

CHAPTER 23.

An Act for amending the Law relating to the Harbours and Coasts of the Isle of Man. [27th June 1872.] A.D. 1872.

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:

Preliminary.

Short title.

1. This Act may be cited as "The Isle of Man Harbours Act, 1872."

Commencement of Act.

2. This Act shall come into operation on the fifth day of July one thousand eight hundred and seventy-two, which date is in this Act referred to as the commencement of this Act.

Definitions.

3. In this Act—

The term "Treasury" means the Commissioners of Her Majesty's Treasury, or any two or more of them:

The term "Governor" means the governor, lieutenant governor, or deputy governor of the Isle of Man for the time being:

The term "receiver-general" means Her Majesty's receiver-general of the Isle of Man for the time being:

The term "Commissioners" means the Commissioners appointed under this Act:

The term "justice" includes a high bailiff:

The term "general lighthouse authority" means the general lighthouse authority under whose superintendence and management the lighthouses, buoys, and beacons of the Isle of Man may for the time being be:

The term "person" includes body corporate:

The term "tidal water" means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tide:

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The term "tidal land" means such part of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides.

Constitution of Harbour Commissioners.

Dissolution of old Commissioners.

4. The Commissioners for executing the Acts mentioned in the second schedule to this Act (in this Act referred to as the old Commissioners) shall be dissolved, and the Commissioners under this Act shall be substituted for them. All the property, power, privileges, rights, and interests of the old Commissioners, and all their contracts, obligations, debts, and liabilities, shall be transferred to and vested in, or be due to and from and recoverable by and from the Commissioners under this Act, who shall in all respects and for all purposes be deemed to be the successors of the old Commissioners, and all Acts of Parliament and all Acts of the Tynwald of the Isle of Man relating to the old Commissioners shall be construed as if the Commissioners under this Act were named therein; and all resolutions, byelaws, and regulations and acts of the old Commissioners shall, until altered under this Act, continue in force and be applicable as if the same were resolutions, byelaws, regulations, and acts duly passed or made by the Commissioners under this Act, and for the purposes of this Act all property and rights vested in the receiver-general, and either held in trust for the old Commissioners, or being under their management, and all liabilities of and debts due to or from the receiver-general, as representing the old Commissioners, shall be deemed to be property, rights, and liabilities of and debts due to and from the Commissioners under this Act.

Appointment of Commissioners.

5. The Commissioners under this Act shall consist of the receiver-general and of four persons who may from time to time be appointed by the Governor, subject to the approval of the Court of Tynwald, and who may from time to time be removed by the Governor.

The four Commissioners so appointed shall hold office for three years only, but shall be eligible for re-appointment, and any person appointed to fill a casual vacancy among such four Commissioners shall hold office only so long as the Commissioner in whose place he is appointed would have held office, but shall be eligible for re-appointment. The fifth day of July, or if that day be Sunday, the sixth day of July shall be the day on which such Commissioners shall triennially retire from and the newly appointed Commissioners come into office, and the Commissioners who are first appointed shall retire from office on the said day in the year one thousand eight hundred and seventy-five.

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Constitution of Commissioners.

6. With respect to the constitution of the Commissioners under this Act, the following provisions shall have effect; namely,

(1.) The Commissioners shall be a body corporate by the name of the Isle of Man Harbour Commissioners, with perpetual succession and a common seal, and power to hold lands for the purposes of this Act:

(2.) No act or proceeding of the Commissioners shall be questioned on account of any vacancy or vacancies in their body:

(3.) No defect in the appointment of any persons or person acting as a Commissioner or Commissioners shall be deemed to vitiate any proceedings of the Commissioners in which he or they have taken part, in cases where the majority of Commissioners parties to such proceedings were duly entitled to act:

(4.) Any minute made of proceedings at meetings of the Commissioners, if signed by any person purporting to be the chairman of the Commissioners, either at the meeting of the Commissioners at which such proceedings took place or at the next ensuing meeting of the Commissioners, shall be receivable in evidence in all legal proceedings without further proof; and until the contrary is proved every meeting of the Commissioners in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held, and all the Commissioners present thereat to have been duly qualified:

(5.) The Commissioners may apply any moneys in their hands for the purpose of indemnifying themselves against any law costs or damages which they may incur in or in consequence of the execution of the powers granted to them:

(6.) The rules contained in the first schedule to this Act with respect to the proceedings of the Commissioners, and the other matters therein contained, shall be observed in the same manner as if such rules were enacted in the body of this Act.

