CHAPTER xii.

An Act to confirm an Order made by the Board of Trade under the Sea Fisheries Act, 1868, relating to Poole. A.D. 1885.

[21st May 1885.]

WHEREAS an Order made by the Board of Trade under the Sea Fisheries Act, 1868, is not of any validity or force whatever until the confirmation thereof by Act of Parliament: 31 & 32 Vict. c. 45.

And whereas it is expedient that the Order made by the Board of Trade under the said Act, and set out in the schedule to this Act, be confirmed by Act of Parliament:

Be it therefore 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:—

1. The Order 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 Oyster and Mussel Fisheries Order Confirmation Act, 1885. Short title.

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SCHEDULE.

POOLE.

Order for the regulation by the Corporation of the Borough of Poole of an Oyster and Mussel Fishery in part of the Harbour of Poole, in the County of Dorset.

Undertakers.

1. The Mayor, Aldermen, and Burgesses of the borough of Poole, acting by their council (in this Order called "the Corporation"), shall be the Undertakers of this Order.

Limits of fishery

2. The following are the description and limits of the fishery comprised in this Order (as shown on plans deposited at the Board of Trade) namely:—

All that part of the bed of Poole Harbour, in the county of Dorset, below the line of ordinary low-water mark containing an area of 747 acres or thereabouts, comprised within the following limits, that is to say:—

An imaginary line drawn across the channel of the said harbour in a south-westerly direction from a point on the north-eastern side of the channel, near the Life Boat Hotel at North Haven, Efford, to the south-western side of such channel, thence in a north-westerly direction to near Harry Point, and thence in a north-easterly direction to Aunt Betty's Buoy, thence in a westerly and northerly and south-westerly direction along the southern side of the main channel to a point opposite the junction of Wood Bar Looe, with the main channel, thence across the channel in a north-westerly direction to the north-west side thereof, thence along the north-west side of the channel to its junction with the Rocklea River, thence in a southerly and easterly direction to and including the channel to Poole Bridge, thence along the north side of the main channel in an easterly direction to Parkstone Pier-head, and thence in a south-easterly direction to a point on the north-east side of the channel near the Life Boat Hotel, including all the ground in the main channel between the points before stated.

The limits of the said fishery are marked out on the said plans deposited at the Board of Trade, and shall be further marked out by booms or poles placed along the line of ordinary low-water mark on both sides of the river, or in such other manner as the Board of Trade may from time to time direct. If buoys are directed to be used to mark the limits, the Corporation shall, at their own expense, provide and maintain the buoys of such size, shape, and colour as the Corporation of Trinity House of Deptford Strond may from time to time direct.

In the event of the marks by the last foregoing article prescribed being obliterated by storm or otherwise, they shall be replaced by the Corporation, and notice of the said limits and the mode of marking them may be given to fishermen, dredgermen, and other persons as follows, that is to say:—By advertisements in the local newspapers, and by handbills posted in and about the neighbourhood.

3. The fishery shall be altogether closed for the twelve months next after the passing of the Act confirming this Order, and subject to the provisions contained in Article 11 of this Order, no person shall dredge, fish for, or take oysters or mussels within the said fishery during the months of May, June, July, and August in any year.

Dredging in certain months prohibited.

4. The Corporation may from time to time, with the approval of the Board of Trade, make byelaws for closing any portion or portions of the said fishery so far as relates to the fishing for oysters or mussels for such periods as they may deem necessary, but subject to the conditions following:

Power to close portions of fishery with approval of Board of Trade.

(1.) No portion of the fishery shall be closed for a longer continuous period than two years, but so that the first twelve months next after the passing of the Act confirming this Order shall not be reckoned in such period of two years.

(2.) No greater extent in the whole than one-third of the fishery shall be closed at any one time, except that during the second and third years after the passing of the Act confirming this Order one-half of the fishery may be closed.

(3.) One month's previous notice at least of the portion or portions to be closed, shall be given by an advertisement in the "London Shipping and Mercantile Gazette," and in some local newspaper, and by affixing such notice on the Town Hall at Poole, and the Fish Shambles at Poole, and in some conspicuous place or places in or adjoining the portion or portions of the fishery proposed to be closed.

(4.) A certificate in writing, signed by a secretary or by an assistant secretary of the Board of Trade, stating whether any portion or portions is, or are, or is not, or are not, or have been, or have not been, duly closed under the provisions of this Order, shall be taken as conclusive evidence of the fact stated in such certificate.

