CHAPTER vii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Greenock Port and Harbours.

[22nd July 1943.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936 and it is requisite that the said Order should be confirmed by Parliament: 26 Geo. 5. & 1 Edw. 8. c. 52.

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 Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in Schedule.

2. This Act may be cited as the Greenock Port and Harbours Order Confirmation Act 1943. Short title.

SCHEDULE.

GREENOCK PORT AND HARBOURS.

Provisional Order to authorise the Trustees of the Port and Harbours of Greenock to create a fund for the execution of certain works of replacement renewal and improvement to provide for modifying the interest on the "B" deferred debenture stock to confer further rating and charging powers on the Trustees and for other purposes.

3 & 4 Geo. 5. c. xlii. WHEREAS by the Greenock Port and Harbours Consolidation Act 1913 (hereinafter referred to as "the Act of 1913") the Acts relating to the Port and Harbours of Greenock were consolidated with amendments and the said port and harbours were vested in the Trustees of the port and harbours of Greenock (hereinafter referred to as "the Trustees"):

And whereas by virtue of the powers conferred on the Trustees by the Greenock Port and Harbours Acts 1913 to 1941 and the Greenock Port and Harbour Consolidation Act 1913 (Relaxation) Order 1942 the Trustees manage maintain work and use the said port and harbours and levy charge and recover rates and charges in respect of the use thereof:

And whereas the borrowing powers of the Trustees under the Act of 1913 are exhausted except in so far as such powers have been or may be extended by the Minister of War Transport to provide for expenditure approved by the said Minister under the provisions of the Civil Defence Act 1939:

2 & 3 Geo. 6. c. 31.

And whereas it is expedient that the Trustees should be authorised to create a fund for the purposes of executing works of replacement renewal and improvement and that the Trustees should be authorised to use such fund for the purposes of such works:

And whereas the balance of rates and revenues of the said port and harbours in each year as determined under the provisions of the Act of 1913 (as amended by subsequent Orders) is payable to the holders of the "B" deferred debenture stock by way of interest:

And whereas it has been agreed by the Trustees as representing the various interests entitled to elect Trustees under the provisions of the Act of 1913 that part of the said balance of rates and revenues should be available to form such fund as hereinafter provided in this Order:

And whereas it is expedient that the Trustees should be authorised to vary the rates and charges leviable at the said port and harbours and to levy certain new rates and charges thereat as hereinafter provided in this Order:

And whereas it is expedient that the other provisions contained in this Order should be enacted:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936: 26 Geo. 5. & 1 Edw. 8. c. 52.

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

Short title commencement and citation.

1.—(1) This Order may be cited as the Greenock Port and Harbours Order 1943 and shall commence and have effect on and from the date of the passing of the Act confirming the same.

(2) The Greenock Port and Harbours Acts 1913 to 1941 the Greenock Port and Harbour Consolidation Act 1913 (Relaxation) Order 1942 and this Order may be cited together as the Greenock Port and Harbours Acts 1913 to 1943.

Interpretation.

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

(*a*) The several words and expressions to which meanings are assigned by the Acts partially incorporated herewith or by the Harbour Acts or any of them have the same respective meanings; and

(*b*) The following words and expressions have the meanings assigned to them in this section (that is to say):—

"Harbour Acts" means the Greenock Port and Harbours Acts 1913 to 1941 and the Greenock Port and Harbour Consolidation Act 1913 (Relaxation) Order 1942;

"Order of 1922" means the Greenock Port and Harbours Order 1922;

"Order of 1941" means the Greenock Port and Harbours Order 1941.

Incorporation of Acts.

3. Subject to the provisions of this Order section 3 (Incorporation of Acts) of the Order of 1941 shall so far as applicable and not varied by or inconsistent with this Order apply for the purposes of this Order as if it had been re-enacted herein.

Power to Trustees to create &c. fund for purposes of replacements &c.