Payment of Commissioners.

7. Each of the Commissioners (other than the receiver-general) shall be paid out of the general revenue of the Isle of Man such reasonable sum for his expenses as the Governor may from time to time fix with the approval of the Treasury.

Property of Commissioners.

8. All land and property which is vested in the Commissioners shall be held by them in trust for the public service of the Isle of Man.

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Powers of Commissioners.

Powers of Commissioners.

9. Subject to the provisions of this Act the Commissioners shall have power to do all or any of the following things; namely,

(1.) To maintain, repair, cleanse, and regulate the harbours of the Isle of Man in such manner as may be from time to time authorised under estimates furnished by the Commissioners to the Governor, and laid by him before and approved by the Court of Tynwald:

(2.) To construct such works for improving and enlarging the harbours in the Isle of Man, and in such manner as may be from time to time approved by the Treasury and the Court of Tynwald:

(3.) To make and maintain such lighthouses, lights, landmarks, seamarks, buoys, beacons, and other works necessary for the safety or accommodation of vessels using the harbours as may be from time to time sanctioned by the general lighthouse authority, and authorised under estimates furnished by the Commissioners to the Governor, and laid by him before and approved by the Court of Tynwald:

(4.) To acquire such land and easements as may be authorised by the Court of Tynwald:

(5.) To sell from time to time, with the approval of the Court of Tynwald, any property vested in them:

(6.) To demise any lands vested in them, and any interest therein, and Her Majesty's bay fisheries, but so that every such demise shall take effect in possession, and be for a term not exceeding twenty-one years, and for the best yearly rent that can be got:

(7.) To enter into such contracts as may be necessary for the better execution of this Act.

Incorporation of part of 10 & 11 Vict. c. 27.

10. The Harbours, Docks, and Piers Clauses Act, 1847, (with the exception of the sections with respect to the construction of the harbour, dock, or pier, with respect to lifeboats, with respect to keeping a tide and weather gauge, with respect to the police of the harbour, dock, or pier, and with respect to access to the special Act), is incorporated with this Act, subject to the following provisions:

(1.) This Act shall be deemed to be the special Act:

(2.) The term "undertakers" in the said Act shall be construed to mean the Commissioners:

(3.) Other terms in the said Act shall have the same meaning as in this Act:

(4.) Accounts and other documents required to be sent to the clerk of the peace shall be sent to the Rolls Office in the Isle of Man:

(5.) Byelaws shall, subject to the provisions of the said Act, be confirmed by the Court of Tynwald of the Isle of Man, and the resolution of the Court of Tynwald confirming them shall be evidence of the existence and due making of the byelaws thereby confirmed:

(6.) All proceedings which if taken in England would be taken before a justice or justices shall be taken in the manner herein-after directed:

(7.) For the purposes of the sections relating to lighthouses, buoys, and beacons, the island shall be deemed to be within the jurisdiction of the general lighthouse authority, in the same manner as if it were in any part of the United Kingdom.

Appointment of meters and weighers.

11. The Commissioners may appoint and remove meters and weighers.

Commissioners to be pilotage authority.

12. So much of any general Act for the time being in force as relates to pilotage shall extend to the Isle of Man, and shall apply to the pilotage authority in the bays and harbours and on the coast of the Isle of Man within the meaning of any such general Act; and, subject to the provisions of any such Act, the Commissioners shall be the pilotage authority for the Isle of Man, and shall have power accordingly to examine and license pilots and to prevent persons who have not been examined from acting as pilots in the said bays and harbours.

Byelaws.