Subject to the provisions contained in Article 11 of this Order, no person shall dredge, fish for, or take any oysters or mussels within the said fishery in contravention of any byelaw of the Corporation, whereof notice has been given as aforesaid.

5. The Corporation, with the approval of the Board of Trade, may also make byelaws and regulations for regulating the fishery generally in terms not inconsistent with this Order. Such byelaws and regulations shall be revised from time to time when and as required by the Board of Trade, and any byelaw or regulation may at any time be cancelled by the Board of Trade, and shall then cease to have effect.

Power to make byelaws with approval of Board of Trade.

6. The Board of Trade may from time to time, by a certificate under the hand of one of their secretaries or assistant secretaries, repeal, alter, or vary the prohibition contained in Articles 3, 4, and 10 of this Order.

Power reserved to cancel or vary prohibitions.

7. No person shall dredge, fish for, or take oysters or mussels within the said fishery, in any boat in respect of which no license in that behalf has been granted by the Corporation. Licenses in that behalf shall be granted by the Corporation to any person applying for the same on his paying the tolls in this Order specified, and every such license shall include both oyster and mussel fishing.

Licenses for dredging.

8. The office for granting licenses shall be the office (for the time being) of the town clerk of the borough of Poole, who shall be entitled to a fee of one shilling for preparing and issuing such license.

Office for granting licenses.

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Tolls and fees payable on licenses.

9. There shall be paid for such licenses and before they are granted the following tolls :—

	s.	*d.*
For a license for one season (being a period of 8 months) for every registered ton the boat, in respect of which a license is granted, is capable of carrying, the sum of - - - - -	3	0
And for every dredge used in a rowing-boat, the sum of - -	7	6
And for every dredge used in a sailing-boat, the sum of - -	10	0

For a license for a period of one calendar month at any time during the open season, in respect of all boats employed in dredging, fishing for, or taking oysters or mussels, and in respect of which no such license as aforesaid for the season shall have been granted.

	s.	*d.*
For every registered ton the boat is capable of carrying, the sum of -	1	0
And for every dredge used on a rowing-boat, the sum of - -	5	0
And for every dredge used in a sailing-boat, the sum of - - -	7	6

Provided that every license for a sailing-boat shall include the use of one row-boat, such row-boat, when fishing for oysters or mussels, to be used only by the regular crew of the sailing-boat, and such fishing shall be not carried on by the crew of the row-boat and sailing-boat independently at the same time. Where a license has been lost or accidentally destroyed, a new license, by way of substitution, may be issued on the payment of a fee of one shilling. The person in charge of any boat (not being a row-boat belonging to any sailing-boat in respect of which a license has been granted) so fishing within the limits of the fishery shall, when required by any water-bailiff, produce the license of such boat or else desist from fishing till the same is produced.

Taking of small mussels and oysters prohibited.

10. Save as in this Order expressly provided, and subject to the provisions contained in Article 11 of this Order, no person shall at any time remove from the said fishery, or from one portion of the fishing grounds to another, any mussels of less size than two inches in length, or any oysters which will pass through a circular ring of such diameter, not being less than two and a half inches nor more than four inches, measured across in the inside of such ring, as may from time to time be prescribed by any byelaw for the time being in force, or if there shall be no such byelaw, then not less than three inches in diameter measured as aforesaid.

Power reserved to remove brood of mussels and oysters, and to dredge.

11. For the purpose only of better cultivating the fishery, the Corporation or any person or persons duly authorized by them may, notwithstanding the provisions aforesaid :

(1.) Remove any brood of mussels and any spat or small-sized oysters from one portion of the fishery to another, at such times as the Corporation may direct.

(2.) Dredge any portion or portions of the fishery for the purpose of cleaning or otherwise improving the same, at such time or times as the Corporation may direct.

Power to appoint water-bailiff.

12. The Corporation may from time to time appoint, suspend, or remove and again appoint a water-bailiff or bailiffs to enforce the provisions of this Order, and the byelaws and regulations made under this Order, and generally to regulate the fishery.

Every such water-bailiff shall have and may exercise all the powers and authorities of a constable for regulating and protecting the fishery, and shall have the following powers, that is to say, he may enter any sailing-boat, fishing-boat, or row-boat within the limits of the fishery; he may examine the catches, dredges, nets, and fishing implements and gear of any such boats; he may seize oysters or mussels appearing to be illegally taken within the limits of the fishery, and he may do all other lawful acts for giving effect to the provisions of this Order, and the byelaws and regulations made under this Order.

