

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
1 GEO. 6.] (*Fowey*) Confirmation Act, 1937.



CHAPTER lxxii.

An Act to confirm a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 relating to Fowey. A.D. 1937.

[13th July 1937.]

WHEREAS a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 is not of any validity or force whatever until confirmation thereof by Act of Parliament: 24 & 25 Vict. c. 45.

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

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

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

2. This Act may be cited as the Pier and Harbour Order (Fowey) Confirmation Act 1937. Short title.

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SCHEDULE.

FOWEY HARBOUR.

Order for the management and improvement of the Harbour of Fowey in the county of Cornwall.

Short title.

1. This Order may be cited as the Fowey Harbour Order 1937.

Commencement of Order.

2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as "the commencement of this Order."

Interpretation.

10 & 11 Vict.
c. 27.

3. In this Order unless the context otherwise requires—

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

"The harbour" means the harbour of Fowey and the river Fowey as defined in this Order and the land buildings works plant property and conveniences connected therewith or any part thereof as the case may be;

"The harbour undertaking" means and includes the harbour and the conveniences connected therewith and the right to levy rates and tolls and all other rights conferred on or vested in the Fowey Harbour Commissioners by this Order and the entire undertaking of the said Commissioners in connection with the harbour;

"The harbour revenue" means and includes the rates tolls dues rents and other moneys and receipts which may be taken and received by way of income from or in respect of the harbour undertaking under the authority of this Order;

"Authorised rates" and "authorised rate" mean respectively the rates or rate which the Commissioners are for the time being authorised to levy demand and recover in pursuance of this Order;

"The works" means the works authorised by this Order or as the case may require any part thereof;

"Lands" includes foreshore and fundus or bed of the river Fowey or harbour below low-water mark;

"The Minister" means the Minister of Transport;

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“ Vessel ” includes a seaplane on the surface of the water; A.D. 1937.

“ Seaplane ” includes a flying boat and any other aircraft
designed to manoeuvre on the water; —

“ Statutory security ” means any security in which
trustees are for the time being by or under any Act
of Parliament passed or to be passed authorised to
invest trust money and any mortgage bond debenture
or debenture stock or other security authorised by or
under any Act of Parliament passed or to be passed
of any county council or municipal corporation or
other local authority as defined by section 34 (Defini-
tions) of the Local Loans Act 1875 but does not include
annuities rentcharges or securities transferable by
delivery or securities of the Commissioners. 38 & 39 Vict.
c. 83.

4.—(1) The following Acts are incorporated with this Order
except as expressly varied thereby :— Incorpora-
tion of
Clauses Acts.

(a) The Lands Clauses Acts (except so much thereof as relates
to the purchase and taking of lands otherwise than by
agreement and to the entry upon lands by the promoters
of the undertaking and except sections 127 to 131
inclusive of the Lands Clauses Consolidation Act 1845); 8 & 9 Vict.
c. 18.

(b) The Commissioners Clauses Act 1847 so far as not
inconsistent with this Order shall be and the same is
hereby incorporated with this Order and shall so far as
the nature and circumstances of the case will admit
apply to the Commissioners collectively and severally
subject to the following provisions :— 10 & 11 Vict.
c. 16.

(i) Sections 6 7 17 18 20 21 22 23 24 25 26 28 29
30 31 32 54 84 89 90 91 92 and 95 of the said Act shall
not be incorporated with this Order;

(ii) With reference to sections 36 and 40 of the said
Act the first meeting of the Commissioners shall be
held at the office of the Commissioners within three
calendar months next after the passing of the Act
confirming this Order at three o'clock in the afternoon
An annual meeting of the Commissioners shall be held
on the third Wednesday in the month of September
in every year thereafter at the place and hour above-
mentioned or at such other time and such other place
as the Commissioners may from time to time appoint;

(iii) With reference to section 39 of the said Act the
prescribed number to constitute a quorum of the
Commissioners shall be three;

(iv) In the application of section 57 of the Com-
missioners Clauses Act 1847 to the proceedings of

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the Commissioners the sum of one thousand pounds shall be substituted for the sum of one hundred pounds mentioned in such section;

(c) In the application to this Order of the Harbours Clauses Act 1847—

(i) The word "vessel" shall include a seaplane on the surface of the water:

Provided that nothing in the Harbours Clauses Act 1847 or this Order shall authorise a harbour master or other officer to require the dismantlement of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane;

(ii) Sections 6 to 13 16 to 19 26 37 to 42 45 and 84 to 87 of the Harbours Clauses Act 1847 shall not be incorporated with this Order.

(2) For the purposes of the incorporation of the said Acts the expression "the Special Act" in those Acts shall mean this Order.

Undertakers.

5. The Commissioners shall on taking office become and be the undertakers for carrying this Order into execution.

Commissioners constituted and incorporated.

6.—(1) For carrying this Order into effect there shall be and there is by this Order constituted a body of Commissioners not exceeding nineteen in number who are in this Order called "the Commissioners" (except where otherwise expressly in this Order directed).

(2) The Commissioners and their successors shall be and they are hereby for the purposes of this Order incorporated by the name of the Fowey Harbour Commissioners and by that name shall be a body corporate with perpetual succession and a common seal with power to purchase take hold and dispose of land and other property for the purposes but subject to the restrictions of this Order.

Repeal of Order of 1921 and transfer of property.

7. At the expiration of two calendar months from the commencement of this Order the following provisions shall have effect:—

(1) The Fowey Harbour Order 1921 (in this Order called "the Order of 1921") shall be and the same is hereby repealed subject and without prejudice to anything which may have been done or any proceedings pending under that Order at the date of such repeal:

(2) All the estates rights and property belonging to or vested in the Commissioners constituted under the Order of 1921 shall become vested in and belong to the Commissioners but subject to all charges and incumbrances (if any) upon or affecting the same:

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(3) In and under all contracts actions and other proceedings to which the Commissioners under the Order of 1921 are parties the Commissioners shall become and be substituted in place of the Commissioners under the Order of 1921 and such contracts actions and other proceedings shall continue in full force and have effect accordingly : A.D. 1937.