13. The Commissioners may, under the provisions of the Harbours, Docks, and Piers Clauses Act, 1847, incorporated herewith, from time to time make such byelaws as they think fit for all or any of the following purposes, in addition to the purposes mentioned in the said Act; namely,

(1.) For licensing and regulating pleasure boats and ferry boats plying or let or kept for hire in any of the harbours or on the coast of the island, and for regulating the conduct of the proprietors, crews, or persons having the charge, command, or management thereof, and for fixing the number of passengers or persons to be carried in any such boats, and the rates or fares to be paid for the hire thereof or for conveyance therein, so that the amount to be paid for each license shall not exceed ten shillings:

(2.) For licensing porters and carriers employed within the limits of any harbour under the management of the Commissioners:

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(3.) For preventing small boats being used by boys or incompetent persons in the harbours or on the coast of the island:

(4.) For preventing injury to property of every description belonging to or under the management or control of the Commissioners.

Limits of harbour.

14. The Commissioners may from time to time, if directed by the Governor, submit to the Board of Trade proposals for defining, enlarging, or extending the limits of any harbour in the island, and such proposals, if approved by the Board of Trade, may be carried into effect by a resolution of the Court of Tynwald, and such resolution shall be conclusive evidence of the limits of the harbour therein referred to.

Conservancy.

Restriction on works affecting harbours or navigation.

15. Where the Commissioners or any persons whosoever have or claim to have a right to construct in the Isle of Man any work on, in, over, through, or across tidal land or a tidal water, or the seashore below low-water mark, the following provisions shall have effect:

(1.) Before commencing the construction of the work such Commissioners or persons (in this Act referred to as the constructors) shall deposit at the office of the Board of Trade a plan of the whole work:

(2.) The work shall not be constructed or commenced otherwise than according to a plan approved by the Board of Trade, and on such terms and conditions as may be imposed by the said Board:

(3.) If the land, water, or shore on, in, over, through, or across which the work is to be constructed is under the jurisdiction of any authority entrusted with the duty of conserving, maintaining, or improving the navigation of any tidal water, the Board of Trade shall not approve such plan until they have consulted such authority:

(4.) When the work is constructed it shall not be altered or extended without the approval of the Board of Trade:

(5.) If any constructors act in any respect in contravention of any of the foregoing provisions of this section in relation to any work, the Board of Trade may abate and remove the work and restore the site thereof to its former condition, and the amount of the expense incurred by the Board of Trade in so doing shall be a debt due to the Crown from such constructors, and shall be recoverable with costs accordingly, or may be recovered with costs as a penalty under this Act:

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(6.) Where the land on which the work is to be constructed belongs to Her Majesty in right of her Crown, and is under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, the constructors shall, before commencing the construction of the work, give at least one month's notice in writing to such Commissioners, stating the nature and position of the proposed work, and shall not enter on, take, or use any of such land without the consent in writing of the said Commissioners, or one of them, on behalf of Her Majesty, which consent they or he may give.

Abatement of works abandoned or decayed.

16. If a work constructed on, in, over, through, or across tidal land or a tidal water, or the seashore below low-water mark, is abandoned or suffered to fall into decay, the Board of Trade may, at the expense of the Commissioners or persons liable to repair and maintain the work, abate and remove it or any part of it, and restore the site thereof to its former condition, and the amount of such expense shall be a debt due from such Commissioners or persons to the Crown, and be recoverable with costs accordingly, or may be recovered with costs as a penalty under this Act.

Survey of works by Board of Trade.

17. If at any time the Board of Trade deem it expedient for the purposes of this or any other Act to order a survey and examination of a work constructed or to be constructed by the Commissioners or any persons on, in, over, through, or across tidal land or a tidal water, or the seashore below low-water mark, or of the intended site of such work, the Commissioners or persons constructing or proposing to construct the work, or liable to repair and maintain it, shall defray the expenses of the said survey and examination, and the amount thereof shall be a debt due from such Commissioners or persons to the Crown, and be recoverable with costs accordingly, or may be recovered with costs as a penalty under this Act.

Removal of wreck.

