1) A duly authorised officer of the Board may, on producing (if so required) evidence of his authority, board any vessel in the Harbour or the Harwich seaward area to ascertain the dues or charges payable on, or in respect of, the vessel and to obtain any other information required for, or in connection with, the assessment and collection of dues and charges.

(2) A master of a vessel who refuses to comply with a reasonable request for information or for the production of a document made by an officer of the Board who has boarded his vessel pursuant to subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

PART IV
—cont.

52. Any person claiming the return of the whole or any part of any charges paid to the Board shall make his claim, and produce all documents and give all information required by the Board in proof thereof, within three years from the time of payment; and in default thereof the claim shall cease to be enforceable.

Claims for
repayment of
charges.

53. Nothing in section 30 of the Harbours Act 1964 shall require the Board to include in the list of ship, passenger and goods dues which they are required to keep under subsection (1) of that section, any charges which are reduced by virtue of compounding arrangements in respect of, or rebate allowed on, any due included in that list.

Compounding,
etc., of
charges.
1964 c. 40.

PART V

FINANCE

54.—(1) The Board may from time to time borrow upon the security of all or any of the revenues and property of the Board, or by the creation and issue of stock, or partly by one of those methods and partly by the other—

Borrowing
powers.

- (a) with the consent of the Secretary of State for the Environment such sums of money as they may require; and
- (b) such sums as may be necessary for the payment of the costs, charges and expenses of this Act.

(2) Subject to the provisions of section 63 (Power to invest) of this Act, moneys borrowed by the Board under this section shall be applied only to purposes to which capital money is properly applicable, which shall, for the purposes of this subsection, but without prejudice to the generality of the foregoing, include—

- (a) the payment of any interest falling due within any period determined by the Board under section 55 (Power to charge interest to capital) of this Act;
- (b) the repayment of any sum for the time being outstanding by way of principal on any amount previously borrowed;
- (c) the expenses of the creation and issue by the Board of any stock or other security;

PART V
—cont.

(d) the purchase of any of the Board's stock; and

(e) with the consent of the Secretary of State for the Environment, any other purpose not covered by paragraphs (a) to (d) of this subsection.

(3) Any sums borrowed under this section shall be repaid within such period as the Board may fix in the case of that sum, and shall be so repaid either by means of a sinking fund or by instalments of principal, or of principal and interest combined, or partly by one of those methods and partly by another or others of them; and—

(a) where the amount is to be repaid by means of a sinking fund, then, so long as it is so repaid within the fixed period, the first payment to the fund may be made at any time before the expiration of five years from the date of the borrowing;

(b) where the amount is to be repaid by means of instalments, the first instalment shall be paid within five years from the date of the borrowing.

(4) The provisions of Schedule 2 to this Act shall have effect with respect to any stock created under this section.

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

1946 c. 58.

Power to
charge
interest to
capital.

55. Where the Board, in exercise of the powers conferred upon them by any enactment, commence any work or operations (hereafter in this section referred to as "the work"), they may, during such period not exceeding five years from the commencement of the work as they determine, charge to capital as part of the cost of the work interest on any money raised to defray—

(a) the cost of the acquisition of any lands for the purpose of the work; and

(b) the expense of constructing or carrying out the work.

Temporary
borrowing.

56. In addition to the powers conferred on the Board by this Act to borrow money upon the security of all or any of the revenues and property of the Board or by the creation and issue of stock, the Board may for the purposes of, or in connection

with, the undertaking borrow by way of temporary loans or overdrafts from bankers or otherwise any sums which they may temporarily require—

PART V
—cont.

- (a) for the purpose of defraying, pending the borrowing of money upon security or by the creation and issue of stock as aforesaid, in pursuance in either case of an authorisation in that behalf, expenses intended to be defrayed by means of such borrowing;
- (b) for the purpose of defraying expenses pending the receipt of revenue receivable by them in respect of the period of account in which those expenses are chargeable:

Provided that the aggregate amount outstanding at any one time of the moneys borrowed under this section for the purpose mentioned in paragraph (b) of this section shall not exceed £200,000.

57.—(1) Any sinking fund established by the Board for the Sinking purposes of subsection (3) of section 54 (Borrowing powers) of funds. this Act shall be formed and maintained either—

- (a) as a non-accumulating fund by payment thereto throughout the period fixed under the said subsection (3) (hereafter in this section referred to as “the fixed period”) of such equal annual sums as will be sufficient to repay the amount borrowed at the expiration of that period; or
- (b) as an accumulating fund by payment thereto throughout the fixed period of such equal annual sums as, with compound interest thereon at the rate on which the equal annual payments are based, will be sufficient as aforesaid:

Provided that, where the first payment to the fund is not made within twelve months of the date of borrowing, the references in this subsection to payments throughout the fixed period shall be construed as references to payments throughout the residue of that period commencing with the date of the first payment to the fund.