(4) The first Commissioners shall be those holding office under the Order of 1921 on the first day of October one thousand nine hundred and thirty-six and any vacancies in their number shall be filled as hereinafter provided Such Commissioners and any appointed to fill such vacancies shall hold office until the expiration of the term of years for which they were elected namely until the Saturday next preceding the third Monday in September one thousand nine hundred and thirty-nine.

8. The Commissioners acting at the date of this Order coming into effect shall continue to act until the end of the respective terms for which they were appointed or elected under the Order of 1921 and shall be deemed to represent the bodies persons or authorities by whom they were appointed or elected and subject thereto subsequent and additional Commissioners shall be appointed or elected as hereinafter in this Order provided :— As to appointment and election of Commissioners.

(1) The Great Western Railway Company acting by their directors shall have the right to appoint three persons to be Commissioners :

(2) The lord or lords for the time being of the manor of Fowey otherwise Foy and Langurthowe (Edward Treffry claiming to be the present lord of such manor) shall have the right to appoint two persons to be Commissioners :

(3) The Minister may if he thinks fit appoint one person to be a Commissioner :

(4) The Council of His Royal Highness the Prince of Wales or the Crown as the case may be in right of the Duchy of Cornwall may at any time if they think fit appoint one person to be a Commissioner :

(5) The British China Clay Producers' Federation Limited may if they think fit appoint two persons to be Commissioners :

(6) Any person who has within six calendar months next preceding the month in which an election is held been registered as managing owner of any ship or vessel belonging to the port of Fowey (the register of which ship or vessel is kept at the custom house of the said port) and has become liable to and has paid authorised rates at the harbour of Fowey and any person who carries

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on business as a bona fide shipbroker within twelve miles of any part of the harbour of Fowey and who has within six calendar months next preceding the month in which an election is held become liable to and has paid authorised rates at the harbour of Fowey in respect of any vessel for which he has acted as agent or broker may subject to and in accordance with the provisions of this Order vote for the election of four persons to be Commissioners. A limited company or limited partnership may vote by its secretary or other person nominated for that purpose in writing and an ordinary partnership may vote by any one of its members :

- (7) The mayor aldermen and burgesses of the borough of Fowey in the county of Cornwall acting by the council may subject to and in accordance with the provisions of this Order elect four persons to be Commissioners :
- (8) The parish council for the parish of Lanteglos in the county of Cornwall may subject to and in accordance with the provisions of this Order elect two persons to be Commissioners :
- (9) The Commissioners appointed under the first five subsections of this section shall hold office for their respective lives or until they shall respectively resign or their appointment shall be determined as next hereinafter provided :
- (10) The appointment of an appointed Commissioner may at any time be determined by the body person or authority by whom he may have been appointed :
- (11) Whenever a vacancy arises by death resignation or otherwise in the office of an appointed Commissioner the body person or authority by whom such Commissioner was appointed shall appoint another person to fill the vacancy :
- (12) The Commissioners elected under subsections (6) (7) and (8) of this section shall hold office for a period of three years from the date of their election and retiring members shall be eligible for re-election :
- (13) Whenever a vacancy arises by death resignation or otherwise in the office of an elected Commissioner the body persons or authority by whom such Commissioner was elected shall elect another person to fill the vacancy in the manner hereinafter provided but each Commissioner so elected shall hold office so long only as the person in whose place he is appointed would have been entitled to continue in office.

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9.—(1) With respect to the election of four Commissioners under subsection (6) of section 8 of this Order the following provisions shall have effect.

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Mode of
election of
Commis-
sioners.

(2) As to the first election of the said four Commissioners—

(i) The meeting for their election is to be held at the town hall in the town of Fowey in the month of August one thousand nine hundred and thirty-nine ;

(ii) The persons elected are to take office on the third Monday in September one thousand nine hundred and thirty-nine and are to go out of office at the end of the day on the Saturday next preceding the third Monday in the month of September in the year one thousand nine hundred and forty-two.

(3) As to subsequent elections of such Commissioners—

(i) The meeting for their election is to be held in the month of August and not later than the third Monday in August in the year one thousand nine hundred and forty-two and in every third subsequent year at a convenient place to be appointed by the Commissioners ;

(ii) The persons elected are to take office on the third Monday in the month of September next following their election and are to go out of office at the end of the day on the Saturday next preceding the Monday on which their successors are to take office.

(4) The following provisions shall apply to all elections under subsection (6) of section 8 of this Order :—

(i) The clerk to the Commissioners is to give notice of the day and place of meeting by affixing the same on the door of the office of the Commissioners and also by advertisement in some newspaper published and circulating in the county of Cornwall and in any other convenient manner fourteen days at least before the day of meeting ;

(ii) Any elector may attend the meeting and vote ;

(iii) The books of the Commissioners shall be evidence as to what persons are duly qualified electors ;

(iv) The election is to be by show of hands ;

(v) Any two electors may at the meeting propose any person as a candidate and if not more than four persons are proposed the chairman is to declare them elected without taking a show of hands ;

(vi) The clerk to the Commissioners or a Commissioner shall act as chairman of the meeting and shall declare the number of votes given to each candidate and in case his decision is challenged is to cause the number of electors

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voting for each candidate to be ascertained by taking a division or in some other convenient manner;

- (vii) The decision of the chairman (who in case of equality of votes is to have a casting vote) as to the number of persons voting and the result of the election shall be final and conclusive;
- (viii) The four candidates having the greatest number of votes are to be the Commissioners elected;
- (ix) The chairman of the meeting is within seven days after the meeting to report to the clerk to the Commissioners the names of the persons elected.

As to Commissioners elected by Fowey Borough Council.

