CHAPTER xxiii

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

[30th July 1949.]

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 which as amended is 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 (Southwold) Confirmation Act 1949. Short title.

SCHEDULE

SOUTHWOLD PIER

Provisional Order to provide for the maintenance and regulation of Southwold Pier in the county of East Suffolk to authorise the levying of certain rates and dues in respect thereof and for other purposes

62 & 63 Vict. c. clii.

WHEREAS by the Southwold Pier Order 1899 confirmed by the Pier and Harbour Orders Confirmation (No. 2) Act 1899 (hereinafter referred to as " the Order of 1899 ") the Coast Development Company Limited (hereinafter referred to as " the development company ") were authorised to construct maintain and regulate a pier and works in the parish of Southwold in the county of Suffolk and were constituted the undertakers for carrying the Order of 1899 into execution:

And whereas in pursuance of the powers conferred upon them by the Order of 1899 the development company constructed the pier known as Southwold Pier and certain works connected therewith:

And whereas the development company have been wound up and Amusement Equipment Company Limited (hereinafter referred to as " the Company ") are now in possession of the said pier and works by virtue of a series of conveyances commencing with an indenture dated the fourteenth day of July one thousand nine hundred and six and made between the development company in liquidation of the first part George Riley James George White John McAusland Denny and Horace Robert Spence the liquidators of the development company of the second part and the Coast Development Corporation Limited of the third part and ending with a conveyance dated the seventh day of June one thousand nine hundred and thirty-five and made between William Barron of the one part and the Company of the other part:

Now therefore the Minister of Transport (hereinafter referred to as " the Minister ") in exercise of his powers under the General Pier and Harbour Act 1861 and of all other powers him enabling hereby makes the following Order :—

Short title.

1. This Order may be cited as the Southwold Pier Order 1949.

Commencement.

2. This Order shall come into operation upon 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. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated with or applied to this Order have the same respective meanings unless there be something in the subject or context repugnant to

such construction and in this Order unless the context otherwise requires—

"the Company" means Amusement Equipment Company Limited;

"the Order of 1899" means the Southwold Pier Order 1899 confirmed by the Pier and Harbour Orders Confirmation (No. 2) Act 1899;

"the pier" means the pier which is described in section 9 (Description of works) of the Order of 1899 and the land buildings works plant property and conveniences connected therewith or any part thereof as the case may be;

"the undertaking" means the undertaking in connection with the pier authorised by the Order of 1899 and this Order;

"the Harbours Clauses Act 1847" means the Harbours Docks and Piers Clauses Act 1847; 10 & 11 Vict. c. 27.

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

"authorised rates" means the rates or charges which the Company are for the time being authorised to levy demand receive and recover in pursuance of this Order and "authorised rate" means any one of the said rates or charges;

"the borough" means the borough of Southwold;

"the corporation" means the mayor aldermen and burgesses of the borough;

"the Minister" means the Minister of Transport.

Undertakers of pier authorised by Order of 1899.

4. The Company shall be the undertakers of the pier and the works authorised by the Order of 1899 and shall have the like powers and be subject to the like obligations as were respectively conferred and imposed upon the Coast Development Company Limited by that Order and subject to the provisions of this Order the provisions of the Order of 1899 shall so far as applicable and not varied by or inconsistent with this Order apply for the purposes of this Order as if they had been re-enacted herein and as if the Company were the undertakers therein referred to.

Application of Harbours Clauses Act 1847.

5.—(1) In the application to this Order of the Harbours Clauses Act 1847 the word "vessel" shall include a seaplane on the surface of the water:

Provided that nothing in the Harbours Clauses Act 1847 or this Order shall in any circumstances require or authorise the pier master or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

(2) Sections 6 to 13 16 to 19 25 26 60 and 84 to 87 of the Harbours Clauses Act 1847 shall not be incorporated with this Order.

(3) The Company shall send to the corporation a copy of the account referred to in section 50 of the Harbours Clauses Act 1847

at the same time as such account is sent to the clerk of the county council of the administrative county of East Suffolk.

Power to maintain and improve pier &c.

6.—(1) Subject to the provisions of this Order the Company may within the limits of the Order of 1899 rebuild maintain repair renew alter and improve the pier and in connection therewith may from time to time construct erect maintain alter and improve all necessary jetties landing-places approaches roads sewers drains watercourses cuts gas and water pipes electric light and power works steps warehouses offices sheds marine garages and other buildings cranes weighing machines machinery moorings buoys and other works apparatus and conveniences and may also from time to time lay down and maintain rails tramways and turntables on and along the pier.