(2) Every sum paid to the fund and, where it is an accumulating fund, the interest on the investments thereof shall, unless applied in or towards repayment of the principal amount secured by any charge, or the purchase for extinction before the due date of redemption of any stock, in connection with which

PART V
—cont.

the fund is maintained, be immediately invested, and may thereafter from time to time be reinvested, in such securities in which trustees are for the time being authorised by law to invest trust moneys as the Board may think fit.

(3) When the fund is a non-accumulating fund, the interest on its investments may be applied by the Board towards the equal annual payments to the fund.

(4) The Board may at any time apply the whole or any part of the fund in or towards such a repayment or purchase as aforesaid:

Provided that—

- (a) where it is an accumulating fund the Board shall pay into the fund each year during the residue of the fixed period, in addition to the equal annual payments, a sum equal to the interest which would have been produced by the fund or that part thereof if invested at the rate on which the equal annual payments to the fund are based;
- (b) where the fund is maintained in connection with any stock, in any year in which the fund or any part thereof has been applied in such a purchase as aforesaid at a price above par the Board shall pay into the fund, in addition to the annual payment, a sum equal to the difference between the price paid for that purchase and the par value of the stock purchased.

(5) If the fund is an accumulating fund and the income thereof at any time is less or greater than the income which would be derived from the sums invested if those sums were invested at the rate on which the equal annual payments to the fund are based, the deficiency shall be made good by the Board or (as the case may be) the Board may apply the excess towards those annual payments.

(6) If at any time it appears to the Board that the fund as for the time being maintained will not be sufficient to pay off the amount borrowed at the expiration of the fixed period, the Board shall make such adjustments in the payments to the fund as will cause the fund to be sufficient for that purpose.

(7) If at any time it appears to the Board that the fund as for the time being maintained will be more than sufficient, or is already sufficient, to pay off the amount borrowed at the expiration of the fixed period, the Board may make such adjustments in the payments to the fund (including suspension of such payments) as they think fit.

(8) If the Board desire to accelerate the paying off of the amount borrowed, they may increase the amount of the payments to the fund.

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—cont.

(9) Any surplus remaining in the fund on the expiration of the fixed period after providing for the paying off of the amount borrowed shall be applied to such purposes of the Board to which capital moneys may properly be applied as the Board may think fit; and if at the expiration of ten years after the expiration of the fixed period any sum remains in the fund which, for any reason not due to the default of the Board, it has not been possible to pay to the person entitled thereto by way of the repayment of the principal amount secured by any charge, or the redemption of any stock, in connection with which the fund was maintained, then, without prejudice to the rights of any such person, that sum may be applied as aforesaid.

58.—(1) The Board may if they think fit carry to a reserve fund such part of their receipts on revenue account as shall be available for the purpose until the fund amounts to £500,000, and if the fund at any time falls below that amount the Board may carry to the fund so much of any such receipts as is required to restore the fund to that amount and is available for the purpose.

(2) The reserve fund so formed or continued under this section shall from time to time be applied by the Board in their discretion—

- (a) in or towards meeting any deficiency on revenue account in any year; or
- (b) to meet any extraordinary claim or demand in respect of the undertaking; or
- (c) in or towards payment of the cost of renewing, improving, extending or replacing any part of the works forming part of the undertaking or any of the vessels, plant or equipment of the Board or replacing any of the vessels, plant or equipment of the Board; or
- (d) for improving the navigation of the Harbour and the Harwich seaward area and the approaches thereto; or
- (e) for any other lawful purpose duly sanctioned by the Board.

(3) The sums paid into the reserve fund shall be invested in any manner in which trustees are for the time being authorised by law to invest trust moneys.

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—cont.

Appointment
of receiver.

59.—(1) Where any sums accrued due by way of principal, interest, or principal and interest combined, in respect of amounts borrowed by the Board under section 54 (Borrowing powers) of this Act remain unpaid at the expiration of a period of (in the case of sums due by way of principal) six months, or (in the case of sums due by way of interest, or of principal and interest combined) 30 days, after the date when payment became due and after demand therefor in writing has been made, and the sums so accrued due and unpaid amount in the aggregate to not less than ten per centum of the aggregate amount for the time being outstanding by way of principal on all moneys borrowed by the Board, or £50,000 (whichever is the greater), the person or persons to whom those sums are owing may apply to the High Court for the appointment of a receiver.