10. With respect to the election of Commissioners by the said Fowey Borough Council the following provisions shall have effect:—

(1) As to the first election of such Commissioners—

- (i) The clerk to the Commissioners shall by notice in writing require the town clerk of the said borough to hold a special meeting of the council in the month of August one thousand nine hundred and thirty-nine to elect four Commissioners and such meeting shall be held accordingly;
- (ii) Within seven days after the meeting the town clerk shall report to the clerk to the Commissioners the names of the persons elected;
- (iii) The persons elected are to take office on the third Monday in September one thousand nine hundred and thirty-nine and are to go out of office at the end of the day on the Saturday next preceding the third Monday in the month of September in the year one thousand nine hundred and forty-two:

(2) As to the subsequent elections of such Commissioners—

- (i) The meeting for their election is to be held in the month of August and not later than the third Monday in August in the year one thousand nine hundred and forty-two and in every third subsequent year;
 - (ii) The persons elected are to take office on the third Monday in the month of September next following their election and are to go out of office at the end of the day on the Saturday next preceding the Monday on which their successors are to take office:
- (3) As to the election of Commissioners by the said council to fill casual vacancies the clerk to the Commissioners shall notify the town clerk whenever a vacancy is caused in the office of either of the Commissioners elected by the

said council and the council shall at their next practicable meeting elect another person to fill the vacancy : A.D. 1937.
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- (4) Within seven days after every meeting at which any Commissioner is elected the town clerk shall report to the clerk to the Commissioners the name or names of the person or persons elected.

11. All the provisions of the last preceding section of this Order with reference to the election of Commissioners by the said Fowey Borough Council shall apply and have effect so far as they can be made applicable and as the circumstances of the case admit to the first and subsequent elections of Commissioners by the parish council of the parish of Lanteglos substituting the clerk of the parish council for the town clerk. As to Commissioners elected by Lanteglos Parish Council.

12. All expenses of or incidental to an election of Commissioners under this Order are to be paid by the Commissioners out of the harbour revenue or other income of the Commissioners. Expenses of election.

13.—(1) The Commissioners shall be deemed fully constituted and have power to act under this Order as soon as five persons have been appointed or elected Commissioners. Proceedings not to be invalidated by vacancies among Commissioners.

(2) Proceedings of the Commissioners shall not be invalidated or be illegal by reason of any vacancy in their body or of the non-appointment or non-election of or any defect in the appointment or election of a Commissioner.

14. Subject to the provisions of this Order and subject also to such alterations (if any) on the deposited plans and the deposited sections as the Board of Trade may require before completion of the work the Commissioners may on lands belonging to or acquired by them under this Order and in the lines and according to the levels and within the limits of deviation shown on the deposited plans and sections make and maintain the following works :— Power to construct works.

Work No. 1 An embankment or slipway of solid construction commencing on the east side of the river Fowey at the northern wall of the building known as " Brazen Island Sardine Factory " and extending thence in a north-easterly direction at a gradually diminishing level along the rock or foreshore forming the edge of the said harbour and terminating at a point two hundred and fifty yards or thereabouts from the point of commencement above described so as to form an inclined plane or slipway and constructed so as to carry a marine railway and cradle for the purpose of hauling vessels of suitable dimensions out of the sea up the said embankment or slipway and of lowering them down into the sea ;

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Work No. 2 The reconstruction repair and strengthening of the building formerly the Brazen Island Sardine Factory and the laying down therein of concrete floors and beds for engines and machinery and the installation therein of machinery suitable for repair and reconditioning of marine vessels and plant of all descriptions ;

With all necessary and convenient foundations walls embankments lights and other works.

Power to deviate.

15. In constructing the works the Commissioners may deviate laterally from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans Provided that no lateral deviation below high-water mark shall be made without the consent in writing of the Board of Trade.

Dredging maintenance and improvement of undertaking &c.

16.—(1) The Commissioners may improve the harbour by dredging and deepening the same and the accesses thereto and may maintain alter improve and extend the harbour and the works connected therewith and also the works authorised by this Order and may also from time to time construct erect and maintain alter improve and extend embankments piles caissons walls stairs landing places approaches jetties piers wharves quays dry docks slips steps warehouses offices sheds and other buildings cranes weighing machines machinery buoys moorings lights lighthouses beacons groynes sluices marine railways roads sewers drains watercourses gas and water pipes electric light and power and other works apparatus and conveniences and may supply water to vessels.

(2) All sand mud and other materials dredged up or removed shall be the property of the Commissioners and they may sell or otherwise dispose of or remove or deposit the same either within or without the harbour as they think fit Provided that no sand mud or other material shall be laid down or deposited in any place below high-water mark without the consent in writing of the Board of Trade having been first obtained :

Provided further that no sand mud or other material so dredged up or removed if detrimental to sea-fish or sea-fishing shall be laid down or deposited within the limits of the Cornwall Sea Fisheries District without the consent of the local fisheries committee for the district given under the hand of their clerk having been first obtained and confirmed by the Ministry of Agriculture and Fisheries.

(3) All money arising from any sale or other disposition of sand mud and other materials under this section after payment of the expenses connected therewith shall be applied in the same manner as the harbour revenue under this Order is to be applied.

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
1 GEO. 6.] (*Fowey*) Confirmation Act, 1937.

(4) The Commissioners shall not execute any of the works by this Order authorised so as to endanger the stability of the jetties wharves and other works of the Great Western Railway. A.D. 1937.
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(5) Before exercising the powers conferred by this section within a distance of twenty-five yards of any submarine cable belonging to or used by the Postmaster-General the Commissioners shall give to the Postmaster-General seven days' notice in writing of their intention to exercise such powers.

(6) Any electric light and power and other works apparatus and conveniences constructed or erected under the provisions of this Order shall be so constructed erected maintained and used as to prevent any interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line. 41 & 42 Vict.
c. 76.

Nothing in this Order shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1935 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section. 45 & 46 Vict.
c. 56.

17.—(1) If the works are not substantially commenced within two years from the commencement of this Order or such extended time as the Minister may in the circumstances by order direct the said powers shall cease. Powers to
cease in
certain
events.

(2) If the execution of the works after having been substantially commenced is virtually suspended for twelve consecutive months the said powers shall cease except as to so much of the works as is then completed unless the Minister by order direct that the said powers continue and remain in force but subject to the foregoing provisions as to completion in any event within five years from the commencement of this Order.

(3) A certificate of the Minister to the effect that the works have not been substantially commenced or that they have been virtually suspended for twelve consecutive months shall for the purposes of this section be conclusive evidence of the facts stated in such certificate.

