

CHAPTER xxxvi

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

[28th July 1950.]

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 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 (Cattewater) Confirmation Act 1950. Short title.

SCHEDULE

CATTEWATER HARBOUR

Provisional Order to change the name of the Cattewater Commissioners to make provision for the appointment of two additional Commissioners to make amendments in the provisions relating to the appointment and election of Commissioners to increase certain of the maximum rates leviable by the Commissioners and to authorise additional rates to authorise additional borrowing powers to make provision for the removal of wrecks and for other purposes

Short and collective titles.

1.—(1) This Order may be cited as the Cattewater Harbour Order 1950.

(2) The Cattewater Harbour Order 1915 the Cattewater Harbour Order 1925 and this Order may be cited together as the Cattewater Harbour Orders 1915 to 1950.

Commencement of Order.

2. This Order shall come into force on 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.

3.—(1) In this Order unless the context otherwise requires—

" the Commissioners " means the Cattewater Harbour Commissioners ;

" the existing Orders " means the Order of 1915 and the Order of 1925 ;

" the harbour " means the harbour of Cattewater ;

10 & 11 Vict. c. 27.

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

" the Minister " means the Minister of Transport ;

" the Order of 1874 " " the Order of 1915 " " the Order of 1925 " and " the Order of 1929 " mean the Cattewater Harbour Orders of those respective years ;

43 & 44 Vict. c. lxxxv.

" the Order of 1876 " means the Cattewater Harbour Order 1876 as amended and varied by the Pier and Harbour Orders Confirmation Act 1880.

(2) (*a*) In the existing Orders and this Order unless there be something in the context repugnant to such construction—

" vessel " includes any vessel ship lighter keel barge boat raft pontoon and craft of any kind however navigated propelled or moved and any seaplane on the surface of the water ;

" seaplane " includes a flying boat and any other aircraft designed to float or manœuvre on water ; and

" lessee " includes an original or derivative under-lessee holding under a lease or under-lease granted for a period of not less than twelve months and any person deriving title under a lessee.

(*b*) Nothing in the Harbours Clauses Act 1847 shall in any circumstances require or authorise the harbour-master or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever in the structure or equipment of a seaplane.

Application of Harbours Clauses Act 1847.

4.—(1) In the application to the existing Orders and this Order of the Harbours Clauses Act 1847 the expression "the special Act" shall mean the existing Orders and this Order respectively and the expression "vessel" shall have the meaning assigned to it by subsection (2) of section 3 of this Order.

(2) Sections 6 to 13 16 to 19 25 26 84 and 85 of the Harbours Clauses Act 1847 shall not be incorporated with the existing Orders or this Order.

Undertakers.

5. The Commissioners shall be the undertakers for carrying this Order into execution.

Change of name.

6. As from the commencement of this Order the name of the Commissioners shall be the Cattewater Harbour Commissioners and the expression "the Cattewater Commissioners" wherever used in the existing Orders shall mean the Cattewater Harbour Commissioners.

26 & 27 Vict. c. 118.

For the purposes of this section Part IV (Change of name) of the Companies Clauses Act 1863 shall be incorporated with and form part of this Order and have effect as if the Commissioners were a company within the meaning of that Part IV.

Present Commissioners continued in office.

7. Notwithstanding any repeal effected by this Order or the provisions of the existing Orders—

(*a*) each of the appointed Commissioners shall continue to hold office until the thirtieth day of September nineteen hundred and fifty only ; and

(*b*) each of the elected Commissioners shall continue to hold office—

(i) John Baring Burnard and William Samuel Dodd until the thirtieth day of September nineteen hundred and fifty ;

(ii) Reginald Moxey Coles and Clarence Charles Elford until the thirtieth day of September nineteen hundred and fifty-one ;

(iii) Charles Ernest Curtis and Charles Reginald Fox until the thirtieth day of September nineteen hundred and fifty-two ;

unless he shall previously die resign become disqualified or otherwise cease to be a Commissioner.

Constitution of Commissioners.

8.—(1) Notwithstanding any repeal effected by this Order the Commissioners shall continue up to and including the thirtieth day of September nineteen hundred and fifty to be constituted of eleven appointed Commissioners and six elected Commissioners.