4. Notwithstanding anything contained in the Harbour Acts or any of them—

(1) The Trustees shall out of the balance of the rates and other revenues of the port and harbours referred to in subsection (2) of section 166 (Rates of interest on "B" preferred and "B" deferred debenture stocks) and in section 185 (Application of revenue) (as amended by subsequent Orders) of the Act of 1913 pay to the holders of "B" deferred debenture stock—

(*a*) interest at the rate of one pound ten shillings per centum per annum; or

(*b*) the whole of the said balance should the same be insufficient to pay interest at the said rate of one pound ten shillings per centum per annum:

(2) The Trustees may in respect of each or any of the Trustees financial years (inclusive of the Trustees financial year ending on the thirtieth day of June one thousand nine hundred and forty-three) out of so much of the said balance as remains after providing for payment of the interest in terms of subsection (1) of this section set aside the whole or any part thereof for the purposes of a general reserve fund (hereinafter in this section referred to as "the said fund") and so much of the said balance not set aside under this subsection shall be applied as provided for in the said sections 166 and 185:

(3) The said fund shall from time to time be applied in effecting upon any part of the port and harbours and its plant and equipment such works of replacement renewal and improvement as the Trustees in their discretion may consider expedient:

(4) The amounts to be set aside for the said fund and the application thereof shall be determined by the Trustees by a resolution passed at a meeting of the Trustees by a majority of at least two-thirds of the whole number of the Trustees of which meeting notice specifying the intention to propose such resolution has been duly given:

(5) The Trustees may deposit the moneys from time to time constituting the said fund in any bank or invest the same in any securities or investments competent to trustees under the Trusts (Scotland) Act 1921 or any Act amending the same and accumulate the interest thereof with the principal:

11 & 12 Geo. 5. c. 58.

Provided that

(i) the Trustees shall keep a special account applicable to the said fund which shall be balanced annually; and

(ii) the said fund shall not be allowed to accumulate so as to exceed at any time the sum of forty thousand pounds.

Trustees may vary rates and charges.

5. Notwithstanding anything contained in the Harbour Acts and this Order the Trustees may—

(1) From time to time and in such way and manner as they deem expedient or necessary—

(*a*) increase the rates and charges authorised to be levied by the Harbour Acts and by the sections of this Order of which the marginal notes are "Additional rates on vessels" and "Charges for passengers in certain cases," or any one or more of them to any extent not exceeding one-fourth above the appropriate amounts specified as the maximum rates and charges in the said Acts and sections;

(*b*) reduce the said rates and charges or any one or more of them as increased under the powers of the immediately preceding paragraph and thereafter increase the

rates and charges or any one or more of them as so reduced to any extent not exceeding the limit fixed by the immediately preceding paragraph:

(2) Reduce or increase the rates and charges on vessels from or to any place specified or embraced in Schedule E (Rates on vessels) (as amended by this Order) of the Order of 1922 without altering the rates and charges on vessels from or to any other place specified or embraced in the same group therewith in the said schedule:

(3) Reduce or increase the rates and charges on vessels from or to any such place for the first or any subsequent voyage without reducing or increasing the rates and charges on the same vessels on other voyages:

Provided that—

(*a*) rates or charges shall not be increased under the powers of this section above the appropriate amounts specified as the maximum rates and charges in the Harbour Acts and in the sections of this Order of which the marginal notes are "Additional rates on vessels" and "Charges for passengers in certain cases" unless approved by a resolution passed at a meeting of the Trustees by a majority of at least three-fourths of the whole number of the Trustees of which meeting notice specifying the intention to propose such resolution has been duly given;

(*b*) such rates and charges shall at all times be charged equally to all persons in respect of vessels of the same class or description arriving from or sailing for the same place and for and in respect of anything whatsoever for which such rates and charges are exigible;

(*c*) before any increase on the rates and charges under the powers of this section above the appropriate amounts specified as the maximum rates and charges in the Harbour Acts and in the sections of this Order of which the marginal notes are "Additional rates on vessels" and "Charges for passengers in certain cases" shall take effect at least twenty-one days' previous notice thereof shall be given in at least two newspapers namely one published in the burgh of Greenock and the other published in the city of Glasgow.