18. Notwithstanding the repeal of the Order of 1921 all the estate right and interest of the corporation of Lostwithiel in or over the harbour of Fowey or in respect of the rights and privileges connected therewith vested in the Commissioners constituted under the Order of 1921 shall be and continue vested in the Commissioners and the harbour and works shall hereafter be maintained and repaired regulated extended and improved by the Commissioners only under the authority and subject to the provisions of this Order. Saving
certain pro-
visions of
repealed
Order.

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Power to
take lands by
agreement.

19. Subject to the provisions of this Order the Commissioners may hold and may by agreement purchase and use such lands as may be requisite for the purposes of the harbour and they may further by agreement purchase and hold for the purposes of this Order any additional lands not exceeding in the whole fifty acres but with respect to such additional lands nothing in this Order or in the Acts incorporated therewith shall exempt the Commissioners from any indictment action or other proceedings for nuisance in the event of any nuisance being caused or permitted by them thereon.

Power to
grant
easements.

20. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may subject to the provisions of those Acts and of this Order grant to the Commissioners for the purposes of this Order any easement right or privilege (not being an easement right or privilege of water in which other persons than the grantors have an interest) in over or affecting any such lands and the provisions of the said Acts with respect to lands and rent charges so far as the same are applicable in this behalf shall extend and apply to such easements rights and privileges respectively.

Power to
retain sell
&c. lands.

21.—(1) Notwithstanding anything in the Lands Clauses Acts to the contrary the Commissioners may retain hold and use for such time as they may think fit or may sell let lease exchange or otherwise dispose of in such manner and for such consideration and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands and premises or any interest therein vested in them as part of the undertaking or acquired by them under this Order which may not be required for the purposes thereof and may sell exchange or dispose of any rents reserved on the sale exchange lease or other disposition of such lands and premises and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange :

Provided that the Commissioners shall not without the consent of the Minister sell lease exchange or otherwise dispose of any such lands or any interests therein at a price or rent or for a consideration of a value less than the current market value of such lands or interests but a purchaser or lessee shall not be concerned to inquire whether the direction of the Minister be necessary or has been obtained :

Provided also that nothing in this section shall be taken to dispense with the consent of any Government department to any sale lease appropriation or other disposition of any lands of the Commissioners other than lands acquired under any local Act

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
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applying to the Commissioners in any case in which such consent would have been required if this Order had not been passed.

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(2) Nothing in this section contained shall release the Commissioners or any person purchasing or acquiring any lands from them under this section from any rents covenants restrictions reservations terms or conditions made payable by or contained in any conveyance lease or other deed or instrument by which any such lands were or may hereafter be conveyed or leased to or otherwise acquired by the Commissioners or any person from or through whom the Commissioners may have derived or may hereafter derive title to the same but all such rents covenants restrictions reservations terms and conditions shall remain and be of as full force and effect and may be recovered exercised enjoyed and enforced in like manner and to the same extent as if this Order had not been passed.

22. The limits within which the Commissioners shall have authority and which shall be deemed the limits to which this Order and the power to levy rates extends shall comprise the harbour of Fowey and the river Fowey between a line drawn from Punches Cross to St. Catherine's Point and Lostwithiel Bridge up to the high-water mark of ordinary spring tides which limits are in this Order termed "the limits" The limits include all the creeks "pills" rivers and inlets tributary to the river Fowey as defined above up to the high-water mark of ordinary spring tides.

Limits of
Order.

23. The Commissioners may from time to time build purchase contract for or hire and may maintain use and let tugs hoppers barges or other power for the use and accommodation of vessels frequenting the harbour and may also from time to time license such number of tugs hoppers barges or other power belonging to any person for such period and on such terms and conditions as the Commissioners may think fit.

Commis-
sioners may
provide and
licencc
steam tugs
&c.

24. The Commissioners may provide purchase take on lease hire and use such steam or other dredgers eroders engines lighters or other vessels machinery apparatus and services as they may think necessary for effecting the purposes of this Order and may let the same or any part or parts thereof on hire for such sums and upon and subject to such terms and conditions as they may think fit or may sell and dispose of the same All sums received in respect of any such letting on hire shall be deemed to form part of the revenue of the undertaking and all moneys realised by any such sale shall be applied towards carrying into effect any of the purposes of this Order to which capital is properly applicable.

Power to
purchase
dredgers &c.

25.—(1) At the expiration of two calendar months from the commencement of this Order the Commissioners may demand and

Power to
levy rates.

A.D. 1937. receive in respect of vessels other than seaplanes anchoring or
— mooring within the limits of this Order or otherwise using the
harbour rates not exceeding those specified in Part I of the
schedule to this Order and may receive and recover payment
accordingly.

(2) The Commissioners may demand and receive for the use
of the works and for the services and conveniences described in
Part II of the said schedule rates not exceeding those specified
in that part of the schedule.

10 & 11
Geo. 5. c. 80.

(3) Subject to the provisions of the Air Navigation Act 1920
and any Act amending or extending that Act or of any Order
made in pursuance thereof the Commissioners may levy and de-
mand in respect of seaplanes entering and using the harbour such
reasonable rates as may from time to time be approved by the
Minister.

Rates may
be levied
though
works not
completed.

26. If it is at any time certified by the Minister that the works
have been so far completed as to be reasonably ready for use the
Commissioners may notwithstanding section 25 of the Harbours
Clauses Act 1847 and although the whole of the works have not
then been completed levy and demand such of the rates specified
in Part II of the schedule to this Order as will in the opinion of the
Minister be commensurate with the services afforded.

Revision of
rates.

27.—(1) If it is represented by application in writing to the
Minister by any chamber of commerce or shipping or any repre-
sentative body of traders or any person who in the opinion of
the Minister is a proper person for the purpose or by the Com-
missioners that under the circumstances then existing the
authorised rates or any of them should be revised the Minister
if he thinks fit may make an Order revising the authorised rates
referred to in the application or any of them and may fix the date
as from which such Order shall take effect and thenceforth such
Order shall remain in force until the same expires or is revoked
or modified by a further Order of the Minister made in pursuance
of this section.