(2) On the first day of October nineteen hundred and fifty there shall be added to the Commissioners two appointed Commissioners

and accordingly on and after the first day of October nineteen hundred and fifty the Commissioners shall be constituted of thirteen appointed Commissioners appointed as follows:—

By the Minister of Transport 1

By the First Lord of the Admiralty 1

By the Secretary of State for War 1

By the Secretary of State for Air 1

By the Corporation of Trinity House 1

By His Grace the Most Noble Hastings William Sackville Twelfth Duke of Bedford as tenant for life in possession of the manor of Plymstock under the trusts of a settlement dated the twenty-sixth day of February nineteen hundred and ten and a vesting assent dated the first day of July nineteen hundred and forty-two or other the person who for the time being shall under the trusts of such settlement be tenant for life in possession of such manor and shall have attained the age of twenty-one years and in default of any such person the Right Honourable Victor Alexander Frederick Villiers Russell Angus Chambers Lyell and Owen Johnston Humbert as trustees of such settlement their heirs and assigns lords of the said manor of Plymstock 1

By the Right Honourable Edmund Robert Earl of Morley his heirs and assigns lords of the honour and manor of Plymton 1

By the assigns of the Right Honourable Clarence Edward Baron Graves owners of lands on the shores of the harbour 1

By the heirs and assigns of the Right Honourable Frederick Baron Blachford owners of lands at Hooe 1

By the council of the city of Plymouth 2

By the Port of Plymouth Incorporated Chamber of Commerce and Shipping 2

and six elected Commissioners elected by the owners and lessees for the time being of quays yards storehouses and lands having frontage on the harbour.

Notwithstanding repeals Commissioners to continue incorporated.

9. Notwithstanding any repeal effected by this Order the several persons who from time to time are under this Order or any subsequent Act or Order amending or extending this Order holding office as Commissioners shall (subject to the provisions of any such subsequent Act or Order) continue incorporated by the name "the Cattewater Harbour Commissioners" as a body corporate with perpetual succession and a common seal and by that name may sue and be sued and shall have power to purchase take on lease hold and dispose of land and other property for the purposes of the Cattewater Harbour Orders 1915 to 1950 and to put into execution the provisions of those Orders so far as they are to be executed by the Commissioners.

Appointed Commissioners.

10.—(1) (*a*) On or before the twentieth day of September nineteen hundred and fifty and thereafter on or before the twentieth day of September in every third year the authorities bodies or persons in whom the appointment of Commissioners is vested specified in section 8 (Constitution of Commissioners) of this Order shall appoint a Commissioner or in the case of the council of the city of Plymouth and the Port of Plymouth Incorporated Chamber of Commerce and Shipping two Commissioners.

(*b*) Each person appointed under paragraph (*a*) of this subsection shall hold office on and from the first day of October in the year of appointment until and including the thirtieth day of September in the third year following the year of his appointment unless he shall previously die resign become disqualified or otherwise cease to be a Commissioner and on the expiry of his term of office shall if qualified be eligible for re-appointment.

(2) If any person appointed as a Commissioner under this section shall during his term of office as a Commissioner die resign become disqualified or otherwise cease to be a Commissioner the authority body or person in whom the nomination is vested shall with all convenient speed appoint another person to be a Commissioner and the person so appointed shall be entitled to hold office so long only as the Commissioner in whose stead he is appointed would have been entitled to have continued in office but shall if qualified be eligible for re-appointment.

(3) All appointments under this section shall be made in writing and may at any time be determined by the authority body or person in whom the nomination is vested.

Elected Commissioners.

11. At each annual meeting for the election of Commissioners held in September nineteen hundred and fifty and each year thereafter two Commissioners shall be elected.

Amendment of section 9 of Order of 1915.

12. Section 9 (Provisions as to election of Commissioners by landowners &c.) of the Order of 1915 shall be read and have effect as if—

(*a*) in subsection (2) the words "fifteen days" were substituted for the words "five days";

(*b*) in subsection (5) the words "hold office from the first day of October in the year of his election until the thirtieth day of September in the third year following the year of his election" were substituted for the words "go out of office at the third annual meeting after his election"; and

(*c*) in subsection (6) the words "at such annual election any casual vacancy still existing may be filled by election by the owners and lessees as aforesaid" were added at the end of the subsection.