(2) On any such application the court may, if it is satisfied that the sums owing to the person or persons by whom the application is made amount in the aggregate to not less than the amount aforesaid, and after hearing the parties, appoint on such terms as the court may determine a person to receive on behalf of the applicants the whole or any part of any receipts of the Board on which the sums owing are secured until those sums, any expenses of the receiver and any costs of the application have been fully paid.

(3) No receiver shall be appointed in the case of any security given by the Board otherwise than as provided by the provisions of this section.

Register of
charges.

60. The Board shall keep at their offices a register of all charges created by them under section 54 (Borrowing powers) of this Act specifying in each case the revenues or property charged, the amount of the charge and the name of the person entitled thereto, and the said register shall be kept available during reasonable hours for inspection without charge by any creditor of the Board under the said section and for inspection by any other person on payment of such fee, not exceeding ten pence for each inspection, as the Board may determine.

Evidence of
loans.

61. For the purpose of the making of any loan to the Board by any person, and of any rights and liabilities with respect to that loan, a certificate, signed at the time of the making of the loan by the chief executive officer of the Board and by two conservators, that the borrowing of that sum is authorised by section 54 (Borrowing powers) or section 56 (Temporary borrowing) of this Act shall be sufficient evidence of the validity of that loan.

62. The Board may, on such terms and subject to such conditions and instructions as they think fit, appoint an officer of the Board or any other person or any banking or other company as registrar for all or any of the purposes of Schedule 2 to this Act, and a registrar so appointed shall perform such of the functions of the Board under the said Schedule 2 as the Board may from time to time direct.

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—cont.

Appointment
of registrar.

63. The Board may invest in any manner in which trustees are for the time being authorised to invest trust moneys the whole or any part of any sum of money borrowed by them and not for the time being required for the purpose for which it was borrowed, and any other money held by the Board and not for the time being required for the purposes of the Board.

Power to
invest.

64. The Board may purchase any stock created and issued by them, whether at par or at a price above or below par, either in the market or by agreement with the holder thereof for the purpose of extinguishing that stock before the due date of redemption.

Purchase of
stock.

65. All securities issued or granted by the Board shall rank *pari passu* for the purposes of security without any priority on account of the date of issue or grant thereof or on any other account.

Ranking of
securities.

66. The Board shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any moneys payable by way of principal or interest in respect of any charge or stock created by the Board may be subject, and the receipt of the person or persons in whose name the charge or stock for the time being stands in the books of the Board shall be a sufficient discharge to the Board for any such moneys paid by them notwithstanding any trust to which those moneys may then be subject and whether or not the Board have had notice of that trust.

Board not
bound to
recognise
trusts.

67. All moneys of a revenue nature received by the Board shall be applicable by them for the purposes and in the order following, that is to say:—

Application of
revenue.

- (a) in payment of any expenses properly chargeable to revenue incurred by the Board;
- (b) in payment year by year of the interest accruing on any moneys borrowed by the Board;

PART V
—cont.

(c) in making the provision required by this Act for the repayment of moneys so borrowed;

and any balance shall be applicable to such purposes of the Board in such manner as the Board may determine.

Accounts of
Board.

68.—(1) The Board shall keep proper accounts, and proper records in relation to those accounts, and shall prepare proper statements of account in respect of each financial year of the Board; and the accounts of the Board for each such year shall be audited by auditors appointed by the Board for that year.

(2) No person shall be qualified to be so appointed auditor unless he is a member, or, in the case of a firm, unless all the partners are members, of one or more of the following bodies, that is to say:—

The Institute of Chartered Accountants in England and Wales;

The Institute of Chartered Accountants of Scotland;

The Association of Certified Accountants;

The Institute of Chartered Accountants in Ireland;

The Institute of Municipal Treasurers and Accountants;

any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161 (1) (a) of the Companies Act 1948 by the Department of Trade and Industry.

1948 c. 38.

(3) The report of the auditor on the accounts of the Board for each financial year shall be submitted to a meeting of the Board held so soon as may be after the end of the year of account.

Gratuities,
etc.

69.—(1) The Board may grant such gratuities, pensions or allowances and make such other payments as they may think fit to any officer or servant of the Board or, where in their opinion adequate provision is not otherwise made, to the widow or family or any dependants of such officer or servant.

(2) The Board may enter into, and carry into effect, agreements with any insurance company or other body for securing for the benefit of any such officer, servant, widow, family or dependants as aforesaid such gratuities, pensions, allowances or payments as are authorised by this section.

Contributory
pensions
fund.

70.—(1) Without prejudice to the powers conferred on the Board by section 69 (Gratuities, etc.) of this Act, the Board may,

if they think fit, continue and maintain a contributory pensions fund and shall pay out of such pensions fund gratuities, pensions or other allowances or benefits to any servants of the Board who are, or who have been, contributors to the fund in accordance with the rules thereof, or to the widow, family or dependants of any such servant.