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

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

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(4) Before making an Order under subsection (1) of this section the Minister shall cause an inquiry to be held in reference thereto and the provisions of the section of this Order of which the marginal note is "Inquiries by Minister" shall apply to such inquiry as if it were an inquiry held in pursuance of that section Provided that the person appointed to hold the inquiry shall be the rates advisory committee constituted under the Ministry of Transport Act 1919 or any sub-committee thereof to which the said advisory committee may under section 2 of the Harbours Docks and Piers (Temporary Increase of Charges) Act 1920 have delegated their powers or if the said advisory committee cease to exist some persons with similar qualifications to be appointed for the purpose by the Minister.

A.D. 1937.

9 & 10 Geo. 5.
c. 50.

10 & 11
Geo. 5. c. 21.

28. The Commissioners may (so far as the rates specified in the schedule to this Order do not extend) demand and recover such reasonable rates or other consideration as they may determine for the use of any dry dock warehouses sheds buildings yards weighing machines mooring posts cranes buoys works and conveniences belonging to or provided by the Commissioners or in respect of any services rendered by them in connection with the harbour.

Rates for services and accommodation not otherwise provided for.

29. The harbour master may prevent the removal or sailing from within the limits of the harbour of any vessel in respect of which or of the goods imported or exported therein any rates are payable until evidence has been produced to him of the payment of those rates to the collector.

Harbour master may prevent sailing of vessels.

30. The Commissioners may from time to time confer vary or extinguish exemptions from and compound with any person or persons with respect to the payment of rates authorised by this Order but so that no preference be in any case given to any person over any other person using the works under the like circumstances and that anything done under this section shall not prejudice the other provisions of this Order.

Powers to vary exemptions from rates and to enter into compositions.

31. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus of saving life also all persons brought ashore from any vessel in distress shall at all times have free ingress passage and egress to or along the harbour.

Lifeboat crew to be exempt from rates.

32. Officers of the Board of Trade and Ministry of Transport British sea fishery officers servants and agents of the local fisheries committee of the Cornwall Sea Fisheries District and police officers acting in the execution of their duty shall at all times have free ingress passage and egress to along and from the harbour without payment.

Officers exempt from rates.

A.D. 1937.

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Certain
fishing
vessels under
stress of
weather
exempt from
rates.

Charges for
use of steam
tugs &c.

33. British fishing vessels and fishing vessels belonging to countries with which for the time being treaties exist exempting from duties and port charges those vessels when forced by stress of weather to seek shelter in the ports or on the coast 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 rates leviable under this Order.

34. The Commissioners may from time to time fix such rates and charges as appear to the Commissioners reasonable for or in respect of the use of tugs hoppers barges or other power maintained used and let or licensed by the Commissioners and such rates or charges shall be paid by the owner agent master consignee or other person having charge of the vessel obtaining assistance of such tug hopper barge or other power to the Commissioners or to the person with whom the Commissioners contract or to the owner of such tug hopper barge or other power if licensed by the Commissioners as the case may be and such rates and charges shall be due and payable whether such tug hopper barge or other power shall be actually employed or not provided the assistance thereof shall have been required and shall in consequence of a requisition have been tendered by the Commissioners or by the master or other person having command of such tug hopper barge or other power.

Power to
lease rates.

35.—(1) The Commissioners may from time to time lease the rates authorised by this Order for any period not exceeding seven years from the date of the lease to take effect in possession at the best rent to be reasonably obtained without fine and on such other terms and conditions as they think fit and the lessee shall have and may exercise during the continuance of his lease the same power of levying and recovering rates as the Commissioners have or might exercise under the Harbours Clauses Act 1847 and this Order and shall be subject to all the same provisions as to accounts and otherwise to which the Commissioners are made subject by this Order.

(2) No lease made under subsection (1) of this section shall be assignable without the previous consent in writing of the Minister and the provisions of this Order with respect to such lease or to the lessee shall apply to any such assignment or to the assignee respectively.

Power to
borrow

36. The Commissioners may from time to time borrow on mortgage and on the security of the harbour revenue for any purposes of the harbour undertaking—

- (a) A sum not exceeding together with any sums previously borrowed and not repaid £20,000 (twenty thousand pounds);
- (b) With the consent of the Minister such further sum or sums as may from time to time be required.

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
1 GEO. 6.] (*Fowey*) *Confirmation Act, 1937.*

37. All moneys borrowed by the Commissioners under the section of this Order of which the marginal note is "Power to borrow" shall be repaid within the respective periods following:—

A.D. 1937.
—
Period for
repayment.

(a) As to money borrowed for the purpose (a) mentioned in the said section if borrowed before the commencement of this Order within thirty years from such commencement or if not so borrowed within thirty years from the date of borrowing;

(b) As to money borrowed for the purpose (b) mentioned in the said section within such period or periods as the Minister may prescribe.

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

Mode of
payment off
of money
borrowed.

39.—(1) The Commissioners may without the consent of the Minister borrow for the purpose of—

Power to
re-borrow.

(a) paying off any moneys previously borrowed under this Order by the Commissioners which are intended to be repaid forthwith; or

(b) replacing moneys which during the preceding twelve months have been temporarily applied from other moneys of the Commissioners in repaying moneys previously borrowed under this Order and which at the time of such repayment it was intended to replace by borrowed moneys :

Provided that the Commissioners shall not have power to borrow under this section—

(a) for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys; or

(b) for the purpose of replacing any moneys previously borrowed which have been repaid—

(i) by instalments or annual payments; or

(ii) by means of a sinking fund; or

(iii) out of moneys derived from the sale of land; or

(iv) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

A.D. 1937.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the fixed period which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

Sinking
fund.

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

(a) By payment to the fund throughout the fixed period of such equal annual sums as will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is hereinafter called a non-accumulating sinking fund; or

(b) By payment to the fund throughout the fixed period of such equal annual sums as with accumulations at a rate not exceeding such rate as the Minister may approve will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is hereinafter called an accumulating sinking fund.