Disqualification of Commissioners.

13. Any person shall be disqualified to be or to continue to hold office as a Commissioner if for six months in succession he is absent from all meetings of the Commissioners unless the failure to attend was due to some reason approved by the Commissioners.

Rates.

14. The schedule to the Order of 1915 shall be and is hereby repealed and the First Schedule to this Order is hereby substituted in place of the schedule to the Order of 1915 and the Commissioners

may (subject to the provisions of the Order of 1915) demand receive and recover the rates specified in the First Schedule to this Order from the persons liable for payment of the same and all the provisions of sections 29 to 34 of the Order of 1915 relating to the schedule to the Order of 1915 except in so far as any of these provisions have been repealed by this Order shall be read and have effect as if the First Schedule to this Order had formed part of the Order of 1915 and had been the schedule referred to in that Order.

Rates on seaplanes. 12, 13 & 14 Geo. 6. c. 67.

15.—(1) Subject to the provisions of the Civil Aviation Act 1949 the Commissioners may demand receive and recover on and in respect of seaplanes entering or using or leaving the harbour such reasonable rates as may from time to time be approved by the Minister.

(2) The rates authorised by this section in respect of seaplanes shall be paid by or be recoverable from either the owner or other person in charge of such seaplane as the Commissioners may determine.

Revision of rates.

16.—(1) If it is represented by application in writing to the Minister—

(*a*) by any chamber of commerce or shipping or any representative body of traders or shipowners; or

(*b*) by any person who in the opinion of the Minister has a substantial interest in the trade of the harbour and is a proper person to make an application; or

(*c*) by the Commissioners;

that under the circumstances then existing the authorised rates should be revised in whole or in part the Minister if he thinks fit may make an order revising all or any of the authorised rates referred to in the application 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 subsection.

(2) An application made to the Minister under subsection (1) of 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 under subsection (1) of this section an order has been made or the Minister has decided not to make an order no further application for a revision of any of the rates to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

(4) Before making an order under subsection (1) of this section the Minister shall consult with such bodies or persons as aforesaid as appear to him to be appropriate including the Commissioners where they are not the applicants and for the purpose of ascertaining such bodies or persons may require public notice of the application to be given and where an objection to an application is made by the Commissioners or by any such body or person as aforesaid and is not withdrawn the Minister unless it appears to him that the objection is of a trivial nature shall cause an inquiry to be held in reference to the application.

(5) Subject to the proviso to this subsection the Minister shall not by an order under subsection (1) of this section make any such revision of the authorised rates as in his opinion would so far as can be estimated be likely to result in the annual revenue of the Commissioners being insufficient or more than sufficient to enable the Commissioners with efficient management of their undertaking to make adequate provision for paying all proper expenses of and connected with the working management and maintenance of the undertaking including interest on loan capital (regard being had by him to any capital which the Commissioners may reasonably be expected to expend) making good depreciation providing for any contributions which the Commissioners may reasonably and properly carry to any reserve fund contingency fund or sinking fund and meeting all other costs charges and expenses if any properly chargeable to revenue:

Provided that in any case where the Minister is satisfied that there are special circumstances affecting the undertaking taking into account its financial condition during such period preceding the date on which an application is made under subsection (1) of this section as the Minister considers to be appropriate the Minister may revise the authorised rates in such manner as he thinks just and reasonable with due allowance for such special circumstances notwithstanding that such revision is likely to result in the revenue of the Commissioners being insufficient to enable the Commissioners to make adequate provision for all of the matters referred to in the foregoing provisions of this subsection.

(6) Subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to inquiries which the Minister may cause to be held under this section as if they were an inquiry held in pursuance of subsection (1) of that section and the Commissioners were a local authority. 23 & 24 Geo. 5. c. 51.

(7) The power of the Minister to make an order under this section shall be exercisable by statutory instrument.

(8) In this section the expression "authorised rates" means the rates which the Commissioners are for the time being authorised to demand receive and recover in pursuance of the Order of 1915 as amended by this Order or any order made under this section.

Power to borrow for current expenses.

17.—(1) Subject to the provisions of this section in addition to the borrowing powers contained in the existing Orders the Commissioners may from time to time for the purpose of providing temporarily for current expenditure for any of the purposes of their undertaking borrow such moneys as may be necessary to provide for such expenditure at a rate of interest not exceeding five per centum per annum.