PART V
—cont.

(2) The Board shall operate the pensions fund in accordance with such rules prescribing the terms and conditions on which the servants of the Board or any classes of such servants may contribute to the fund and the contributions to be made by such servants and the gratuities, pensions, allowances or benefits to which such servants shall be entitled, and may from time to time modify, alter or rescind any such rules:

Provided that—

- (i) no such modification, alteration or rescission shall place any servant of the Board who at the date of the modification, alteration or rescission has contributed, or is contributing to the pensions fund in a less favourable position than he would have been if such modification, alteration or rescission had not been made; and
- (ii) any gratuity, pension or other allowance or benefit being paid out of the pensions fund at the date of such modification, alteration or rescission to any servant of the Board, or to the widow, family or dependants of such servant, shall continue to be paid as if such modification, alteration or rescission had not been made and, following the death of such servant, the Board shall make any payments to his widow, family or dependants in accordance with the arrangements in operation immediately before the date of the modification, alteration or rescission.

(3) The pensions fund shall be applicable only for the payment of gratuities, pensions or other allowances or benefits due under this section.

71.—(1) The Board may pay or make reasonable subscriptions or donations, whether annually or otherwise, to the funds of such associations, public institutions or charities as the Board think fit. Payment of subscriptions, etc.

(2) The Board may defray reasonable expenses incurred in connection with official receptions or entertainment connected with the affairs of the Board.

PART VI

MISCELLANEOUS

Obstruction of
harbour
master and
others.

72. Any person who obstructs or interferes with the harbour master or with any officer or servant of the Board in the exercise of his powers or the performance of his duties under this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Boarding
of vessels.

73. A duly authorised officer of the Board may, on producing if so required his authority, enter and inspect a vessel in the Harbour or in the Harwich seaward area—

- (a) for the purposes of any enactment relating to the Board, or of any byelaw of the Board, including the enforcement thereof;
- (b) to prevent or extinguish fire.

Power to
contract for
police.

74.—(1) The Board may from time to time make agreements with the chief constable and police authority for the employment by the Board of any members of the police establishment of that police authority for police duty within the Harbour and the Harwich seaward area and in any premises for the time being vested in the Board or under their control.

(2) Any such agreement may contain such terms and conditions and provide for such payment or consideration as shall be agreed between the Board and the police authority.

1968 c. 73.

(3) For the purposes of this section, sub-paragraphs (3) and (4) of paragraph 5 of Schedule 16 to the Transport Act 1968 shall apply and have effect as if—

- (a) for the references therein to an agreement under that paragraph there were substituted references to an agreement with the British Railways Board under this section;
- (b) for the references therein to either or both the authorities referred to in the said sub-paragraph (4) there were substituted reference to the Board; and
- (c) for the reference therein to the premises of any such authority there were substituted reference to the Harbour, the Harwich seaward area and premises vested in, or under the control of, the Board.

(4) In this section “ police authority ” includes—

1964 c. 48.

- (a) a police authority within the meaning of the Police Act 1964; and
- (b) the British Railways Board.

75.—(1) Any constable or any responsible officer of the Board may require any person in, or seeking access to, the Harbour, or on any vessel in, or seeking access to, the Harbour, to state truly his name and address and the nature and place of his business or his purpose therein, or in seeking access thereto, and may require any such person to produce for inspection by such constable or officer any pass or other authority which may have been issued to him by or on behalf of the Board, and any person who fails to comply with any such requirement shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10.

PART VI
—cont.

Powers of
interrogation,
removal and
search.

(2) Any constable may remove from the Harbour or from any vessel in the Harbour any disorderly person or any person having no right or lawful purpose therein and may prevent any such person from having access thereto.

(3) Any officer of Her Majesty's Customs and Excise may detain and search within the Harbour any person or any vehicle, vessel or other property, upon whom, or in or about which, there is reasonable cause for believing that there may be any uncustomed or prohibited goods.

76. Any person offending against, or committing any breach or contravention of, any of the provisions of this Act or of any byelaw made by the Board under this Act or under any other enactment shall, in addition to any fine thereby incurred, be liable in civil proceedings, under section 74 of the Harbours Clauses Act or otherwise, to repay to the Board the cost of repairing or making good any damage caused thereby to the property of the Board.

Offenders
to make
good damage.

77. For the purposes of this Act and any byelaw made thereunder, the jurisdiction of all justices of the peace having jurisdiction at any time within any part of the Harbour, shall extend throughout the Harbour and the Harwich seaward area.

Jurisdiction
of justices.

78. Any notice, licence or other document given or issued by the Board under any enactment shall, unless the contrary intention is expressed in the enactment in question, be sufficiently authenticated if signed by the chief executive officer of the Board or his deputy.