(2) A line of rails or tramway constructed under the powers of this Order shall not be used for the public conveyance of passengers unless and until the Minister is satisfied that such line is fit for that use.

(3) Any electric light and power or other apparatus constructed and maintained under this Order shall be so constructed used and maintained as to prevent any interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

41 & 42 Vict. c. 76.

(4) Nothing in this Order shall extend to or authorise any interference with any works of any electricity board within the meaning of the Electricity Act 1947 except in accordance with and subject to the provisions of section 15 of the Electric Lighting Act 1882.

10 & 11 Geo. 6. c. 54.

45 & 46 Vict. c. 56.

Power to erect pavilions and other buildings.

7. The Company may construct and maintain on the pier and may furnish and equip fishing-platforms pavilions saloons assembly concert lecture waiting refreshment reading and other rooms automatic-machines bicycles-stands bandstands shops bazaars kiosks aquaria lavatories baths and sanitary and other conveniences and they may also construct under the pier-head and maintain floating swimming-baths and may provide passenger-carrying vehicles on the pier and may make such reasonable charges as they may determine for the use of such conveniences for admission to such buildings or places and for the use of such vehicles as aforesaid.

Power to set apart part of pier for special purposes.

8.—(1) The Company may set apart any part of the pier or any premises provided under the Order of 1899 or this Order for exclusive use for the purposes of any concert or entertainment or any other special purpose and they may when such part of the pier or any such premises are so set apart demand and take or permit to be demanded or taken such reasonable sums as they from time to time think fit and direct for the admission of persons thereto and may exclude therefrom all persons by whom the sums so directed to be demanded and taken shall not have been paid.

(2) The Company shall notwithstanding that part of the pier has been set apart under this section reserve a sufficient passage along

the pier for all persons landing or embarking at the pier and that reserved passage shall be open for use by such persons at the ordinary charge and without payment of any special charge authorised by this section so long as they use the pier as a passage only and do not remain upon the part of the pier set apart as aforesaid.

Power to dredge.

9.—(1) The Company may deepen dredge scour and excavate any portion of the foreshore and bed of the sea to any extent necessary to secure a sufficient waterway and approach to the pier for vessels using the same.

(2) All sand mud and other materials dredged up or removed for the purposes and to the extent aforesaid shall be the property of the Company and they may sell or otherwise dispose of or remove or deposit the same as they think fit provided that no sand mud or other material shall be laid down or deposited in any place below high-water mark without the consent in writing of the Minister having been first obtained:

Provided also that no sand mud or other material shall be laid down or deposited between the high and low-water marks within the borough without the consent in writing of the Corporation which consent shall not be unreasonably withheld and any question whether such consent has or has not been unreasonably withheld shall be referred to arbitration.

(3) The powers of the Company under this section shall be exercisable subject to the provisions of the section of this Order of which the marginal note is "Crown rights" and in particular and without prejudice to that general limitation any consent given to the exercise of such powers by the Commissioners of Crown Lands or the Minister on behalf of His Majesty may be given subject to such restrictions and conditions including the payment by the Company to the Commissioners of Crown Lands or the Minister of royalties rents or sums of money in respect of materials raised from any place below high-water mark and sold by the Company under this section or in respect of any place below high-water mark upon which materials may be deposited as may be fixed by the Commissioners of Crown Lands or the Minister as the case may be.

(4) Before exercising the powers of subsection (1) of this section the Company shall (except in the case of emergency when the Company shall give as long a notice as is reasonably practicable) give to the corporation not less than one month's notice in writing of their proposals and if within one month after the receipt of such notice the corporation give to the Company a counter-notice objecting thereto or making requirements with respect to such proposals with which the Company are unable to agree the matter in difference shall be referred to arbitration and the Company shall not exercise the said powers except in accordance with and subject to the determination of the arbitrator to whom such matter is referred.

(5) Any question or matter which under this section is to be referred to arbitration shall be referred to and determined by a single arbitrator to be agreed upon between the Company and the

corporation or in default of such agreement to be appointed on the application of either party after notice in writing to the other of them by the Minister and subject thereto the provisions of the Arbitration Acts 1889 to 1934 or any statutory modification or re-enactment thereof for the time being in force shall apply to any such reference or determination.