(2) The aggregate amount of the moneys borrowed under the provisions of subsection (1) of this section and outstanding at any one time shall not exceed five thousand pounds and such moneys shall as nearly as may be be repaid together with interest within twelve months from the date of borrowing.

Sinking fund.

18.—(1) The Commissioners shall in every year appropriate and set apart out of revenue after providing for the expenses mentioned in subsections (1) (2) and (3) of section 49 (Application of harbour

revenue) of the Order of 1915 such sum as (together with any sums transferred to the sinking fund pursuant to subsection (4) of this section) will with the accumulations thereof by way of compound interest calculated at the rate of three pounds per centum per annum be sufficient to pay off the whole of the principal moneys borrowed as to so much thereof as has been borrowed under the Order of 1874 the Order of 1876 or the Order of 1915 before the first day of April nineteen hundred and forty-nine and is then outstanding within forty-five years from that date and as to so much thereof as may be borrowed under the Order of 1915 on or after the first day of April nineteen hundred and forty-nine within forty-five years from the date of borrowing.

(2) The first appropriation under this section shall be made in the year ending on the thirty-first day of March nineteen hundred and fifty-one.

(3) The Commissioners may at any time apply the whole or any part of any sums so appropriated in or towards discharge of the moneys borrowed by them as mentioned in subsection (1) of this section Provided that the Commissioners shall pay into the fund each year and accumulate during the residue of the specified period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested with compound interest at the rate of three pounds per centum per annum.

(4) Such sums standing at the commencement of this Order to the credit of the sinking fund formed pursuant to section 50 (Sinking fund) of the Order of 1915 as are represented by investments appropriated to such sinking fund shall be transferred to the sinking fund formed under this section.

(5) The references in paragraph (4) of section 49 of the Order of 1915 and in subsection (3) of section 4 (Finance) of the Order of 1925 to the sinking fund formed in accordance with the Order of 1915 shall be construed as a reference to the sinking fund formed under this section and accordingly subsection (3) of section 4 of the Order of 1925 shall be read as if the reference therein to the period of forty years or other period prescribed in section 50 (Sinking fund) of the Order of 1915 were a reference to the period of forty-five years prescribed in subsection (1) of this section.

(6) Nothing in this section shall prejudicially affect any obligation of the Commissioners as to the repayment of moneys borrowed by them before and subsisting at the commencement of this Order.

Return to Minister.

19.—(1) The Commissioners shall within two months after the expiration of each financial year transmit to the Minister a return showing the provision made by them for the repayment of money borrowed by them under the Order of 1874 the Order of 1876 or the existing Orders.

(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 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 have failed to appropriate and set apart any sum required to be appropriated and set apart under section 18 (Sinking fund) of this Order or have applied any portion of the sums so appropriated and set apart to a purpose other than that 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 subsection (3) of this section 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 within the time specified in subsection (1) of this section 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.

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

20.—(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 shall apply to and include the Commissioners and any and every such accounts.

(2) The Commissioners shall as from the expiration of that period be liable to a penalty not exceeding twenty pounds for every refusal 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.

Amendment of section 48 of Order of 1915.

21. Section 48 (Contingency fund) of the Order of 1915 shall be read and have effect as if—

(*a*) the words "five thousand pounds" were substituted for the words "two thousand pounds"; and

(*b*) the words "or any extraordinary expenses on renewals and maintenance of the works" were inserted after the word "works";

in that section.

Amendment of section 49 of Order of 1915.

22. Subsection (2) of section 49 (Application of harbour revenue) of the Order of 1915 shall be read and have effect as if the word "renewal" were inserted after the word "repair" in that subsection.

Amendment of section 17 of Order of 1915.

23. Section 17 (Limits of harbour) of the Order of 1915 shall be read and have effect as if the words "the westernmost end of the breakwater at Mount Batten" were substituted for the words "a point on the seashore fifty-three yards or thereabouts immediately to the west of the south-western corner of the westernmost house of

the coastguard station at Mount Batten to the westernmost extremity of the rock on which the Cobbler Buoy was formerly placed thence another imaginary straight line drawn " in that section.

Removal of sunk stranded or abandoned vessels.

