

[In this Edition the only part of the Schedule printed is the
Provisional Order relating to THE HARBOUR OF FALMOUTH.]

[33 & 34 VICT.] *The Pier and Harbour* [Ch. clviii.]
Orders Confirmation Act, 1870 (No. 2).]



CHAP. clviii.

An Act for confirming certain Provisional Orders made by the Board A.D. 1870.
of Trade under the General Pier and Harbour Act, 1861,
relating to Falmouth, Irvine, Kinsale, Mousehole, St. Leonards-
on-Sea, and Ventnor. [9th August, 1870.]

WHEREAS a provisional order made by the Board of Trade Preamble,
24 & 25 Vict.
c. 45.
under the General Pier and Harbour Act, 1861, is not of
any validity or force whatever until the confirmation thereof by Act
of Parliament :

And whereas the Board of Trade have made certain provisional
orders under the said Act relating to Falmouth, Irvine, Kinsale,
Mousehole, St. Leonards-on-Sea and Ventnor :

And whereas the said Falmouth and Kinsale orders have been
amended by Parliament, and those orders as so amended and the
several other orders as made by the Board of Trade are set out in
the schedule to this Act :

And whereas it is expedient that the said orders be confirmed by
Act of Parliament :

Be it therefore enacted by the Queen's most excellent Majesty,
by and with the advice and consent of the Lords Spiritual and
Temporal, and Commons in this present Parliament assembled, and
by the authority of the same, as follows :

1. The several orders set out in the schedule to this Act shall be
and the same are hereby confirmed, and all the provisions thereof in
manner and form as they are set out in the said schedule shall, Confirmation
of orders in
schedule.
from and after the passing of this Act, have full validity and force.

2. This Act may be cited as *The Pier and Harbour Orders* Short title.
Confirmation Act, 1870 (No. 2).

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5. ~~The Falmouth Docks Company, acting by their directors, shall, as soon as~~ may be, appoint one person to be Commissioner under this Order; and whenever a vacancy is caused by death, resignation, or otherwise, in the office of such Commissioner, shall appoint another person to fill the vacancy, ~~and so toties quoties.~~
6. ~~The Local Board for the Parish of Falmouth shall, as soon as may be, appoint~~ four persons to be Commissioners under this Order; and whenever a vacancy is caused by death, resignation, or otherwise, in the office of either of these four Commissioners, shall appoint another person to fill the vacancy, and so toties quoties.
7. The Right Honourable John Earl of Kimberley, his heirs and assigns, lords of the Manor of Arwenack, shall, as soon as may be, appoint one person to be Commissioner under this Order; and whenever a vacancy is caused by death, resignation, or otherwise, in the office of such Commissioner, shall appoint another person to fill the vacancy, and so toties quoties.
8. The owners of such ships, registered at the port of Falmouth aforesaid, as may not be exempt from payment of tolls, rates, and duties as hereinafter mentioned shall, as soon as may be, appoint three persons to be Commissioners under this Order: and whenever a vacancy is caused by death, resignation, or otherwise, in the office of either of such three Commissioners, shall appoint another person to fill the vacancy, and so toties quoties.

3.—The appointment of any Commissioner under this Order may at any time be determined by the authority, body, or person in whom, in case of death or resignation of such Commissioner, the appointment of another Commissioner in his place is vested, and each such appointment shall be operative for three years, and no longer, but at the end of the term of three years an outgoing Commissioner shall be eligible for re-appointment.

Determination
of appointment of
Commissioners.

4.—With respect to the election of Commissioners by the registered ship-owners of the port of Falmouth, the following provisions shall take effect:—

Provisions as to
the election of
Commissioners by
shipowners.

1. The first meeting of the owners of ships registered at Falmouth for the election of Commissioners shall be held at the Town Hall of the borough of Falmouth, within one calendar month after the commencement of this Order, at a time to be advertised by Mr. William James Genn, ten days at least, or in his default by a person appointed for the purpose by the Board of Trade five days at least before the day of meeting, by handbills posted in the borough and parish of Falmouth.
2. Annual meetings of the registered shipowners of the port of Falmouth for the election of Commissioners shall be held at the Town Hall aforesaid, or at such other place within the limits defined by this Order as the Commissioners shall from time to time appoint, on such day within ten days next before the first day of October in the year one thousand eight hundred and seventy-one, and in each subsequent year, as the said Commissioners shall annually appoint, the place and time of meeting being advertised by the clerk of the Commissioners five days at least before the day of meeting, by handbills posted in the borough and parish of Falmouth.

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The SCHEDULE OF ORDERS.