Power to Trustees to make agreements in lieu of tonnage rates.

6.—(1) Notwithstanding anything contained in the Harbour Acts and this Order in lieu of tonnage rates on any vessel the Trustees may by agreement with the master or owner or person in charge of such vessel demand and take such payment as may be agreed upon between the Trustees and the said master or owner or person in charge.

(2) The Trustees shall not in any such agreement give any preference between vessels from the same port or to the same destination under similar conditions and in like circumstances.

(3) No agreement shall be made under this section in contravention of section 30 of the Harbours Docks and Piers Clauses Act 1847

as modified by the section of this Order of which the marginal note is "Trustees may vary rates and charges."

Additional rates on vessels.

7. Rate 2 under the heading Class Fifth (Towboats &c.) in Schedule E to the Order of 1922 is hereby repealed and there shall be inserted in the said schedule under the said heading and in lieu of the said repealed rate additional rates as follows:—

"2. Vessels (other than towboats) carrying goods or coal shipped "at the port and harbours for vessels use or otherwise from "one part of the harbour works to another or to vessels in "the stream or at or below the Tail-of-the-Bank within a "line drawn from the Cloch Lighthouse to Dunoon Pier "including the sea lochs within the said line per voyage— "per register ton ... os. 6d."

"3. Vessels (other than towboats) carrying goods or coal shipped "from vessels in the stream or at or below the Tail-of-the-"Bank within a line drawn from the Cloch Lighthouse to "Dunoon Pier including the sea lochs within the said line "for discharge at the port and harbours per voyage—per "register ton ... os. 6d."

Charges for passengers in certain cases.

8. The Trustees may make a charge of not exceeding one shilling in respect of each passenger who uses the port and harbours on any occasion of landing from or embarking on any vessel which does not enter the port and harbours Provided that the maximum charge to be made in respect of any passenger landing from or embarking on any such vessel on more than one occasion in any day of twenty-four hours shall be two shillings.

As to section 137 of Act of 1913.

9. The first proviso in section 137 (Power to vary rates on vessels) of the Act of 1913 shall not apply to the powers conferred by this Order.

Amendment of section 6 of Act of 1913.

10. Section 6 (Incorporation of provisions of Harbours Clauses Act) of the Act of 1913 shall be amended by repealing in the sections excepted from incorporation the word and figures following namely "and 26" and inserting in the said section in lieu thereof the word and figures following namely "26 and 50."

Amendment of section 50 of Act of 1913.

11. Section 50 (Accounts to be audited) of the Act of 1913 shall be amended by repealing the words following (namely): "first Tuesday of August" and inserting in the said section in lieu thereof the words following namely "third Tuesday of August."

Saving for interests electing Trustees.

12. Whereas it has been agreed by the Trustees that the future rights of the various interests entitled to elect the Trustees should be saved as hereinafter in this section mentioned Be it therefore enacted that the various interests entitled to elect Trustees under the provisions of the Act of 1913 in the event of any of them deciding to promote or oppose any Bill or Order for the revision of any of the provisions in the Harbour Acts or this Order shall not in any way be prejudiced by the acquiescence of their elected representatives in the provisions of this Order and this Order shall not be founded

on by any of the said interests in any future proceedings in respect of the revision of any of the provisions in the Harbour Acts or this Order.

Saving of existing Harbour Acts.

13. Except as in this Order specially provided nothing in this Order shall affect the Harbour Acts and the Acts incorporated therewith in so far as the provisions of those Acts relate to rates and charges at the port and harbours.

Costs of Order.

14. The costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Trustees out of the revenues of the port and harbours.

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