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the moneys for the repayment of which the sinking fund is formed be immediately invested in statutory securities but the Commissioners may from time to time vary and transpose the investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Commissioners towards the equal annual payments to the fund.

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

Provided that in the case of an accumulating sinking fund the Commissioners shall pay into the fund each year and accumulate during the residue of the fixed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) If at any time the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any deficiency shall be made good by the Commissioners.

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
1 GEO. 6.] (*Fowey*) *Confirmation Act, 1937.*

(6) If at any time the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any such excess may be applied towards such annual payments. A.D. 1937.

(7) Any surplus of a sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such capital purposes as the Commissioners with the consent of the Minister may determine.

(8) Any expenses connected with the formation maintenance investment application or management of or otherwise in relation to any sinking fund under this Order shall be paid by the Commissioners in addition to the payments provided for by this Order.

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

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

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

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

A.D. 1937.

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Return to
Minister.

42.—(1) The clerk to the Commissioners shall within one month after being required so to do by the Minister transmit to the Minister a return showing the provision made by the Commissioners for the repayment of moneys borrowed by the Commissioners under the authority of this Order.

(2) The return shall show such particulars shall be made up to such date and shall be in such form as the Minister may require shall be certified by the Treasurer or other person whose duty it is to keep the accounts of the Commissioners and shall if so required by the Minister be verified by a statutory declaration made by that person.

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

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

the Minister may by order direct that such sum as is specified in the Order not exceeding the amount in respect of which default has been made shall be paid or applied in the manner and by the date set out in the Order and the Commissioners shall notify the Minister as soon as the Order has been complied with.

(4) An Order made under the last preceding subsection may be enforced at the instance of the Minister by mandamus.

(5) If a return required to be made under this section is not made the person in default shall be liable to a penalty not exceeding twenty pounds and notwithstanding the recovery of any such penalty the making of the return may be enforced at the instance of the Minister by mandamus.

Application
of money
borrowed.

43. Every part of the money borrowed under this Order shall be applied only in payment of the cost of works authorised by this Order or for any other purposes of this Order to which capital is properly applicable.

Contingency
fund.

44. The Commissioners may if they think fit for the purpose of forming and maintaining a contingency fund not exceeding at any time the sum of ten thousand pounds to meet any extraordinary claim or demand or any unforeseen accident or extraordinary damage which may happen or be caused to the works appropriate and set apart subject to the provisions of this Order as to application of revenue any amount which they think fit in any year out of the revenue received under this Order and

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
1 GEO. 6.] (*Fowey*) *Confirmation Act*, 1937.

shall deposit any such amount in some joint stock bank or otherwise or shall invest the same in statutory securities until required for any of the purposes aforesaid. A.D. 1937
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45. The harbour revenue shall be applied for the purposes and in the order following and not otherwise :— Application of harbour revenue.

- (1) In paying the costs charges and expenses of or incidental to preparing and obtaining this Order ;
- (2) In paying or contributing jointly with any person persons or corporation to the expense of the maintenance repair management and regulation of the harbour and the works connected therewith and the approaches thereto ;
- (3) In paying year by year the interest accruing on money borrowed under this Order ;
- (4) In paying the instalments as they become due in discharge of any money so borrowed and repayable by instalments and in forming a sinking fund for payment of principal moneys borrowed under this Order ;
- (5) In making such payments (if any) as the Commissioners think fit into a contingency fund established under the provisions of this Order ;

The surplus (if any) after providing for the purposes aforesaid shall be applied in executing any of the works by this Order authorised which the Commissioners may determine to pay for out of the revenue instead of money borrowed.

46.—(1) Notwithstanding the provisions of the Harbours Clauses Act 1847 relating to the procedure for the making and confirmation of byelaws by the Commissioners the provisions of subsections (3) to (6) of section 250 and section 252 of the Local Government Act 1933 shall apply to all byelaws to be made by the Commissioners in respect of the undertaking and in the application of such last-mentioned provisions the Minister shall be the confirming authority : Byelaws.
23 & 24
Geo. 5. c. 51.

Provided that in the case of any byelaws which in the opinion of the Minister and the Board of Trade primarily concern the interests of navigation the provisions of subsection (1) of this section shall apply as if the said Board were substituted for the Minister.

(2) Confirmation of any such byelaws by the Minister or the Board of Trade respectively shall be sufficient evidence of compliance with the provisions of this section.

(3) In addition to the powers of making byelaws contained in the Harbours Clauses Act 1847 the Commissioners may subject

A.D. 1937. — to the provisions of this Order from time to time make vary or repeal such byelaws to take effect within the limits to which this Order extends for all or any of the following purposes (that is to say) :—

- (a) For regulating the taking on board and landing or discharging passengers ;
- (b) For the regulation licensing and control of vessels and boats and also of persons plying for hire with such vessels or boats and for regulating and fixing the fares to be charged by such persons.

(4) Any person aggrieved by the refusal of the Commissioners to grant any licence which they are empowered by the provisions of this section to grant or by the withdrawal of or refusal to renew any such licence may appeal to a petty sessional court who shall have the power to hear and determine such appeal and to make such order as they may think fit.

(5) The byelaws which may from time to time be made by the Commissioners under this section or section 83 of the Harbours Clauses Act 1847 may provide for imposing a penalty not exceeding five pounds for the breach or non-observance of any of the byelaws.

Appoint-
ment of
officers to
enforce
byelaws and
regulations.

47. The Commissioners may appoint officers for securing the observance of the byelaws and regulations made by the Commissioners under this Order in respect of the harbour and may from time to time procure such officers to be sworn as constables for that purpose but no such officers shall act as constables until so sworn in and unless in uniform or provided with a warrant.

Inquiries by
Minister.

48. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any Order or the confirmation of any byelaw under this Order and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to such inquiries as if they were an inquiry held in pursuance of subsection (1) of that section and the Commissioners were a local authority.

Provision for
life-saving
apparatus.

49.—(1) The Commissioners shall whenever required by the Board of Trade provide at their own expense and to the satisfaction of the Board of Trade a site near the harbour and build on that site a house or other proper accommodation for a rocket-apparatus lifeboat and other life-saving apparatus.