1. FALMOUTH.—Maintenance and regulation of harbour.
2. IRVINE.—Amendment of former Order.
3. KINSALE.—Regulation of harbour.
4. MOUSEHOLE.—Amendment of former Order.
5. ST. LEONARDS-ON-SEA.—Construction of pier.
6. VENTNOR.—Construction of pier.

Falmouth.

FALMOUTH.

Order for the Maintenance and regulation of the Harbour of Falmouth, in the County of Cornwall.

Incorporation
of Commissioners.

1.—There shall be a body of Commissioners for carrying this Order into execution, ~~not exceeding sixteen in number~~, which Commissioners and their successors are hereby, for the purposes of this Order, incorporated by the name of “the Falmouth Harbour Commissioners,” and by that name shall be a body corporate, with perpetual succession and a common seal, and are in this Order called “the Commissioners.”

Appointment
of the several
Commissioners.

2.—~~The appointment of the Commissioners shall be regulated as follows, that is to say:—~~

1. The Board of Trade may, if they think fit, appoint one person to be commissioners under this Order, and whenever a vacancy is caused by death, resignation, or otherwise, in the office of such Commissioner, may, if they think fit, appoint another person to fill the vacancy, and so toties quoties.
2. The Lord High Admiral, or the Lords Commissioners, for executing the office of Lord High Admiral, may, if they think fit, appoint one person to be Commissioner under this Order; and whenever a vacancy is caused by death, resignation, or otherwise, in the office of such Commissioner under this Order, may, if they think fit, appoint another person to fill the vacancy, and so toties quoties.
3. The Corporation of Trinity House Deptford Strond may, if they think fit, appoint one person to be a Commissioner under this Order; and whenever a vacancy is caused by death, resignation, or otherwise, in the office of such Commissioner, may, if they think fit, appoint another person to fill the vacancy, and so toties quoties.
4. The Mayor, Aldermen, and Burgesses of the Borough of Falmouth, acting by the Town Council of the borough, shall, as soon as may be, appoint four persons to be Commissioners under this Order; and whenever a vacancy is caused by death, resignation, or otherwise, in the office of either of those four Commissioners, shall appoint another person to fill the vacancy, and so toties quoties.

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3. ~~Such only of the registered shipowners of the port of Falmouth as are registered at the commencement of this Order shall be entitled to attend the said first meeting, and to take part and vote in the election of Commissioners thereat.~~
4. Such only of the registered shipowners as are registered on or before the thirty-first day of December next preceding each annual meeting shall be entitled to attend the said annual meetings, and take part and vote in the election of Commissioners thereat respectively.
5. At the first and every such annual meeting a list of the names of the registered shipowners of the port of Falmouth, up to and inclusive of the then last thirty-first day of December, certified under the hand of the collector or other principal officer of Customs of the port, shall be sufficient evidence of the persons named therein being registered shipowners of Falmouth, and as such entitled to attend the meeting and take part and vote in the election thereat. The said collector or principal officer shall supply a copy of such list on the occasion of the said first meeting to the said Mr. William James Genn, or such person to be appointed as aforesaid, and of each such annual meeting to the clerk of the Commissioners, who shall respectively cause a sufficient number of copies thereof to be printed, and shall supply a copy thereof to every person requiring the same, on payment of the sum of sixpence for every one hundred words of such copy; and copies of such list shall be fixed by the said Mr. William James Genn, or such person as aforesaid, and the said clerk of the Commissioners respectively, on the outer door of the Town Hall of the borough of Falmouth, two days at least before the day appointed for the first and each such annual meeting.
6. At the first and each such annual election each of the aforesaid registered shipowners shall be entitled to one vote, and no more, for each Commissioner then to be elected.
7. The election of Commissioners at the first and each such annual meeting shall be made by the majority of registered shipowners of the port of Falmouth present at the meeting.
8. Such one of the Commissioners elected by the registered shipowners of Falmouth at the first meeting as is named last on the list of persons elected shall go out of office at the second meeting, but shall be eligible for re-election; such one of them as is named second on the list shall go out of office at the third meeting, but shall be eligible for re-election. Such one of them as is named third on the list shall go out of office at the fourth annual meeting, but shall be eligible for re-election.
9. Each Commissioner elected by the said registered shipowners at the annual meeting shall go out of office at the third meeting after his election, but shall be eligible for re-election.
- 5.—“The Commissioners Clauses Act, 1847,” (except sections six and seven, and sections seventeen to thirty-five, both inclusive, and except so far as the other sections thereof are inconsistent with this Order,) is hereby incorporated with this Order, and the same Act shall, as far as the nature and circumstances of the case will admit, apply to the Commissioners collectively and severally; but with

Incorporation of
parts of “The
Commissioners
Clauses Act,
1847.”