18. If any vessel is sunk, stranded, or abandoned in any harbour or tidal water, or on the seashore, in such a way as to tend to the injury of navigation, such vessel, together with the tackle thereof and the goods (if any) therein, (all of which are in this section included under the term the wreck,) may be removed in the following manner:

(1.) The Commissioners shall give notice in writing to the owner of such vessel or to an agent of such owner that he is required within a time specified in such notice either to remove the wreck in a manner satisfactory to the Com-

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missioners or to undertake, under security satisfactory to the Commissioners, to remove the wreck in a manner satisfactory to and within a time to be fixed by the Commissioners :

(2.) In either of the following cases; (that is to say,)

(*a.*) If neither the owner nor the agent of the owner is known to or can be discovered by the Commissioners; or

(*b.*) If neither the owner nor the agent of the owner is resident within the United Kingdom or the Isle of Man,

the Commissioners shall send a notice in writing to the secretary of Lloyds in London that the owner is required within a time specified in the notice to remove the wreck, or to undertake under such security as aforesaid to remove the same, and such notice shall be placed by the said secretary in some conspicuous situation for the inspection of persons desirous to examine the same, and shall be deemed for all purposes a notice to the owner :

(3.) In case the owner fails within the time specified in the notice to remove the whole of the wreck in a way satisfactory to the Commissioners, or to enter into such undertaking as aforesaid to remove the same, or having undertaken to remove the wreck fails to remove it in accordance with his undertaking, then the Commissioners may remove the wreck, and may recover from the owner the expenses incurred in removing it (in this section referred to as the expenses of removal) in like manner as a penalty under this Act :

(4.) The Commissioners may for the purpose of removal destroy the wreck or any part of it, and may remove and take possession of the wreck or any part of it, and may sell the same, and may out of the proceeds (if any) of such sale, without any reference to the part of the wreck from the sale of which such proceeds may accrue, reimburse themselves for the whole of the expenses of removal, and shall, after reimbursing themselves, render the surplus, if any, to the owner :

(5.) If the proceeds of such sale are insufficient to pay the whole expenses of removal, the Commissioners may recover as a penalty the balance from the owner of the vessel, if such vessel was stranded or sunk by his fault or negligence, or from any other person by whose fault or negligence the vessel was stranded or sunk :

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(6.) If the Commissioners fail within fourteen days notice in writing from the general lighthouse authority to remove or to take steps to cause the owner of the vessel to remove the wreck, then the general lighthouse authority shall have and exercise the power and authority as to the removal of wreck herein-before in this section given to the Commissioners, and shall with respect thereto be substituted for the Commissioners:

(7.) The expenses of removal incurred by the general lighthouse authority in pursuance of this section upon any default of the Commissioners shall in the first instance be payable out of the Mercantile Marine Fund, and shall be recoverable from the Commissioners with costs:

Provided always, that the provisions in this section contained shall be in addition to and not in derogation of the provisions as to the removal of wreck, unserviceable vessels, and obstructions contained in the Harbours, Docks, and Piers Clauses Act, 1847, incorporated herewith.

Saving of powers independent of this Act.

19. Nothing in the sections of this Act which are arranged under the heading Conservancy shall be deemed—

1. To affect any other enactments relating to wreck or shipwrecked property; or
2. To affect any jurisdiction, right, power, or remedy of the Crown or any other jurisdiction, right, power, or remedy existing independently of this Act;

and the provisions of the said sections shall be deemed to be in addition to, and not in substitution for or in restraint of, any other enactment, jurisdiction, right, power, or remedy.

Loans.

Commissioners may borrow money.

20. The Commissioners may from time to time, with the approval of the Treasury and the Court of Tynwald, borrow such sums of money as may be necessary for the purposes of this Act on the security of the sums payable and to be set aside annually for the purposes of the Harbour Commissioners and for effecting improvements under the fourth and fifth sections of the Isle of Man Customs, Harbours, and Public Purposes Act, 1866, and the Commissioners may mortgage or charge such sums or either of them accordingly: Provided always, that nothing herein contained shall in anywise prejudice or affect any mortgage heretofore given by the old Commissioners under the authority of any other Act of Parliament.

29 & 30 Vict. c. 23.