24.—(1) Whenever any vessel is sunk stranded or abandoned in any part of the harbour or in or near any approach thereto the Commissioners may if they think fit cause the vessel or any part thereof to be raised removed blown up or destroyed.

(2) The Commissioners may cause any such vessel and the furniture and tackle and apparel thereof or any part thereof respectively which shall be raised or salved and also all or any part of the cargo goods chattels and effects which may be raised or salved from any such vessel to be sold in any such manner as they may think fit 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 buoying watching lighting or otherwise controlling the vessel and shall hold the surplus (if any) of the proceeds of the sale in trust for the persons entitled thereto Provided that the Commissioners shall before selling any such cargo goods chattels or effects as aforesaid pay all duties of customs or excise which shall be payable in respect of the cargo goods chattels or effects to be sold and they may retain the amounts of the duties of customs or excise so paid out of the proceeds arising from the sale of such cargo goods chattels or effects.

(3) If the proceeds of the sale are insufficient to reimburse the Commissioners for the aforesaid expenses and duties of customs or excise the Commissioners may recover the deficiency or in case of an appeal under subsection (4) of this section such sum as is awarded by the arbitrator to be payable in respect of the deficiency from the owner of any such vessel either summarily as a civil debt where the amount recoverable does not exceed twenty pounds or as a debt in any court of competent jurisdiction.

(4) If on demand being made under this section for payment of any deficiency the owner of the vessel is dissatisfied with the amount demanded he may within fourteen days after the receipt of the demand appeal to the Minister 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 Minister 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 (3) of this section.

(5) The Commissioners shall (except in any case which in their opinion is a case of emergency) before raising removing blowing up or destroying any vessel under the provisions of this section give to the owner of the vessel twenty-four hours' notice of their intention so to do and if within twelve hours after the expiration

of such notice the owner gives to the Commissioners notice in writing of his intention himself to raise and remove the vessel he shall be at liberty to do so in lieu of the Commissioners:

Provided that if the owner gives any such notice as last aforesaid—

(*a*) he shall in raising or removing the vessel comply with any directions which may from time to time be given to him by or on behalf of the Commissioners for the purpose of preventing interference with navigation; and

(*b*) he shall forthwith after giving such notice commence and shall with all diligent dispatch proceed with and complete the raising or removal of the vessel;

and if such raising or removal be not completed within seven days after the giving of such notice by the owner such notice shall be null and void and the Commissioners shall be at liberty to cause the vessel to be raised or removed or blown up or otherwise destroyed in accordance with the provisions of this section as if the owner had not given such notice.

(6) The Commissioners shall (except in any case which in their opinion is a case of emergency or when required by the owner to sell) before selling any vessel under the provisions of this section give to the owner seven days' notice of their intention so to do.

(7) Any notice given by the Commissioners pursuant to subsection (5) or subsection (6) of this section shall be given by delivering the same to the owner or by posting a prepaid letter addressed to the owner at the place in the United Kingdom where he carries on business or at his last known place of abode in the United Kingdom or if the owner or his place of business or abode is not known to the Commissioners then by exhibiting such notice at the principal office of the Commissioners for twenty-four hours in the case of a notice given under the said subsection (5) or for seven days in the case of a notice given under the said subsection (6).

(8) In this section the expression—

"owner" in relation to any vessel sunk stranded or abandoned as aforesaid means the owner of that vessel at the time the said expenses were incurred by the Commissioners or if there was then no owner of the vessel the owner of the vessel at the time of the sinking stranding or abandonment thereof;

"vessel" includes a seaplane and other aircraft.

(9) The powers conferred on the Commissioners by this section 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.

(10) Except for the purpose of removing any obstruction to the harbour nothing in this section shall entitle the Commissioners to remove any wreck (as defined in 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

57 & 58 Vict. c. 60.

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.

(11) For the removal of doubt it is expressly provided that nothing in this section shall apply to any vessel belonging to His Majesty or held by any person on behalf of or for the benefit of the Crown nor shall any of the powers conferred by this section be exercised if by such exercise the Crown would become liable directly or indirectly otherwise than as an insurer or reinsurer under a contract of insurance or reinsurance for any expenses incurred by the Commissioners except where such consent is given as is provided for in section 25 (As to vessels in which the Crown have an interest) of this Order and the vessel was not such a vessel as aforesaid at any such time as is mentioned in subsection (8) of this section.