Authentication
of documents.

79. The Board may, subject to such terms and conditions as they think fit—

(a) from time to time erect or provide on any lands belonging to them, or purchase, take on lease or hire, dwelling-houses for persons employed by them and may (without

Power to
provide
dwelling-houses
and make
loans.

PART VI
—cont.

prejudice to their power to impose other terms and conditions) permit the same to be occupied by such persons with or without payment of rent;

- (b) permit a person formerly in their employment to continue to occupy a dwelling-house provided by them after his employment with the Board has ceased;
- (c) make loans to persons employed by them to assist such persons to acquire housing accommodation and may guarantee loans made by building societies and other lenders for house purchase purposes to such persons;
- (d) continue a loan made by them to a person formerly in their employment after his employment with the Board has ceased or the guarantee of a loan given by them in respect of such a person.

Legislation.

80. The Board may promote or oppose Bills in Parliament and may apply for, or oppose, applications for orders, byelaws, schemes or awards made under any Act.

Local inquiries.

1933 c. 51.

81. The Secretary of State may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act, and the provisions of subsections (2) to (5) of section 290 of the Local Government Act 1933 which relate to the giving of evidence at, and defraying the cost of, local inquiries, shall apply to any such inquiry as if it were held by the Secretary of State under subsection (1) of that section:

Provided that subsection (4) of that section (which requires the Secretary of State's costs of such an inquiry to be defrayed by the parties thereto) shall not apply in relation to any inquiry unless it is so directed by the Secretary of State.

Saving for port health authority.
1881 c. clxii.
1889 c. cxiv.

82. Nothing in this Act shall prejudice or affect the provisions of the Harwich Order confirmed by the Local Government Board's Provisional Orders Confirmation (Acton, &c.) Act 1881 and the Harwich Order confirmed by the Local Government Board's Provisional Orders Confirmation (No. 12) Act 1889 relating to the Port of Harwich Sanitary Authority.

Saving for town and country planning.
1971 c. 78.

83. The provisions of the Town and Country Planning Act 1971, and any restrictions or powers imposed or conferred in relation to land by or by virtue of those provisions, shall apply and may be exercised in relation to any land notwithstanding that the development thereof is, or may be, authorised or regulated by or under this Act.

84.—(1) Except as provided in subsection (2) of this section, nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Board of Trade or the Secretary of State for Trade and Industry to the carrying out of certain operations whereby obstruction or danger to navigation is caused or is likely to result).

PART VI
—cont.

Saving for
Coast
Protection
Act 1949.
1949 c. 74.

(2) An application for consent under the said sections 34 to 36 to—

- (a) the carrying out of any operations for which a works licence is required under section 19 (Restriction on works, dredging and moorings) of this Act; or
- (b) the deposit of any materials for which the approval of the Board is required under the proviso to subsection (4) of section 21 (Licensing of dredging) of this Act;

shall not be determined, until application has been made to the Board for a works licence or for such approval (as the case may be) and the Board have notified the applicant of their decision upon his application or, where there is an appeal under section 23 (Appeals in respect of works or dredging licences) of this Act in respect of any decision given, or deemed to have been given, by the Board upon that application, the appeal has been dealt with.

85. Nothing in this Act shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of the Trinity House.

Saving for
Trinity House.

86. Section 265 of the Public Health Act 1875 shall apply to the Board as if any reference in that section to the said Act of 1875 included a reference to this Act, any reference in that section to a member of a local authority included a reference to a conservator and any reference in that section to a joint board included the Board.

Protection of
conservators
and officers
of Board
from personal
liability.
1875 c. 55.

87.—(1) (a) The provisions of this Act specified in paragraph (b) of this subsection shall come into operation on such day as may be fixed by resolution of the Board subject to, and in accordance with, the provisions of this section.

Commence-
ment of
certain
provisions of
Act.

(b) The provisions referred to in paragraph (a) of this subsection are the following:—

- Section 42 (Notice before entry of dangerous goods);
- Section 43 (Entry of dangerous goods).

(2) Different days may be fixed under this section for the purpose of different provisions referred to in subsection (1) (b) above.

PART VI
—cont.

(3) The Board shall cause to be published in Lloyd's List and Shipping Gazette newspaper or some other newspaper specialising in shipping news notice—

(a) of the passing of any such resolution and of the day fixed thereby; and

(b) of the general effect of the provisions of this Act coming into operation as from that day;

and the day so fixed shall not be earlier than the expiration of one month from the date of publication of the said notice.

(4) Either—

(a) a copy of any such newspaper containing any such notice; or

(b) a photostatic or other reproduction certified by the chief executive officer of the Board to be a true reproduction of a page, or part of a page, of any such newspaper bearing the date of its publication and containing any such notice;

shall be evidence of the publication of the notice and of the date of the publication.