Power to levy rates on sea planes. 10 & 11 Geo. 5. c. 80.

10. The Company may within the limits of the Order of 1899 and subject and according to the provisions of this Order levy demand receive and recover subject to the provisions of the Air Navigation Act 1920 and any Act amending or extending that Act or of any order made in pursuance thereof in respect of seaplanes using the pier such reasonable rates as may from time to time be approved by the Minister.

Power to vary exemptions and compound for rates.

11. The Company may confer vary or extinguish exemptions from and compound with any person with respect to the payment of rates or charges authorised by this Order but so that no preference be in any case given to any person over any other person using the pier in the like circumstances and that anything done under this section shall not prejudice the other provisions of this Order.

Power to charge higher rates at certain times.

12.—(1) Notwithstanding anything contained in this Order the Company may charge for every person entering upon and using the pier between the hours of six o'clock in the afternoon and ten o'clock in the afternoon on any day on which a concert or other public entertainment (lasting for at least one and a half hours between the said hours of six o'clock in the afternoon and ten o'clock in the afternoon) is held on the pier or in any pavilion building or room for the time being on the pier any sum not exceeding sixpence.

(2) Any person who having already paid the ordinary charge for using the pier remains on the pier after six o'clock in the afternoon on any such day as is in the preceding subsection mentioned shall have credit for the sum already paid by him and shall be liable in addition thereto to pay only the difference between the special charge and the sum already paid by him as aforesaid.

(3) The Company shall notwithstanding the progress of any concert or other public entertainment reserve a sufficient passage along the pier for all persons landing or embarking at the pier and that reserved passage shall be open for use by such persons at the ordinary charge and without payment of the special rate by this section authorised so long as they use the pier as a passage only and do not remain upon it.

(4) A copy of this section shall be exhibited in print at the entrance to the pier and in some conspicuous place or places on the pier.

Annual account to be sent to the Minister.

25 & 26 Vict. c. 19.

13.—(1) The Company shall within two months after the date to which their annual accounts and balance sheet in respect of the pier 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 Company and any and every such accounts.

(2) The Company shall as from the expiration of the said period of two months be liable to a penalty not exceeding twenty pounds for every refusal or neglect to comply with this section.

(3) The accounts of the Company 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 twenty-fifth day of March in each year.

Revision of rates.

14.—(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 any person who in the opinion of the Minister is a proper person for the purpose ; or

(*b*) by the Company ;

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

(2) An application made to the Minister under 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 for revision of authorised rates or an authorised rate an order has been made or the Minister has decided not to make an order no further application for a revision of the rates or rate 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 cause an inquiry to be held in reference thereto and the provisions of the section of this Order of which the marginal note is "Inquiries by Minister" shall apply to such inquiry as if it were an inquiry held in pursuance of that section:

Provided that in cases where no objection has been made to the application or where any objection which has been made has either been withdrawn or appears to the Minister to be of a trivial nature the Minister may if he thinks fit dispense with such inquiry.

(5) The power of the Minister to make an order under subsection (1) of this section shall be exercisable by statutory instrument.

Power to sell.

15.—(1) The Company may (if authorised so to do by their memorandum and articles of association and subject to the provisions thereof) at any time with the previous consent in writing of and upon such terms conditions and restrictions as may be approved by the Minister sell the undertaking or any part thereof and the purchaser to the extent authorised by his conveyance shall have and may exercise all or any of the powers conferred upon the Company by this Order or which the Company have or might exercise under this Order and shall be subject to all the liabilities and obligations to which the Company are subject and shall perform all the duties of the Company under this Order.

(2) The Company shall within one month after the date of any conveyance made under this section deposit a certified copy thereof at the Ministry of Transport and shall upon failure to do so be liable to a penalty not exceeding twenty pounds.

Power to lease undertaking or rates.

16.—(1) The Company may with the previous consent in writing of and upon such terms conditions and restrictions and for such period as may be approved by the Minister lease to any company corporation or person (*a*) the undertaking or (*b*) the right to collect and retain the authorised rates.

(2) As from the commencement of any lease made under the last preceding subsection the lessee during the continuance of and to the extent provided in his lease shall have and may exercise all or any of the powers conferred upon the Company by this Order and shall be subject to all the liabilities and obligations to which the Company are subject and shall perform all the duties of the Company under this Order.

(3) No lease made under subsection (1) of this section shall be assignable without the previous consent in writing of the Minister and the provisions of this Order with respect to such lease or to the lessee shall apply to any such assignment or to the assignee respectively.

(4) The Company shall within one month after the date of any lease made under this section deposit a certified copy thereof at the Ministry of Transport and shall upon failure to do so be liable to a penalty not exceeding twenty pounds.

(5) No lease made under this section shall be made in consideration or part consideration of any fine premium or other capital sum.

(6) Nothing in this section shall exempt the Company from their obligation to keep and render accounts and as from the date of any lease made under this section all the provisions of this Order as to the keeping delivery and audit of accounts shall apply to and be binding upon as well the lessee as the Company and all moneys received by the Company under or in respect of any such lease shall be deemed to be moneys levied by virtue of and income received under this Order.

Power to lease pavilions &c.

17. The Company may let for hire or lease for any term not exceeding seven years any pavilions rooms shops baths sheds warehouses or other buildings separately from any other part of the undertaking to any company corporation or person upon such terms pecuniary or otherwise and under such restrictions and conditions as they may determine.

Byelaws.

18.—(1) The byelaws which may from time to time be made by the Company in exercise of the powers on that behalf conferred on them by section 83 of the Harbours Clauses Act 1847 may provide for the imposition of a penalty not exceeding forty shillings for the breach or non-observance of any of the byelaws.

(2) Notwithstanding the provisions of the Harbours Clauses Act 1847 relating to the procedure for the making and confirmation of byelaws by the Company the provisions of subsections (3) to (6) of section 250 and section 252 of the Local Government Act 1933 shall apply to all byelaws to be made by the Company in respect of the undertaking and in the application of such last-mentioned provisions the Minister shall be the confirming authority. 23 & 24 Geo. 5. c. 51.

(3) Confirmation of any such byelaws by the Minister shall be sufficient evidence of compliance with the provisions of this section.

(4) Before submitting to the Minister for confirmation any byelaws made by the Company in respect of the undertaking the Company shall send a copy of the draft byelaws to the town clerk of the borough.

Appointment of officers to enforce byelaws.

19. The Company may appoint officers for securing the observance of the byelaws made by the Company under this Order in respect of the pier and may from time to time procure such officers to be sworn as constables for that purpose but no such officers shall act as constables until so sworn in and unless in uniform or provided with a warrant.

Inquiries by Minister.

20. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw made under this Order and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to such inquiries as if they were an inquiry held in pursuance of subsection (1) of that section and the Company were a local authority.

Officers exempt from rates.

21. Officers of the Ministry of Transport British sea fishery officers and police officers acting in the execution of their duty shall at all times have free ingress passage and egress to along and from the pier without payment.

Saving for town and country planning. 10 & 11 Geo. 6. c. 51.

22. This Order shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

For protection of Southwold Corporation.

23. If the Company shall at any time apply to the local planning authority for permission under Part III of the Town and Country Planning Act 1947 to carry out development in respect of the pier they shall at the same time send to the Corporation a copy of their application and of the particulars submitted to the local planning authority.

Crown rights.

24. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty

in right of His Crown and under the management of the Commissioners of Crown Lands or of the Minister respectively without the consent in writing of the Commissioners of Crown Lands or of the Minister as the case may be on behalf of His Majesty first had and obtained for that purpose.

Certain provisions of Order of 1899 not to apply.

25. The following provisions of the Order of 1899 shall not apply for the purposes of this Order:—

Section 16 (Power to erect baths pavilions &c.);
Section 17 (Power to dredge);
Subsection (3) of section 24 (Byelaws);
Section 28 (Power to vary exemptions from rates and to enter into compositions &c.);
Section 32 (Power to lease rates);
Section 43 (Annual account to be sent to Board of Trade).

Pier to be in borough.

26. The pier shall be deemed to be for all purposes within the borough.

Costs of Order.

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

PRINTED BY HENRY GEORGE GORDON WELCH, C.B.E.
Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2; 13a Castle Street, Edinburgh, 2;
39 King Street, Manchester, 2; 2 Edmund Street, Birmingham, 3;
1 St. Andrew's Crescent, Cardiff; Tower Lane, Bristol, 1;
80 Chichester Street, Belfast
OR THROUGH ANY BOOKSELLER

Price 9*d.* net

(73847) PRINTED IN GREAT BRITAIN