4 See Section 12^{c2} FHC Revision
order, 1976

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reference to section thirty-nine thereof the prescribed number (constituting a quorum) of the Commissioners shall be three.

6. ~~The Commissioners shall be deemed fully constituted and have power to act~~ under this Order as soon as five persons have been appointed Commissioners ; and any proceeding of the Commissioners shall not be invalidated or be illegal by reason of the non-appointment of or any informality in the appointment of a Commissioner.

Commencement of powers.

7.—The Commissioners shall be the undertakers of the works authorised by this Order.

Undertakers.

8. ~~The limits within which the Commissioners shall have authority (which,~~ except for the purpose of the rates to be levied under this Order, shall be deemed the limits to which this Order extends,) shall include so much of the harbour of Falmouth as lies within the limits of the municipal borough of Falmouth, and is not within the limits defined by the thirty-ninth section of the Falmouth Docks Act, 1859, or by the sixty-fifth section of the Falmouth Docks Act, 1864, as the ~~limits of the jurisdiction of the Falmouth Docks Company.~~

Limits of harbour under jurisdiction of the Commissioners.

9. The works authorised by this Order, and which may be executed and maintained by the Commissioners, comprise the dredging of the harbour and otherwise improving the same, and the laying down buoys and moorings, and providing other appliances and conveniences for the use of vessels frequenting the harbour.

Works authorised

10.—No works for dredging or improving the harbour under this Order shall be commenced without the assent of the Board of Trade having been first obtained.

Assent of Board of Trade to works.

11.—The Commissioners shall, in accordance with the provisions of sections seventy-nine and eighty of the Harbours, Docks, and Piers Clauses Act, 1847, nominate such number of persons as they may deem necessary to be special constables within the limits of this Order, and from and after the commencement of this Order all the rights and obligations of the corporation of the municipal borough of Falmouth with regard to the appointment and control of police in or over the harbour of Falmouth shall cease and determine.

Commissioners to appoint police.

12.—Clauses one to twenty inclusive, thirty to thirty-three inclusive, and clause sixty-nine of the Towns Police Clauses Act, 1847, are hereby incorporated with this Order.

Incorporation of parts of Towns Police Clauses Act, 1847.

13. ~~The Commissioners may demand and receive on any, and every, vessel~~ anchoring or mooring within or lying alongside any wharf or quay within so much of the limits of this Order as lies within an imaginary straight line drawn from Zoze Point to Pendennis Point, any sum not exceeding the rate of one halfpenny per ton register of such vessel ; Provided that all vessels forced by stress of weather to seek shelter in the harbour, and not breaking bulk while making use thereof, shall be exempt from rates leviable under this Order ; Provided also that the rates leviable under this Order shall not be demanded or received in respect of the same vessel more than twice in any one year ending on the thirty-first day of December, nor shall any such rates be demanded or received in respect of the vessels of officers of Customs, nor in respect of any vessel anchoring in the harbour of Falmouth on her voyage to or from Penryn, St. Mawes, or the port of Truro ; Provided also that ~~no rates shall be levied under this Order within the limits defined by the thirty-~~

Power to levy tolls.

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~~ninth section of the Falmouth Docks Act, 1859, or by the sixty-fifth section of the Falmouth Docks Act, 1864, as the limits of the jurisdiction of the Falmouth Docks Company.~~

Power to borrow.

14.—The Commissioners may from time to time borrow and re-borrow at interest, such money as may be required for the purposes of this Order, not exceeding in the whole the sum of five thousand pounds, on the security of the rates by this Order authorised to be levied.

Application of borrowed money.

15.—Every part of the money borrowed under this Order shall be applied only for the purposes of this Order.

Application of tolls.

16.—The Commissioners shall apply all rates and other income received under this Order for the purposes and in the order following, and not otherwise :—

1. In paying the costs of, and connected with, or incidental to, the preparation and making of this Order, and the expenses of the corporation of Falmouth to an amount not exceeding one hundred and fifty pounds ;
2. In paying the salaries of the harbour-master and harbour police, the expenses of watching, maintaining, and improving the harbour, and of providing and maintaining in proper condition all buoys, moorings, appliances, and other conveniences belonging to the harbour, and paying all other current expenses of the commissioners ;
3. In paying year by year the interest on money borrowed under this Order ;
4. In creating a sinking fund, in manner, and, so far as circumstances will admit, in the proportion specified in the Commissioners Clauses Act, 1847.

Commissioners may provide dredges, etc.