(2) If the Commissioners fail to comply with this section they shall be liable to a penalty not exceeding ten pounds for every month during which the failure continues.

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
1 GEO. 6.] (*Fowey*) *Confirmation Act*, 1937.

50. The officers of the coastguard and all other persons for the time being actually employed in connection with the lifeboat or the apparatus for saving life may either permanently or temporarily without payment attach or cause to be attached to any part of the harbour spars and other apparatus for saving life and may also either in course of using or of exercising the apparatus for saving life fire rockets over the harbour.

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Life-saving apparatus may be attached to harbour works.

51. The Commissioners shall at all times keep at convenient places on the harbour and in obedience to any requirement which may be made by the Board of Trade lifebuoys and lifelines in good order and fit and ready for use.

Lifebuoys to be kept.

52.—(1) The Minister may appoint a person to be auditor to examine and audit the accounts of the Commissioners and may fix the payments to be made to him for salary and for expenses (if any) and the amount of the salary and expenses (if any) shall be paid by the Commissioners out of the harbour revenue or other income received by them under this Order.

Auditor.

(2) The Minister may at any time revoke the appointment of any person as auditor and thereupon shall unless he sees special reason to the contrary appoint another person as auditor.

(3) The Commissioners shall on demand by the auditor produce to him all books accounts deeds papers writings and other documents and furnish him with all information in their possession or power and afford him all reasonable facilities for conducting the examination and audit.

(4) If the Commissioners refuse or neglect to comply with any of the provisions of this section they shall be liable to a penalty not exceeding twenty pounds for every month during which they neglect or refuse so to comply.

53.—(1) The Commissioners shall within two months after the date to which their annual accounts and balance sheet are made up send a copy of the same to the Minister and the sixteenth section of the General Pier and Harbour Act 1861 Amendment Act 1862 shall apply to and include the Commissioners and any and every such accounts.

Annual account to be sent to Minister.
25 & 26 Vict.
c. 19.

(2) The Commissioners shall as from the expiration of that period be liable to a penalty not exceeding twenty pounds for every week or part of a week during which they refuse or neglect to comply with the foregoing provisions.

(3) The accounts of the Commissioners referred to in this section and in section 50 of the Harbours Clauses Act 1847 respectively shall be made up to the end of the thirty-first day of March in each year.

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As to lights.

54. The Commissioners shall in such place or places as may be required exhibit for all or any part of the time from sunset to sunrise and according to the requirements of the traffic and the season of the year such light or lights (if any) and take such other steps for the prevention of danger to navigation as shall from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that corporation for such directions and the Commissioners shall be liable to a penalty not exceeding twenty pounds for every day during which they omit so to apply or to observe any such directions.

Provision
against
danger to
navigation.

55. In the case of injury to or destruction or decay of the works or any part thereof so far as the same shall be constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Commissioners shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that corporation for directions as to the means to be taken and the Commissioners shall be liable to a penalty not exceeding ten pounds for every calendar month during which they omit so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

Removal of
stranded
vessels &c.

56.—(1) Whenever any vessel floating timber or raft of timber is sunk stranded or abandoned in the harbour or in or near any approach thereto or in any dock or on any slipway or other premises of the Commissioners the Commissioners may cause such vessel or timber to be raised or removed or to be blown up or otherwise destroyed.

57 & 58 Vict.
c. 60.

(2) The Commissioners may cause any such vessel and the furniture tackle and apparel thereof or any part thereof respectively which shall be raised or salvaged and also all or any part of the cargo goods chattels and effects which may be raised or salvaged from any such vessel (and also any such timber as aforesaid) to be sold in such manner as they think fit (subject to such notice being given of the intended sale as is prescribed by the first proviso of section 530 of the Merchant Shipping Act 1894 in the case of a sale under that section) and out of the proceeds of sale may reimburse themselves for the expenses incurred by them under this section and also for any expenses incurred by them in marking buoys watching lighting or otherwise controlling the vessel or timber and shall hold the surplus (if any) of the proceeds of sale in trust for the persons entitled thereto :

Provided that in the case of the sale of any goods required to be warehoused on importation the goods shall be duly warehoused before sale :

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
1 GEO. 6.] (*Fowey*) *Confirmation Act*, 1937.

Provided also that the Commissioners shall before selling any such cargo goods chattels or effects as aforesaid pay all duties which may be payable to His Majesty in respect of the cargo goods chattels or effects to be sold and they may retain the amount of the duties so paid out of the proceeds arising from the sale of such cargo goods chattels or effects.

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(3) If no part of such vessel or of such furniture tackle apparel cargo goods chattels and effects is raised or salvaged the Commissioners may recover the aforesaid expenses from the person who at the time of the sinking stranding or abandonment thereof was the registered owner of the vessel or from the executors or administrators of such owner as a debt either summarily as a civil debt or in any court of competent jurisdiction.

(4) If the proceeds of the sale are insufficient to reimburse the Commissioners for the aforesaid expenses and duties the Commissioners may recover the deficiency (or in case of an appeal under subsection (5) of this section such sum as is awarded by the arbitrator to be payable in respect of the deficiency) from the person who at the time of the sinking stranding or abandonment of the vessel was the registered owner thereof or from the owner of such timber (as the case may be) or from the executors or administrators of such owner as a debt either summarily as a civil debt or in any court of competent jurisdiction.

(5) If on demand being made under this section for payment of any deficiency the person on whom the demand is made is dissatisfied with the amount demanded he may within fourteen days after the receipt of the demand appeal to the Board of Trade who shall appoint an arbitrator to determine and award whether any and if so what sum is payable in respect of the deficiency and the award of the arbitrator appointed by the Board of Trade that no sum is payable or as to the sum payable (as the case may be) shall be conclusive and binding on both parties. The costs of the appeal and the award shall be in the absolute discretion of the arbitrator and he shall award and order how those costs are to be borne and paid and any costs so awarded and ordered to be paid by either party may be recovered by the other party in the same manner as the sum payable in respect of the deficiency is recoverable under subsection (4) of this section.