Costs of
Act.

88. All the costs, charges and expenses preliminary to, and of and incidental to, the preparing, applying for, obtaining and passing of this Act shall be paid by the Board.

SCHEDULES

SCHEDULE 1

Section 5 (3).

INCREASE OF FINES

Section of Act of 1847	Description of offence	Old fine or maximum fine	New maximum fine
(1)	(2)	(3)	(4)
35	Failing to report arrival of vessel	£10	£50
36	Failing to produce on demand certificate	£20	£100
54	Misbehaviour of harbour master	£5	£20
55	Offering or taking bribes	£20	£100
59	Failing to dismantle vessel as directed	£10	£50
60	Navigating a vessel under sail into or in dock	£10	£50
62	Wilfully cutting moorings	£5	£20
63	Placing vessels near entrance of dock without permission	£5 and £1 per hour	£20 and £1 per hour
64	Failing to remove vessel after notice	£10	£50
69	Failing to move combustible material after notice	£2 per hour	£20
71	Committing any offence mentioned in section	£10	£50
72	Obstructing entry by harbour master into vessel in case of fire, etc.	£10	£50
73	Throwing ballast, etc., into dock	£5	£20

SCHEDULE 2

Sections 54 (4)
and 62.

PROVISIONS WITH RESPECT TO STOCK OF THE BOARD

Terms of issue, etc.

1. The stock may be created and issued by public tender or otherwise from time to time at such price, at such time, bearing such interest and, subject to the provisions of this Act, on such terms and conditions as the Board may by resolution respectively determine in the case of each portion of stock created.

2. The stock so created and issued, together with the interest thereon, shall be a charge on the revenues and property of the Board.

3. The stock shall be redeemable by the Board at par in such manner and, subject to the provisions of this Act, at such time as the Board may, by the resolution for the creation of the stock in question, declare:

Provided that nothing in this paragraph shall prevent the Board from purchasing any stock, whether at par or at a price above or below par, in the market or by agreement with the holder thereof for the purpose of extinguishing that stock before the due date of redemption.

4. Any sum payable by way of interest on, or for the redemption of, any stock which for any reason not due to the default of the Board is not paid at the due date shall be paid on demand at any time thereafter to any person showing his right thereto, but no interest shall be payable thereon in respect of the period between the due date and the date of payment.

5. Where two or more persons are registered as joint holders of any stock, a receipt given by any one of those persons for any sum paid by way of interest on, or for the redemption of, that stock shall be effectual unless notice to the contrary has been given to the Board by any other of those persons.

6. The Board on redeeming or purchasing any stock shall forthwith pass a resolution directing the stock so redeemed or purchased to be cancelled and the stock register to be amended accordingly, and that stock and any interest thereon which has not already become payable shall thereupon be extinguished.

7. The Board may at any time by resolution revoke in whole or in part any resolution for the creation of any stock previously passed by the Board except in relation to any of that stock which has already been issued.

Stock register and stock certificates

8.—(1) The Board shall cause to be kept a stock register in which shall be entered—

- (a) the names and addresses of all persons who become holders of the stock and of the amount of the stock held by each such person;

- (b) the date at which each such person was entered in the register as a holder of the stock;
- (c) the date at which any such person ceased to be a holder of the stock.

SCH. 2
—cont.

(2) The stock register shall be prima facie evidence of all matters entered therein and of the title of the persons shown therein as being for the time being holders of any of the stock.

(3) The stock register shall be open during reasonable hours for inspection without payment by any holder of the stock or by any person duly authorised in writing in that behalf by any holder of the stock.

9.—(1) The Board shall cause to be issued to each holder of the stock a stock certificate, which shall be prima facie evidence of the title of the person named therein, his personal representatives or assigns, to the stock specified therein, but the want of a stock certificate, if accounted for to the satisfaction of the Board, shall not prevent the person entitled to the stock from disposing of and transferring it.

(2) Any stock certificate which is worn out or damaged may on production thereof to the Board be cancelled and replaced by a new certificate, and any stock certificate shown to the satisfaction of the Board to have been lost or destroyed may, on the giving of such guarantee or indemnity in respect thereof as the Board may require, be replaced as aforesaid, and in either case due entry of the issue of the new certificate shall be made in the stock register.

(3) The Board may charge such fee not exceeding 25 pence as they may think fit for each stock certificate issued by them under this Schedule.

Transfer and transmission of stock

10.—(1) The stock shall be transferable in amounts of one pound or multiples of one pound, but stock created at different dates shall not be included in the same instrument of transfer and the Board shall not be bound to register any transfer except on production of the stock certificate relating to the stock to be transferred or on its absence being accounted for to their satisfaction.