As to vessels in which the Crown have an interest.

25.—(1) The Commissioners shall before taking possession of raising removing blowing up or destroying any vessel sunk stranded or abandoned under the powers conferred upon them by this Order or by any other enactment give to the Admiralty and to the Minister notice in writing of their intention so to do and if within fourteen days after the receipt of such notice the Admiralty or the Minister gives to the Commissioners—

(*a*) a certificate that the vessel was sunk stranded or abandoned by a person acting on behalf of His Majesty or otherwise by an officer or servant of the Crown acting in the course of his duty as such and that it is not in the national interest that the Commissioners should take possession of the vessel or that the vessel should be raised removed or blown up or destroyed ; or

(*b*) a notice that the exercise by the Commissioners of the rights of recovery conferred by subsection (2) of section 24 (Removal of sunk stranded or abandoned vessels) of this Order would render the Crown liable directly or indirectly otherwise than as an insurer or reinsurer under a contract of insurance or reinsurance for all or a substantial proportion of the expense incurred by the Commissioners in pursuance of that section ;

the Commissioners shall not without the consent in writing of the authority by whom the certificate was issued or the notice given take possession of raise remove blow up or destroy such vessel :

Provided that in any case which in their opinion is a case of emergency the Commissioners may take possession of raise remove blow up or destroy any vessel without giving notice of their intention so to do to the Admiralty or to the Minister and in that event the Commissioners shall not be entitled to recover from any person the expenses incurred by them in so doing if the effect of such recovery would be to render the Crown so liable.

(2) If the Commissioners shall mark light watch buoy control or give warning to shipping of the presence of any vessel in respect

of which the Admiralty or the Minister have refused their consent under subsection (1) of this section the Commissioners shall not be entitled to recover the expenses of so doing from the owner of the vessel but may apply to the Admiralty or to the Minister as the case may be for the reimbursement of the expenses reasonably incurred by them in so doing and the Admiralty or the Minister as the case may be may make such payment as the Treasury may determine.

Repeals.

26. The Orders specified in the Second Schedule to this Order are hereby repealed to the extent shown in that schedule.

Costs of Order.

27. All costs charges and expenses of and incident to the preparing and obtaining of this Order and otherwise incurred in reference thereto shall be paid by the Commissioners.

FIRST SCHEDULE

PART I RATES ON VESSELS USING OR ENTERING THE HARBOUR (EXCEPT SEAPLANES)

	s.	d.
On every vessel (except sailing fishing vessels and barges lighters or similar craft) entering the harbour and not discharging or loading cargo and remaining not more than seven days per net registered ton	0	1¼
If remaining more than seven days extra per net registered ton	0	1¼
On every vessel entering the harbour for the purpose of bunkering taking stores or executing repairs only for not more than seven days per net registered ton	0	1¼
If remaining more than seven days extra per net registered ton	0	1¼
On every vessel discharging or loading cargo within the harbour per net registered ton	0	3¾
Every vessel loading in the harbour after discharging to pay half rates in addition to the ordinary inward rate.		
On every sailing fishing vessel entering or using the harbour for the purpose of the fishing trade or business only payable in advance per annum	6	3
On every barge lighter or similar craft above twenty tons burden per annum	12	6
On every barge lighter or similar craft under twenty tons burden per annum	6	3
Every vessel lying in the harbour more than one calendar month shall pay for each month or part of a month after the first per net registered ton	0	1¼
Minimum charge on any vessel	3	1½