For the purpose of such borrowing, the clauses of the Commissioners Clauses Act, 1847, with respect to the mortgages to be

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executed by the Commissioners, shall be incorporated with this Act, and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the prescribed part of the sum borrowed which is to be set aside for the sinking fund shall be such part as the Treasury may direct.

The Public Works Loan Commissioners may lend any money required to be borrowed by the Commissioners under this section on the security of the said sums authorised by this section to be mortgaged, without requiring any further or other security, upon such terms, as to the time and mode of repayment and otherwise, as the Treasury may approve.

Application of loans.

21. All money received by the Commissioners as part of any loan obtained under this Act shall be applied by them in the manner and for the purposes authorised by the Treasury and Tynwald Court, and shall be accounted for in such manner as the Treasury and Governor may from time to time direct.

Finance.

Rents arising from bay fisheries, license duties, &c., to be carried to general revenue account.

22. All rents and other moneys arising in respect of Her Majesty's bay fisheries, and all moneys arising from licenses granted in pursuance of any byelaw made under this Act or of any enactment incorporated herewith, or from the sale, lease, or other disposition of any property vested in the Commissioners or the receiver-general as such, or from dues or rates or otherwise from time to time coming to their hands or the hands of the receiver-general by virtue of this Act, or otherwise (and not being money, dues, or rates received in respect of loans or under the Isle of Man Harbours Act, 1863), shall be paid by the Commissioners or receiver-general without any deduction to the Commissioners of Customs, and accounted for together with the revenue of customs of the Isle of Man as if the same were part thereof.

Expenses of Commissioners.

23. All expenses of the Commissioners incurred in the execution of this Act other than those defrayed by loans, and all sums which may at the commencement of this Act be payable out of the moneys applicable to the maintenance of the harbours, other than Port Erin, shall, so long as the same remain payable, be paid out of the sum of two thousand three hundred pounds made payable by section four of the Isle of Man Customs, Harbours, and Public Purposes Act, 1866, and out of such moneys as the Court of Tynwald, with the approbation of the Treasury, may from time to time appropriate for the purpose out of the general revenue of the Isle of Man, and the Commissioners shall from time to time, at such time and in such

manner as the Governor may direct, prepare and furnish estimates of their proposed expenditure for the purposes of this Act. A.D. 1872.

Application of moneys in hand of old Commissioners and receiver-general.

24. All moneys in the hands of or standing to the credit of the old Commissioners or the receiver-general, or under their or his control as such, shall be forthwith paid by them and him respectively to the Commissioners under this Act. All payments which the old Commissioners or receiver-general were respectively liable to make out of such moneys shall be paid by the Commissioners under this Act.

Accounts and audit.

25. Proper accounts shall be kept of all the receipts and expenditure of the Commissioners in pursuance of this Act by such persons and in such manner as the Treasury may from time to time direct, and such accounts shall be made up and audited at such times and by such persons and in such manner as the Treasury may from time to time direct, and copies of such accounts when audited shall be sent to the Governor, and laid by him before the Court of Tynwald.

Penalties and Legal Proceedings.

Summary proceedings for the recovery of penalties.

26. All proceedings authorised by this Act or any enactments incorporated herewith to be taken before any justice or justices, or in a summary manner, or on a summary complaint, and all proceedings for the recovery of a penalty imposed by any byelaw made in pursuance of this Act or any enactment incorporated herewith, or for the recovery of costs and expenses authorised by this Act to be recovered as a penalty, may be taken by way of summary proceedings before a deemster or in the Admiralty Court of the Isle of Man, or before a high bailiff or two justices, according to the law relating to such summary proceedings in the Isle of Man.

Appeal.

27. Any person aggrieved by the judgment or order to be made in any proceedings in pursuance of this Act or any enactment incorporated herewith may appeal to the Staff of Government of the Isle of Man in the usual manner.

Limitation of suits for penalties.

28. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act or of any enactment incorporated herewith, unless the complaint respecting the same has been made within six months after the commission of the offence.

Harbour officers to have powers of constables.