(2) Any instrument of transfer of stock when duly executed shall be delivered to the Board who shall enter in the stock register such particulars as are requisite to show the effect of the transfer and endorse on the instrument a notice of that entry; and until the instrument has been so delivered the Board shall not be affected thereby and the transferee shall not be entitled to receive any interest on the stock.

(3) The Board may charge such fee not exceeding 25 pence as they may think fit in respect of any entry made by them in the stock register under this paragraph.

SCH. 2
—cont.

(4) The Board shall on demand, subject to delivery up of the old stock certificate or to its absence being accounted for to their satisfaction and to the giving of such guarantee or indemnity in respect thereof as they may require—

- (a) in the case of the sub-division of any holding of stock, issue to each person entitled to any part of that holding a new certificate of the stock to which he is entitled;
- (b) in any other case, as the Board may elect, either issue a new certificate or make an endorsement of the transfer on the old certificate.

11.—(1) Where the person shown in the stock register as the holder of any stock is dead, his personal representatives shall be the only persons recognised by the Board as having any title to that stock or any interest thereon.

(2) The Board shall not be required to allow the personal representatives aforesaid to transfer any such stock until there has been produced to the Board a document which is by law sufficient evidence of the grant of probate of the will, or letters of administration of the estate, or confirmation as executor, of that deceased person, and the Board may require all the executors who have proved the will or all the administrators to join in the transfer.

12.—(1) Any person becoming entitled to any stock in consequence of the bankruptcy of the holder thereof or otherwise than by the death of the holder or the transfer of the stock shall produce such evidence of his title as may be reasonably required by the Board, and until such evidence has been produced the Board shall not be affected by the transmission and any person claiming by virtue thereof shall not be entitled to receive any interest on the stock.

(2) Subject to the foregoing sub-paragraph, the name of the person entitled under such a transmission as aforesaid shall be entered in the stock register.

(3) The Board may charge such fee not exceeding 25 pence as they think fit for each entry made in the stock register under this paragraph.

(4) This paragraph shall apply to a change of name of the holder of any stock as if there had been a transmission of the stock.

13. The Board may in any year close the stock register in respect of any portion of the stock for a period not exceeding 14 days immediately preceding the due date for payment of interest on that portion of the stock and, notwithstanding the receipt by the Board during that period of any instrument of transfer or of the evidence of any other transmission, any interest next payable in respect of that portion of the stock may be paid to the persons appearing to be entitled thereto by reference to the register as at the date of the closing thereof.

SCHEDULE 3

Section 6.

PART I

ENACTMENTS REPEALED

The Harwich Harbour Act 1863;	1863 c. 71.
The Harwich Harbour Act 1864;	1864 c. 102.
The Harwich Harbour Act 1865;	1865 c. 120.
The Harwich Harbour Order 1920;	1920 c. cxx.
The Harwich Harbour Act 1928;	1928 c. v.
The Harwich Harbour Act 1938;	1938 c. lvii.
The Harwich Harbour Act 1949;	1949 c. xvii.
The Harwich Harbour Act 1964;	1964 c. ix.
The Harwich Harbour Revision Order 1965;	
Section 49 (Alteration of limits of Harwich Harbour) of the Essex River and South Essex Water Act 1969;	1969 c. xlix.
The Harwich Harbour (Reserve Fund) Revision Order 1972.	

PART II

ENACTMENTS SAVED FROM REPEAL

In the Harwich Harbour Act 1863—

8. The conservancy of Harwich Harbour and of the seashore within the limits of the jurisdiction of the Conservancy Board, so far as the same conservancy is now vested in Her Majesty the Queen in right of Her Crown or of Her Office of Admiral, or in the Admiralty, or in either of the said municipal corporations, shall be and is hereby transferred to and vested in the Conservancy Board, who shall have and may exercise all the same rights, powers, and jurisdiction for the preservation and regulation of the Harbour, and of the aforesaid part of the seashore, and for the abatement and removal of nuisances affecting the same, and for the prevention of injury thereto, as now are had or may lawfully be exercised by Her Majesty in right of Her Crown or of Her Office of Admiral, or by the Admiralty, or by either of the said municipal corporations.

Transfer to Board of existing conservancy powers.

9. As soon as may be after the passing of this Act, and afterwards from time to time as occasion may require, the Conservancy Board shall execute such works within the limits of their jurisdiction as may seem best calculated to prevent the point of land called Landguard Point, at the north-eastern side of the mouth of the said estuary, from extending southwards across the mouth in consequence of the deposit and accumulation there of shingle, sand, or other substances.

Direction to Board to execute works.