Any person considered by a water-bailiff to have offended against any such provisions, byelaws, or regulations shall, when required by such water-bailiff, state correctly his Christian name and surname and place of abode.

Any person refusing or omitting when required to state correctly his name and place of abode, or wilfully continuing to offend after having been required by a water-bailiff to desist, may be apprehended by any such water-bailiff or any person acting by order of any such water-bailiff, and conveyed before a justice of the peace to be dealt with according to law. Any person resisting, obstructing, or assaulting a water-bailiff in performance of his duty may be apprehended and conveyed before a justice of the peace, and upon conviction shall be liable to a penalty not exceeding ten pounds in addition to any other penalty or punishment incidental to his offence.

No person apprehended under this section of this Order shall be detained in custody more than twenty-four hours without being brought before a justice, but at the expiration of that time, if not previously brought before a justice, shall, on correctly stating his name and place of abode, be discharged without prejudice to further proceedings by summons or warrant.

Tolls and fees to be applied in maintaining and improving fishery, or in repayment of advances by Undertakers.

13. The whole of the money received by the Corporation from licenses, tolls, or otherwise under this Order, shall, after the repayment to the Corporation of all expenses incurred in and incidental to the obtaining this Order, be applied to the maintenance and improvement of the fishery in accordance with these regulations under the powers and provisions of the Sea Fisheries Act, 1868, or in repayment to the Corporation of such sums as they may expend in putting, or endeavouring to put, the fishery into a better or more profitable state.

Marking of limits.

14. The limits of the said fishery shall be marked out in manner described in Article 2 of this Order, or in such other manner as the Board of Trade may from time to time direct.

No works to be commenced without sanction of Board of Trade.

15. No buildings, erections, embankments, or other works shall at any time be commenced or executed within the limits above described without the previous sanction and approval in writing of the Board of Trade.

Undertakers to render accounts, &c.

16. The Corporation shall render annually to the Board of Trade, on the 31st of August in every year, accounts of their expenditure and income under this Order, and all other information required by the Board of Trade with reference to the subject of this Order, in such form as the Board of Trade may from time to time require, and shall allow the Board of Trade, or any person appointed by the Board of Trade, to inspect the fishery and all books, accounts, and other documents in the possession of the Corporation relative to the fishery, and shall give to such Board or person all such information relating thereto as he or they may require.

Undertakers to effectually cleanse and maintain fishery.

17. For the purpose of effectually cleansing the grounds of the fishery, and maintaining the same in good and proper order, the Corporation shall hire or

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provide such a number of men and boats as may, in the opinion of the Board of Trade, be from time to time necessary, and if any inspection should at any time be deemed necessary in consequence of complaints arising from persons interested, the same shall be made at the expense of the Corporation.

Power reserved to grant several oyster and mussel fishery within limits of Order.

18. The Board of Trade may at any time make a grant or grants of a several oyster and mussel fishery of any ground within the limits comprised in this Order, and all the powers and provisions contained in this Order shall be subject to the power of the Board of Trade to make such grant, and to any alteration which may be consequent on such grant, or on any Order made in pursuance of such grant.

Duration of Order.

19. This Order shall continue in operation for sixty years from its confirmation by Act of Parliament, and no longer.

Power of Board of Trade to repeal or amend Order.

20. The Board of Trade may, under the 39th section of the Sea Fisheries Act, 1868, from time to time, or at any time, make an Order or Orders repealing, amending, altering, or adding to, all or any of the provisions of this Order.

Power to revise tolls with consent of Board of Trade.

21. The Corporation may, but not without the consent of the Board of Trade, from time to time revise the tolls leviable under this Order, either by increasing or diminishing the amount thereof, or by varying the modes and times in and for which the same are levied or otherwise, provided that public notice of such revised tolls shall be given, either by advertisement or otherwise, in such manner as the Board of Trade shall direct.

Saving rights under "the Crown Lands Act, 1866."

22. This Order shall not be taken as a consent to the surrender of any rights, interest, powers, authorities, or privileges transferred to the management of the Board of Trade by the Crown Lands Act, 1866.

Short title.

23. This order may be cited as the Poole Fishery Order, 1885.

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Printers to the Queen's most Excellent Majesty. 1885.