17.—The Commissioners may, for the purposes of the harbour or any of them, from time to time purchase, provide, lease, or hire, such dredges, engines, tugs, vessels, lighters, tools, plants, or other materials as they think fit, and may from time to time demand and receive such sums for the use of the same as they think fit, or may sell or dispose of the same, and the money thereby realised shall be applied for the purposes of this Order, or some of them.

Commissioners may take over buoys, etc., from Trinity House.

18.—The Commissioners may at any time, by agreement with the corporation of Trinity House Deptford Strond, take over all buoys, moorings, and other appliances within the harbour now belonging to or under the control of that corporation, and shall thenceforth maintain and have the control of the same buoys, moorings, and other appliances, subject and according to the terms of such agreement.

Provision for anchorage for vessels of Royal Navy.

19.—It shall be the duty of the Commissioners and their harbour-master to provide forthwith suitable accommodation for any of Her Majesty's ships entering Falmouth Harbour, and, if necessary, for that purpose to remove any other vessels from any part of the harbour ; and the Commissioners or their harbour-master shall, at any time, on the requisition of the Lord High Admiral or the Lords Commissioners for executing the office of Lord High Admiral, or of the Commissioners appointed by such Lord High Admiral, or by the Commissioners for executing his office, or of the Commander-in-chief at Devonport, or the officer in command of any of Her Majesty's ships, being of the rank of captain, cause such portion of the harbour as may be required, including so much of Carrick Roads and Cross Roads as lies between two imaginary straight lines drawn due east (true) respectively from Trefusis Point, and from Pencarrow or Mylor Point to the eastern shore of

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the harbour, to be cleared of all vessels so as to enable vessels of the Royal Navy to anchor there, and the Commissioners or their harbour-master shall, on such requisition, make due provision for the anchorage of such last-mentioned vessels.

20.—All pilots acting within so much of the limits of this order as lies inside of a line drawn from Zoze Point on the east, to the Blockhouse at Pendennis Castle on the west, shall as regards the berthing and mooring of vessels, be subject to and shall obey the directions of the Commissioners or their harbour-master; but any pilot who shall misconduct himself shall be amenable only to and punishable only by the pilotage authority of the port of Falmouth, which authority is by this Order required to act accordingly on any complaint preferred to that authority by the Commissioners or their harbour-master.

Pilots to be within certain limits subject to harbour-master.

21.—Part V. of the "Harbours and Passing Tolls, etc., Act, 1861," shall apply to this Order.

Part V. of 24 and 25 Vict. c. 47, to apply.

22.—The Commissioners shall have the appointment of meters and weighers within the limits of this Order.

Meters and weighers.

23.—Nothing in this Order contained shall prejudice or affect the rights or jurisdiction of the Corporation of Trinity House Deptford Strond in respect of the Falmouth Harbour Light, the Black Rock Beacon, or any other lights, or any buoys or beacons, or any other matter of which they have the management and control.

Saving rights of Trinity House.

24.—The following sections of the Harbour, Docks, and Piers Clauses Act, 1847, shall not be incorporated with this Order, namely, sections six to eleven inclusive, sections sixteen to nineteen inclusive, and sections twenty-five and twenty-six, and, notwithstanding anything in that Act contained, byelaws made under that Act and this Order shall not come into operation until the same have received the allowance and confirmation of the Board of Trade, which shall be sufficient for all purposes.

Parts of Harbours, Docks, etc., Act, not incorporated.

25.—Nothing in this Order contained shall prejudice or affect any property, rights, powers, or privileges of the Right Honourable John Earl of Kimberley, his heirs, successors, or assigns, or of the Right Honourable Charles Henry Rolle Baron Clinton, his heirs, successors, or assigns, or other person or persons claiming the title through or under the Right Honourable Charles Rudolph Baron Clinton, deceased, or of the Corporation of Falmouth, if any, or of the Redruth and Chacewater Railway Company, their successors or assigns, in respect of any land, soil, shores, foreshores, or existing harbour dues or Black Rock tolls, or hereditaments in or to which the same persons, corporation, and company respectively may be interested or entitled.

Saving rights of the Earl of Kimberley, Lord Clinton, and the Redruth Railway Company.

26.—Nothing in this Order contained shall prejudice or affect the powers conferred on the Admiralty under section nine of "The Harbour Transfer Act, 1862," but such powers may be exercised in like manner as if this Order had not been made.

Reservation of Admiralty authority under 25 and 26 Vict. c. 69, s. 9.

27.—This Order shall not be taken as a surrender of any right, estate, or interest of the Crown to or in any tolls or dues in respect of any vessels entering or anchoring within such harbour, or any other right, estate, or interest of the Crown.

Saving rights of Crown.

28.—This Order may be cited as "The Falmouth Harbour Order, 1870."

Short title.