29. Every harbour officer while acting as such shall be deemed to be a constable, and to have such powers, protection, and privileges for the purposes of the execution of his duty as a harbour officer as any constable has by law within the Isle of Man.

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Miscellaneous.

Exemption of lender from inquiry into regularity of proceedings, &c.

30. Any person lending money to the Commissioners shall not be bound to see or inquire whether such loan is required for the purposes of this Act, or is raised in accordance with the provisions of this Act, and shall not be prejudiced by the same not being so, and shall not be bound to inquire whether the Commissioners are properly constituted or convened, or whether any meeting or the proceedings at any meetings of the Commissioners was or were legal or regular.

Report of Commissioners to Governor.

31. The Commissioners shall from time to time make such report of their proceedings to the Governor as he may require.

Rights of Crown.

32. No prosecution for the recovery or payment of a penalty under this Act shall prejudice or affect the right of Her Majesty, her heirs and successors, to recover damages for any injury committed to the property of Her Majesty, and no proceeding which may be taken under this Act and the enactments incorporated herewith as to the removal of vessels or articles shall prejudice any right with reference to any such vessels or articles to which Her Majesty, her heirs or successors, may be entitled.

Repeal of Acts.

33. The Acts described in the second schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned; but this repeal shall not affect the validity or invalidity of anything already done or suffered, or any right or title already acquired or accrued, or any offence committed, or penalty or forfeiture incurred before the commencement of this Act, or any remedy or proceeding in respect thereof.

SCHEDULES.

FIRST SCHEDULE.

PROCEEDINGS OF COMMISSIONERS.

1. The Commissioners shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the Commissioners, as they think fit, subject to the following conditions:—

(*a.*) The first meeting shall be held on such day as the Governor may fix:

(*b.*) One of the Commissioners nominated by the receiver-general and approved by the Governor shall be the deputy of the receiver-general:

(*c.*) The quorum to be fixed by the Commissioners shall consist of not less than three, of whom the receiver-general or his deputy shall be one:

(*d.*) All questions shall be decided by a majority of votes of the Commissioners present and voting on that question:

(*e.*) The names of the Commissioners present, as well as of those voting upon each question, shall be recorded.

2. The receiver-general shall be the chairman of the Commissioners, and if at any meeting he is not present at the time appointed for holding the same, his deputy shall be the chairman.

3. In case of an equality of votes at any meeting the chairman for the time being of such meeting shall have a second or casting vote.

4. All orders of the Commissioners shall be deemed to be duly executed if signed by two or more Commissioners, the receiver-general or his deputy being one, authorised to sign them by a resolution of the Commissioners; but in any legal proceeding it shall be presumed, until the contrary is proved, that the members signing any such order were authorised to sign it.

5. The appointment of any officer of the Commissioners may be made by a minute of the Commissioners, signed by the chairman, and any appointment so made shall be as valid as if it were made under the seal of the Commissioners.

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SECOND SCHEDULE.

Enactments Repealed.

Section or Chapter.	Title.	Extent of Repeal.
11 Geo. 3. c. 52 (1771).	An Act for repairing, amending, and supporting the several harbours and seaports in the Isle of Man.	The whole Act.
54 Geo. 3. c. 143 (1814).	An Act to repeal the duties granted by an Act passed in the eleventh year of His present Majesty, for repairing, amending, and supporting the several harbours and seaports in the Isle of Man, and for granting new duties in lieu thereof, and for giving further powers to the Commissioners appointed under the said Act.	The whole Act.
3 & 4 Vict. c. 63 (1840).	An Act to extend the powers of the Commissioners appointed for the execution of two Acts for supporting the several harbours and seaports in the Isle of Man.	The whole Act.
23 & 24 Vict. c. 56 (1860).	An Act to make further provision for improvements in the harbours of the Isle of Man.	The whole Act.
26 & 27 Vict. c. 86 (1863).	The Isle of Man Harbours Act, 1863.	Sections eight and nine.
29 & 30 Vict. c. 23 (1866).	Isle of Man Customs, Harbours, and Public Purposes Act, 1866.	The part of section ten which follows the words "prescribed by any Act of Parliament."

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