10. The Conservancy Board may also from time to time execute all such works and do all such things at any place within the limits of their jurisdiction as may be necessary or proper for keeping open their jurisdiction as may be necessary or proper for keeping open

Power to Board to execute other works for preservation and improvement of the Harbour.

SCH. 3
—*cont.*

the entrance of the Harbour, or for preserving the Harbour from injury resulting from natural or artificial causes, or for maintaining or improving the general navigation of the Harbour, or for facilitating access thereto.

10 & 11
Vict. c. 27
incorporated.

15. The Harbours, Docks and Piers Clauses Act 1847 shall be incorporated with this Act (for the purposes of which Act this Act shall be deemed the special Act); but sections 99 and 100 thereof shall be read as subject to the provisions of this Act expressly affecting such of the rights or things therein mentioned as are specified in this Act.

1865 c. 120.

In the Harwich Harbour Act 1865—

Construction
of Act.

2. This Act shall be read and have effect as one Act with the Harwich Harbour Acts 1863 and 1864, and the purposes of this Act shall be deemed to be comprised in the purposes of those Acts; and all enactments incorporated with the Harwich Harbour Act 1863 shall be deemed incorporated with this Act; and terms used in this Act have the same meanings as in the Harwich Harbour Act 1863.

1863 c. 71.

Power to
remove parts
of Landguard
Point.

15. The Conservancy Board may, by dredging, cutting and otherwise, remove such parts of Landguard Point, as well above as below high-water mark, as they think it necessary to remove for making the Harbour more readily accessible, the lord of the manor claiming an interest in Landguard Point having assented thereto.

Power to
construct
pier on
Landguard
Beach.

16. The Conservancy Board may construct and maintain a pier and landing place, with all necessary approaches, works, and conveniences, on the Landguard Inner Beach, at or near a point twelve hundred feet or thereabouts, measured along the shore in a northwardly direction from the north-west angle of the fence inclosing the lighthouse and premises on Landguard Point in the possession of the Trinity House, and thence extending in a westwardly direction into the Harbour for a distance of about two hundred feet.

Power to sell
ballast.

22. The Conservancy Board may from time to time sell, to be used as ballast or for other purposes, any gravel or other substance dredged or raised by them from the Harbour under the powers of the Harwich Harbour Acts.

Power to
construct
ballast
wharves,
and take
tolls.

23. The Conservancy Board may from time to time construct and may maintain within the Harbour, on any lands vested in them, such ballast wharves as they think fit, and may demand and take in respect of the use thereof such tolls as they from time to time think fit.

Right to
moorings.

31. The Conservancy Board shall have the exclusive right to lay down and maintain moorings within the Harbour.

40. Fishing vessels belonging to countries with which for the time being treaties exist exempting from duties and port charges such vessels when forced by stress of weather to seek shelter in the ports or on the coasts of the United Kingdom shall, when forced by stress of weather to make use of the Harbour, and not breaking bulk while making use thereof, be exempt from tolls, rates, fees, and dues leviable under the Harwich Harbour Acts or any of them.

SCH. 3
—cont.

Exemptions
of fishing
vessels in
distress.

41. The Conservancy Board shall not take, use, or interfere with any lands belonging to the Queen's most Excellent Majesty, Her Heirs or Successors, in right of the Crown, without the previous consent of the Commissioners for the time being of Her Majesty's Woods, Forests, and Land Revenues, or one of them, on behalf of Her Majesty, Her Heirs or Successors, which consent those Commissioners respectively are hereby authorised to give; and, except as is provided in section 8 of the Harwich Harbour Act 1863, nothing in the Harwich Harbour Acts, or in any Act therewith respectively incorporated, shall divest, take away, prejudice, diminish, or alter any estate, right, privilege, power, or authority at the passing of those Acts respectively or from time to time vested in or enjoyed or exercisable by the Queen's Majesty, Her Heirs or Successors, in right of the Crown, or in or by any lessee or licensee of the Crown; and nothing in the Harwich Harbour Acts shall authorise the Conservancy Board to execute or do, or to license the execution or doing of, any work, act, or thing that will injuriously affect the present or future enjoyment of any right, power, or interest for the time being vested in any person under any lease or licence from the Crown existing at the passing of this Act, or under any renewal thereof; and all the rights, powers, estates, and interests of any person for the time being taking any interest under any such lease or licence, or under any renewal thereof, shall in all respects be as if this Act had not been passed.

Saving rights
of the Crown,
its lessees, &c.

1863 c. 71.

42. Except as in this Act expressly provided, nothing in this Act shall take away or abridge any right, power, authority, estate, or interest vested in the Conservancy Board.

Saving powers
of Board.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR C. H. BAYLIS, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament