ELIZABETH II



1981 CHAPTER xvi

An Act to increase the borrowing powers of the Whitehaven Harbour Commissioners; to confer on the Commissioners further powers pursuant to the Harbours, Docks, and Piers Clauses Act 1847; to make further provision for the regulation of the harbour; and for purposes connected therewith.

[2nd July 1981]

WHEREAS—

(1) By the Whitehaven Town and Harbour (Incorporation) Act 1885, trustees of the town and harbour of Whitehaven (hereinafter called " the trustees ") were incorporated with power to carry on and improve the harbour undertaking: 1885 c. cxxv.

(2) By Royal Charter, dated 11th July 1894, the town and harbour of Whitehaven within the limits specified in the said charter was created a municipal borough:

(3) By a scheme prepared in connection with the grant of the said Royal Charter and duly confirmed on 27th June 1894, the trustees were abolished and the Whitehaven Harbour Commissioners (hereinafter referred to as " the Commissioners ") were established as a body corporate separate from the corporation

and all the property that had previously been vested in the trustees for harbour purposes was transferred to the Commissioners:

(4) By the Whitehaven Town and Harbour Acts and Order 1708 to 1970, powers and authorities have been conferred on the Commissioners and their predecessors for the improvement of the harbour of Whitehaven:

(5) In addition to their then existing borrowing powers, the Commissioners were authorised by section 31 of the Whitehaven Harbour Act 1970 to borrow further sums of money not exceeding five hundred thousand pounds and it is expedient to empower the Commissioners to borrow further moneys for the purposes of their undertaking:

1970 c. lii.

(6) It is expedient that further powers be conferred on the Commissioners by the incorporation of certain provisions of the Harbours, Docks, and Piers Clauses Act 1847 and to enable them to make further provision for moorings and the licensing thereof:

1847 c. 27.

(7) It is expedient that the other provisions of this Act be enacted:

(8) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and 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:—

Short and collective titles.

1.—(1) This Act may be cited as the Whitehaven Harbour Act 1981.

(2) The Whitehaven Town and Harbour Acts and Order 1708 to 1970 and this Act may be cited together as the Whitehaven Town and Harbour Acts and Order 1708 to 1981.

Power to borrow.

2. For section 31 of the Whitehaven Harbour Act 1970 there shall be substituted the following sections:—

"Power to borrow.

"**31.**—(1) The Commissioners may from time to time borrow upon the security of their assets for the time being and of their revenues, by any methods they see fit—

(*a*) such sums of money as they think necessary not exceeding two million five hundred thousand pounds; and

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

Provided that, in calculating the aggregate sums of money borrowed by the Commissioners under paragraph (*a*) of this subsection, there shall be excluded any sums borrowed for the purpose of repaying within twelve months of the date of borrowing any sum for the time being outstanding by way of principal on any amount previously borrowed.

(2) Moneys borrowed by the Commissioners under this section shall be applied only to purposes to which capital money is properly applicable.

(3) For the purposes of this Act, but without prejudice to the generality of subsection (2) of this section, purposes to which capital money is properly applicable shall be deemed to include—

(*a*) the payment of any interest, falling due within five years immediately following the date of borrowing, on any sum of money borrowed by the Commissioners under this section; and

(*b*) the repayment, within twelve months from the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

Temporary borrowing.

31A. The Commissioners may borrow temporarily, by way of overdraft or otherwise, such sums of money as the Commissioners may require:

Provided that the total amount outstanding at any one time of money so borrowed shall not exceed five hundred thousand pounds."

Incorporation of Harbours, Docks, and Piers Clauses Act 1847. 1847 c. 27.

3.—(1) The Harbours, Docks, and Piers Clauses Act 1847 (except sections 6 to 19, 24, 25, 31, the proviso to section 32, sections 42, 49 and 50), so far as applicable to the purposes and not inconsistent with the provisions of the Whitehaven Town and Harbour Acts and Order 1708 to 1981, are hereby incorporated with this Act subject to the following modifications, that is to say:—

(*a*) the expression "the harbour, dock or pier" means the harbour as defined by section 2 of the Whitehaven Harbour Act 1962, the expression "the special Act" means this Act, the expression "the undertakers" means the Commissioners and "vessel" has the same meaning as in section 3 of the Whitehaven Harbour Act 1970; 1962 c. ix. 1970 c. lii.

(*b*) section 23 shall be read and have effect as if the words "provided that no such lease be granted for a longer term than three years" were omitted;

(*c*) section 63 shall be read and have effect as if the words "liable to" to the end of the section were deleted and there were substituted therefor the words "be guilty of an offence and shall be liable on summary conviction to a fine not exceeding two hundred pounds.";

(*d*) section 69 shall be read and have effect as if the words "shall forfeit" to the end of the section were deleted and there were substituted therefor the words "shall be liable on summary conviction to a fine not exceeding two hundred pounds.";

(*e*) the sections respectively specified in column (1) of Schedule 1 to this Act (being sections creating the offences broadly described in column (2) of that Schedule) shall each have effect as if the maximum penalty which may be imposed on summary conviction of any offence specified for each section were a penalty not exceeding the amount specified in column (4) of that Schedule instead of the penalty, or maximum penalty, specified in column (3) of that Schedule.

1937 c. xcvi.

(2) Section 9 of the Whitehaven Harbour Act 1937 shall be amended by substituting the words "Whitehaven Harbour Act 1981" for the words "Act of 1885".

1847 c. 27.

(3) The enactments specified in Schedule 2 to this Act (being enactments which incorporate, or otherwise refer to, provisions of the Harbours, Docks, and Piers Clauses Act 1847) are hereby repealed to the extent mentioned in the third column of that Schedule.

Powers as to moorings, etc.

4.—(1) Without prejudice to any other powers or rights which are vested in the Commissioners in that behalf the Commissioners may provide, place, lay down, maintain, use and have moorings in the harbour on land in which they have an interest entitling them so to do or on any other land with the consent in writing of the owner or lessee thereof or of any other person having an interest entitling him to give that consent.

(2) Without prejudice as aforesaid, the Commissioners may from time to time grant a licence to any person to provide, place, lay down, maintain, use and have existing or future moorings at such place or places and for such number of boats in the harbour as may be specified in the licence and on such terms and conditions as they may think fit.

(3) Any licence granted under subsection (2) above shall be valid only for such period not exceeding three years commencing with its date as shall be specified in the licence.

(4) The Commissioners may charge a reasonable fee for—

(*a*) the use of any moorings provided by the Commissioners under subsection (1) above; or

(*b*) the granting of a licence under subsection (2) above.

(5) The Commissioners may confer total or partial exemptions from, allow rebates to, or make compositions with, any person with respect to the fees prescribed by the Commissioners under this section and may thereafter vary or extinguish any such exemption, rebate or composition.

(6) Any licence to lay a mooring issued by the Commissioners and in force immediately before the coming into operation of this Act shall, unless otherwise amended, revoked or suspended continue to have effect until the date of expiry provided for in the licence and shall be deemed for the purposes of this Act to have been granted under this section.

(7) In this section and in section 5 (Obstruction of moorings, etc.) of this Act "moorings" includes mooring posts, floating jetties, pontoons, buoys or like apparatus or facilities.

Obstruction of moorings, etc.

5.—(1) Any person who, in the harbour—

(*a*) intentionally obstructs any person acting under the authority of the Commissioners in providing, placing, laying down, maintaining, using or having any moorings;

(*b*) intentionally pulls up or removes any moorings;

(*c*) other than in the case of an emergency, causes a vessel to be moored except at a mooring provided or licensed by the Commissioners under section 4 (Powers as to moorings, etc.) of this Act or with the consent of the harbour master; or

(*d*) provides, places, lays down, maintains, uses or has any mooring not provided or licensed by the Commissioners under the said section;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding two hundred pounds.

(2) If any person contravenes subsection (1) (*d*) above, the Commissioners may remove the mooring in question and recover from that person the expenses incurred by them in so doing.

Byelaws.

6.—(1) Without prejudice to any other powers conferred on the Commissioners to make byelaws, the Commissioners may make byelaws for the good rule and government of the harbour and, without prejudice to the generality of the foregoing, the Commissioners may make byelaws applicable within all or any part of the harbour for all or any of the following purposes:—

(*a*) for regulating the exercise of the powers vested in the harbour master;

(*b*) for regulating the use of pontoons, dry docks, slipways, cargo handling appliances, berths, piers, jetties, warehouses, buildings, parking places and other works and facilities provided by the Commissioners;

(*c*) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour;

(*d*) for regulating the conduct of all persons in the harbour, not being members of a police force or officers or servants of the Crown, whilst in the exercise of their duties as such;

(*e*) for regulating, preventing or licensing the placing, maintenance and use of moorings in part or parts of the harbour:

Provided that no byelaw made under this paragraph shall be inconsistent with the terms of a licence granted under section 4 (Powers as to moorings, etc.) of this Act;

(*f*) for preventing or removing obstructions or impediments within the harbour;

(*g*) for regulating the use of ferries within the harbour;

(*h*) for regulating the launching of vessels within the harbour;

(*i*) for regulating or preventing the use in the harbour or on board any vessel therein of fires, lights or any other equipment, tools or appliances which the Commissioners consider involves a risk of fire;

(*j*) for prohibiting the use of or regulating the movement, speed and parking of vehicles within the harbour;

(*k*) for regulating traffic on railways within the harbour and the use (including the speed) of locomotives and other vehicles travelling on those railways;

(*l*) for requiring the use of effectual silencers on vessels in the harbour;

(*m*) for regulating vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality of the foregoing, to prescribe rules for regulating the speed and manner of navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating or mooring within the harbour;

(*n*) for regulating the embarkation of persons into, or their disembarkation from, vessels within the harbour;

(*o*) for prescribing the lights and signals to be exhibited or made—

(i) by vessels aground within the harbour;

(ii) by devices used for marking obstructions within the harbour;

(iii) at the entrance to any dock or at any wharf, pier or other work for assisting the navigation of vessels within the harbour;

(*p*) for regulating or preventing the discharge by land or sea of any material or thing within the harbour or the approaches thereto:

Provided that no byelaw shall be made under this paragraph so as to affect the Dumping at Sea Act 1974; 1974 c. 20.

(*q*) for regulating or preventing fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf, or other installation or structure of any kind within the harbour;

(*r*) for regulating or preventing aquaplaning, water skiing or diving or other underwater activities in the harbour; and

(*s*) for regulating or preventing bathing, and for securing the protection of bathers, within the harbour:

Provided that no byelaw shall be made under paragraph (*l*) or (*p*) of this subsection so as to affect the operation of the Control of Pollution Act 1974 and subsection (3) of section 108 of that Act (which confers power on the Secretary of State to repeal local Acts or instruments) shall have effect for the purposes of those paragraphs as if they had been enacted before that subsection. 1974 c. 40.

(2) In this section "signals" includes sound signals, and different byelaws may be made under this section in relation to different classes of vessels.

(3) In proceedings for an offence against byelaws made by the Commissioners pursuant to this section, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) A person offending against any byelaws made by the Commissioners pursuant to this section shall be guilty of an offence and be liable on summary conviction to a fine not exceeding fifty pounds.

(5) Subsection (1) of section 80 of the Health and Safety at Work etc. Act 1974 (repeal or modification of certain provisions by regulations) shall apply to this section and to any byelaw made under this section as that subsection applies to any provision mentioned in subsection (2) of that section and nothing in this 1974 c. 37.

section shall prejudice or affect the operation of any of the relevant statutory provisions as defined in subsection (1) of section 53 of that Act.

Penalties for offences against byelaws. 1962 c. ix.

7. Section 14(1) of the Whitehaven Harbour Act 1962 (which provides for the imposition of penalties for the breach or non-observance of byelaws made by the Commissioners) shall be amended by substituting for the words "ten pounds" the words "fifty pounds".

Crown rights.

8. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing herein contained authorises the Commissioners to take, use or in any manner interfere with any portion of the shore or bed of any river, channel, creek, bay or estuary or any land, heritages, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose.

SCHEDULES

Section 3(1)(*e*).

SCHEDULE 1

INCREASE OF PENALTIES UNDER THE HARBOURS, DOCKS, AND PIERS CLAUSES ACT 1847

1847 c. 27.

Section (1)	Description of offence (2)	Old penalty or old maximum penalty (3)	New penalty or new maximum penalty (4)
Section 28	Unjustified claims for exemption from harbour rates.	£50	£200
Section 35	Failure of master to report arrival of a vessel.	£25	£200
Section 36	Failure of master to produce certificate of registry.	£50	£200
Section 38	Failure of master to give account, or master giving false account of cargo unshipped.	£50	£200
Section 39	Failure of shipper to give account, or shipper giving false account of cargo shipped.	£50	£200
Section 53	Default by master in complying with direction of harbour master.	£50	£200
Section 55	Offering of bribes to officers and acceptance of bribes by officers.	£50	£200
Section 59	Failure to dismantle vessel.	£25	£200
Section 60	Failure to lower sails when entering dock.	£25	£200
Section 61	Failure to furnish or fix hawsers, etc. to moorings.	£25	£200
Section 62	Wilful cutting of moorings.	£25	£200
Section 64	Failure to remove vessel for purpose of enabling repair, etc., of harbour, etc.	£25	£200
Section 66	Failure to remove vessel after discharge of cargo.	£25	£200
Section 71	Commission of miscellaneous offences in relation to fires, combustible or explosive matter and firearms.	£25	£200
Section 72	Obstruction of harbour master while engaged in searching for, etc. fires or lights.	£25	£200
Section 73	Throwing of ballast, etc. into harbour.	£25	£200

Section 3(3).

SCHEDULE 2

REPEALS

Chapter	Short title	Extent of repeal
22 Vict. c. xiv.	The Whitehaven Town and Harbour Act 1859.	Section XXXIX.
34 & 35 Vict. c. xci.	The Whitehaven Dock and Railways Act 1871.	In section 2, the words "'The Harbours, Docks, and Piers Clauses Act, 1847,' (except sections 25, 26, 31 and 32,)".
39 & 40 Vict. c. cv.	The Whitehaven Harbour and Town Improvement Act 1876.	In section 2, the words from the beginning of the section to the words "rates to be taken;".
42 & 43 Vict. c. clxxxv.	Whitehaven Town and Harbour Act 1879.	In section 40, the words "but subject in all respects to the provisions of section 30 of the Harbours, Docks, and Piers Clauses Act, 1847.".
48 & 49 Vict. c. cxxv.	Whitehaven Town and Harbour (Incorporation) Act 1885.	In section 33, the words from "The Harbours, Docks, and Piers Clauses Act 1847" to the words "rates to be taken.".
2 & 3 Eliz. 2 c. xxxv.	Pier and Harbour Order (Whitehaven) Confirmation Act 1954.	Section 4 of the scheduled Order.
10 & 11 Eliz. 2 c. ix.	Whitehaven Harbour Act 1962.	Section 3.

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Whitehaven Harbour Act 1981

CHAPTER xvi

ARRANGEMENT OF SECTIONS

Section

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4. Powers as to moorings, etc.
5. Obstruction of moorings, etc.
6. Byelaws.
7. Penalties for offences against byelaws.
8. Crown rights.

SCHEDULES:

Schedule 1 — Increase of penalties under the Harbours, Docks, and Piers Clauses Act 1847.
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