	s.	d.
PART II RATES ON VESSELS USING OR ENTERING THE HARBOUR AND LYING AT OR LOADING OR DISCHARGING CARGO AT THE MOORINGS OF THE COMMISSIONERS (EXCEPT SEAPLANES)		
(*a*) Rates for the use of the moorings of the Commissioners—		
On every vessel of and under two hundred tons net register per day	2	6
On every vessel above two hundred tons for every one hundred tons net register or part thereof per day	1	3
(*b*) Rates on vessels discharging or loading cargo at the moorings of the Commissioners in addition to the rates under Part II (*a*) but inclusive of the rates payable under Part I of this Schedule—		
On every vessel loading or discharging cargo—		
(1) Exceeding 75 per cent. of the net registered tonnage of such vessel while lying at the moorings of the Commissioners per net registered ton	0	7½
(2) Not exceeding 75 per cent. of the net registered tonnage of such vessel per net registered ton	0	6¾
PART III RATES ON GOODS SHIPPED OR UNSHIPPED WITHIN THE HARBOUR		
For unworked stone per ton	0	1
For lime per ton	0	2
For sand per ton	0	0⅓
For rubble ballast per ton	0	0¼
For bullion or specie in cases per two cwt.	0	5
For silver in bars per one cwt.	0	2½
All kinds of timber or wood goods loaded or discharged by vessels using or entering the harbour and not using the moorings of the Commissioners per load of 50 cubic feet	0	2
All kinds of timber or wood goods loaded or discharged by vessels using the moorings of the Commissioners per load of 50 cubic feet	0	2½
All other merchandise goods articles and things loaded or discharged—		
(i) By vessels using or entering the harbour and not using the moorings of the Commissioners per ton	0	2
(ii) By all vessels while lying at the moorings of the Commissioners per ton	0	2½
PART IV RATES ON GOODS SHIPPED OR UNSHIPPED AT OR FROM ANY QUAY PIER JETTY OR OTHER PROPERTY		
For every ton of merchandise and other articles and things shipped or unshipped at or from any pier quay jetty or other property of the Commissioners or leased by them per ton	1	8

PART V RATES FOR THE USE OF CRANES WEIGHING MACHINES AND SHEDS

(1) Cranage rates

	s.	d.
All goods or packages not exceeding one ton	1	8
All goods or packages exceeding one ton and not exceeding two tons...	1	10½
All goods or packages exceeding two tons and not exceeding three tons	2	1
All goods or packages exceeding three tons and not exceeding four tons	2	3½
All goods or packages exceeding four tons and not exceeding five tons...	2	6
All goods or packages exceeding five tons and not exceeding six tons	2	8½
All goods or packages exceeding six tons and not exceeding seven tons	2	11
All goods or packages exceeding seven tons and not exceeding eight tons	3	1½
All goods or packages exceeding eight tons and not exceeding nine tons	3	6½
All goods or packages exceeding nine tons and not exceeding ten tons	4	2

(2) Weighing machine rates

For goods weighed for each ton or part of a ton	0	5

(3) Shed rates

For every ton of goods forty cubic feet or for every ton of twenty hundredweight which remains in the warehouse or sheds or other works of the Commissioners for not longer than forty-eight hours per ton	0	5
For each day during which the goods remain after the first forty-eight hours per ton	0	3¾
For any portmanteau trunk parcel or other article of passengers' luggage for every day or part of day	0	2½

Exemption

All vessels entering or leaving Sutton Harbour or the Great Western Docks at Plymouth and not anchoring in or using Cattewater Harbour for any longer time than three days immediately before entering or after leaving Sutton Harbour or the Great Western Docks and not using the moorings or works or conveniences of the Commissioners and not leaving Cattewater Harbour during such three days except to go into Sutton Harbour or the Great Western Docks and also all cargoes of such vessels unless shipped or unshipped in Cattewater Harbour shall be exempt from rates under this Order.

SECOND SCHEDULE

REPEALS

Order	Section	Marginal note	Extent of repeal
The Order of 1915.	7	Appointment of several Commissioners.	The whole section.
	8	Determination of appointment of Commissioners.	The whole section.
	26	Power to dredge.	In subsection (1) the words from "The Commissioners shall not exercise" to the end of the subsection.
	29	Power to levy rates.	Subsection (1) In subsection (2) the word "boats".
	35	Power to close pier on special occasions.	The whole section.
	36	Pass and family tickets.	The whole section.
	37	Board of Trade may reduce rates.	The whole section.
	50	Sinking fund.	The whole section.
	52	Annual account to be sent to the Board of Trade.	The whole section.
	53	Byelaws.	Subsection (4).
	54	Provision for life-saving apparatus.	Subsection (1).
	57	Lights after completion of works.	In subsection (1) the words "at the outer extremity of the harbour and" and "other".
	59	Exclusion of part of Harbours Clauses Act 1847.	The whole section.
The Order of 1929.	—	—	The whole Order.

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22. Local Acts.
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