(6) The powers given to the Commissioners by subsection (1) of this section shall not be exercised in respect of a vessel if the registered owner thereof shall within twenty-four hours after the sinking stranding or abandonment of the vessel take such steps as may in the opinion of the harbour master be necessary for the raising or removal of the vessel and shall thenceforth continuously and diligently and to the satisfaction of such harbour master prosecute and do all such works and things as may in the opinion of the harbour master be necessary and proper for the raising

A.D. 1937. — and removal of the vessel as speedily as possible but nothing in this subsection shall be construed as making the Commissioners subject to any liability for or in connection with any steps works or things taken or done by such owner for the purposes aforesaid.

(7) The Commissioners shall where reasonably practicable and except in cases of emergency give to the owner of any such timber as aforesaid not less than twenty-four hours' notice in writing before breaking up or destroying and removing such timber under the powers of this section and the owner may on giving twelve hours' notice in writing after the expiration of the aforesaid notice be at liberty forthwith himself to break up or destroy and remove such timber.

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

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

Crown
rights.

57. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Commissioners to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

Saving
rights of
Duchy of
Cornwall

58. The consent of His Majesty the King in right of His Duchy of Cornwall signified to this Order shall not be taken as a consent to the surrender of and nothing in this Order contained

EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
GEO. 6.] (*Fowey*) *Confirmation Act*, 1937.

shall prejudice or affect any property rights powers authorities or A.D. 1937.
privileges of His Majesty or of the possessor of the Duchy of —
Cornwall for the time being.

59. Notwithstanding anything in this Order any cables pipes Cables pipes
or wires to be laid or placed under the powers of this Order by the or wires
Commissioners on under or over any tidal waters or tidal lands under or
below high-water mark of ordinary spring tides shall be laid or across tidal
placed at such depth under or such height over the tidal waters waters.
or tidal lands as the Board of Trade may require.

60. All penalties under this Order shall be recovered and Recovery of
applied as penalties are recoverable and applicable under the penalties.
Harbours Clauses Act 1847.

61. The Commissioners shall within the limits of the harbour Local light-
be a local lighthouse authority for the purposes of the Merchant house
Shipping Act 1894. authority.

62. The works shall be deemed respectively to be for all Situation of
purposes within that borough or parish in or nearest to which works.
the same are situated.

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

A.D. 1937. SCHEDULE to which the foregoing Order refers.

PART I.

TONNAGE RATES.

	£	s.	d.
1. For every mechanically propelled or sailing vessel trading coastwise namely entering the port from any port or place in the United Kingdom or between Brest and the Elbe (including the Channel Islands) either in ballast or having merchandise or cargo on board the whole of which had been shipped at a port or place or ports or places in the United Kingdom or between Brest and the Elbe (including the Channel Islands) and not proceeding thence to a port out of the United Kingdom per ton register - - - - -			4
2. For all other mechanically propelled or sailing vessels entering the port per ton register -			8
3. If any such mechanically propelled or sailing vessel shall remain in the harbour more than one month continuously then for every month or part of a month during which the same shall so remain after the first month a further sum not exceeding per ton register - - - - -			2
4. For every vessel coming into the harbour for shelter whether laden or unladen but if laden not breaking bulk for every ton register - -			2
5. For every vessel coming into the harbour for bunker coal water ballast and for repairs for every ton register - - - - -			4
6. For every vessel or hulk used as a store for every ton register per month - - - - -			2
7. For every tug of or under 20 tons register for each entry - - - - -	5		0
8. For every tug over 20 tons register for each entry for every ton register - - - - -			4

[1 EDW. 8. & *Pier and Harbour Order* [Ch. lxxii.]
1 GEO. 6.] (*Fowey*) *Confirmation Act, 1937.*

	£	s.	d.	A.D. 1937.
9. For every yacht or pleasure craft of or under two tons register for each entry - - - - -		1	0	—
Or by the year - - - - -		5	0	
10 For every yacht or pleasure craft of or under 10 tons and exceeding 2 tons register for each entry - - - - -		1	6	
Or by the year - - - - -		10	0	
11. For every yacht or pleasure craft over 10 tons register for every ton register for each entry -			2	
Or by the year for every ton register -		1	0	

Yachts and pleasure craft not exceeding 2 tons register ordinarily kept in the harbour shall be exempt from payment of rates.

In the case of mechanically propelled vessels the register tonnage upon which the dues are to be levied shall in no case be less than forty per cent. of the gross registered tonnage of such mechanically propelled vessels.

In all cases a fraction of a ton shall be charged as a ton.

PART II.

RATES FOR USE OF COMMISSIONERS' PATENT SLIPWAY.

For vessels exceeding 100 tons register :

Standing charge per vessel - - - - -	5	0	0
Per gross register ton - - - - -	1	6	
Daily rental per gross register ton for first seven days - - - - -			6
Subsequent days by arrangement.			

For vessels of 50 tons register and over but not exceeding 100 tons register :

Standing charge per vessel - - - - -	4	0	0
Per gross register ton - - - - -	1	1½	
Daily rental per gross register ton for first seven days - - - - -			4
Subsequent days by arrangement.			

[Ch. lxxii.] *Pier and Harbour Order* [1 EDW. 8. &
(*Fowey*) *Confirmation Act, 1937.* 1 GEO. 6.]

A.D. 1937.	For vessels under 50 tons register :	£	s.	d.
—	Standing charge per vessel - - - - -	3	0	0
	Per gross register ton - - - - -			9
	Daily rental per gross register ton for first seven days - - - - -			3

Subsequent days by arrangement.

Day of hauling out and day of launching not counted as rent-days.

Any vessel stemmed for the patent slip and unable to take her turn may surrender her turn to another vessel by permission of the Commissioners and shall pay the appropriate charge for her size and class for all lost slipway time.

RATES FOR CAREENING BEACH.

Careening vessels of or under 40 tons gross register for two tides - - - - -	3	6
Careening vessels over 40 tons gross register and of or under 60 tons gross register for two tides - - -	4	6

For every 20 tons gross register above 60 one shilling additional.

Vessels to go in rotation after stemming.

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