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STATUTORY INSTRUMENTS

1982 No. 1488

HARBOURS, DOCKS, PIERS AND FERRIES

The Paignton Pier Revision Order 1982

Made - - - - -	14*th October* 1982
Coming into Operation	15*th October* 1982

The Secretary of State for Transport, in exercise of the powers conferred by section 14 of the Harbours Act 1964(a) and now vested in him(b) and of all other powers enabling him in that behalf and on the application of the Paignton Pier Company, hereby makes the following Order:—

Citation and commencement

1.— (1) This Order may be cited as the Paignton Pier Revision Order 1982, and shall come into operation on 15th October 1982.

(2) The Act of 1874 and this Order may be cited together as the Paignton Pier Act and Order 1874 and 1982.

Interpretation

2. In this order—

"the Act of 1874" means the Paignton Pier Act 1874(c);

"the Company" means the Paignton Pier Company.

Borrowing powers

3. For section 12 (Power to borrow on mortgage) of the Act of 1874 there shall be substituted the following section:—

"Power to borrow on mortgage of the undertaking.

12. The Company may for the purposes of the undertaking and without obtaining any certificate of a justice under section 40 of the Companies Clauses Consolidation Act, 1845(d), borrow, either by way of mortgage of the undertaking or by the creation and issue of debenture stock, or partly by one and partly by the other of those modes, any sum or sums not exceeding in the whole (when added to any money already borrowed on mortgage or by the creation and issue of debenture

(a) 1964 c.40; Section 14 and Schedule 3 were amended by the Transport Act 1981 (c.56) Section 18 and Schedule 6 paragraph 4(1) to (8).
(b) S.I. 1981/238.
(c) 37 & 38 Vict c. xlvii.
(d) 1845 c.16.

stock and still outstanding on the date of the exercise of the foregoing powers of borrowing)—

(a) £650,000;

(b) with the consent of the Secretary of State such further sums of money as they may require:

Provided that in calculating for the purpose of this section the aggregate sums of money borrowed by the Company there shall be excluded any sums borrowed for use within twelve months of the date of borrowing for repayment of any sum for the time being outstanding by way of principal on any amount previously borrowed.".

Borrowing on mortgage of assets, etc.

4. (1) *(a)* The Company may borrow money on mortgage of any of the property or other assets of the Company.

(b) The power to borrow on mortgage conferred by the foregoing subparagraph may be exercised by the creation and issue of debenture stock, debentures or other securities on such terms as the directors of the Company think expedient.

(2) Borrowing by the Company under paragraph (1) above shall, to any amount borrowed in manner authorised by that paragraph and for the time being outstanding, be deemed to have been in the exercise of the powers of the Company to borrow on mortgage of the undertaking or by the creation and issue of debenture stock.

(3) For the purposes of section 16 (Application of moneys) of the Act of 1874 purposes to which moneys raised by the Company are properly applicable shall be deemed to include the payment of any interest falling due within the five years following the date of a borrowing on any sum of money borrowed by the Company.

Temporary borrowing

5.— (1) The Company may borrow temporarily, by way of overdraft or otherwise, such sums as the Company may require for meeting their obligations or discharging their functions under or in pursuance of any enactment:

Provided that the total amount outstanding at any one time of the money so borrowed shall not exceed £50,000.

(2) The powers conferred by this article shall be in addition to any other borrowing power for the time being enjoyed by the Company.

Maintenance and improvement of the pier

6. The Company may continue and maintain, extend and renew the buildings and other facilities for the time being existing on the pier and may for the purposes of their undertaking in the pier provide such further buildings and other facilities thereon as they think fit.

Saving for powers of Treasury

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

Amendment of Act of 1874

8. The Act of 1874 shall be amended as follows:—

(a) in section 2 (Provisions of certain general Acts incorporated) —

(i) after the words "The Companies Clauses Consolidation Act 1845" there shall be inserted the words "(except sections 85, 86 and 87)"; and

(ii) the words "the Lands Clauses Consolidation Acts, 1845, 1860 and 1869" shall be omitted;

(b) in section 13 (Arrears may be enforced by appointment of a Receiver) for the words "five hundred" there shall be substituted the words "five thousand";

(c) in section 14 (Debenture stock) the words "bearing interest at a rate not exceeding five pounds per centum per annum" shall be omitted;

(d) in section 16 (Application of money) for the words "under this Act" there shall be substituted the words "by the Company" and for the words "of this Act only" there shall be substituted the words "only of the special enactments relating to the Company";

(e) in section 24 (Rates payable on ships, &c.) for the words from "any sum not exceeding" to the end of the section there shall be substituted "such ship, passenger and goods dues as, subject to the provisions of the Harbours Act 1964, the Company think fit";

(f) in section 26 (No goods &c. except passengers luggage, stores, &c. to be landed or embarked without consent) for the words " and also the several descriptions of goods specified in the Schedule to this Act annexed," there shall be substituted the words "or goods for use for or in connection with the undertaking";

(g) in section 27 (Power to lease the tolls and rates) the words "not exceeding the maximum tolls granted by this Act," shall be omitted.

Preferential use of berthing facilities

9. Notwithstanding anything in Section 33 of the Harbours, Docks and Piers Clauses Act 1847(b) in its application to the pier, or any other rule of law, the Company may appropriate the berthing facilities of the pier for the preferential use of any vessel or class of vessels.

(a) 1946 c.58.

(b) 1847 c.27.

Repeal

10. The provisions of the Act of 1874 listed in the Schedule to this Order are hereby repealed.

Costs of Order

11. The costs, charges and expenses of and incidental to the preparing and obtaining of this Order and otherwise in relation thereto shall be paid by the Company and may in whole or in part be defrayed out of revenue.

Signed by authority of
the Secretary of State
14th October 1982.

Giles Hopkinson,
An Under Secretary in the
Department of the Transport.

SCHEDULE

PROVISIONS OF THE ACT OF 1874 REPEALED

Section 11 (Receipt clause in case of persons not sui juris);
Section 17 (First and subsequent meetings);
Section 19 (Qualification of directors);
Section 22 (Power for compulsory purchase limited);
Section 23 (Period for completion of works);
Section 39 (Expenses of Act).
The Schedule

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order:—

(a) provides for widening and increasing the borrowing powers of the Paignton Pier Company under the Paignton Pier Act 1874 consistent with the Company's contemporary requirements;

(b) empowers the Company to continue and maintain, extend and renew the buildings and other facilities on the pier and to provide further buildings and other facilities thereon;

(c) empowers the Company to appropriate the berthing facilities of the pier for the preferential use of any vessel or class of vessels;

(d) repeals other provisions of the Paignton Pier Act 1874 which are either of no continuing effect or are no longer required by the Company and amends certain other provisions of that Act for the same purpose or in consequence of the proposals of this Order.

The applicant for this Order is the Paignton Pier Company, Paignton Pier, Paignton, Devon TQ4 6BW.