

ELIZABETH II



1986 CHAPTER xxi

An Act to reconstitute the Blyth Harbour Commissioners; to make further and other provision as to their powers and duties; to redefine the harbour limits at Blyth; and for connected or other purposes.

[7th November 1986]

WHEREAS—

(1) The harbour undertaking at Blyth, including a ferry undertaking, is by virtue of the Blyth Harbour Acts and Orders 1858 to 1977 vested in the Blyth Harbour Commissioners:

(2) It would conduce to greater efficiency if the number of the said Commissioners were reduced as in this Act provided, if other changes were made in their constitution, and if their method of selection were simplified:

(3) It is expedient that the powers of the Commissioners, including their power to borrow monies, should be increased, that the limits within which their powers are exercisable should be redefined and that their powers to maintain and operate ferry undertakings should be amended as in this Act provided:

(4) It is expedient that further provision should be enacted for the recovery of charges payable in respect of vessels or goods:

(5) It is expedient that certain penalties provided for under the Blyth Harbour Acts and Orders 1858 to 1977 should be increased and that certain provisions of those Acts and Orders should be amended or repealed:

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

(7) The purposes of this Act cannot be effected 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. This Act may be cited as the Blyth Harbour Act 1986 and the Blyth Harbour Acts and Orders 1858 to 1977 and this Act may be cited together as the Blyth Harbour Acts and Orders 1858 to 1986.

Interpretation.

2. In this Act, unless the context otherwise requires—

“the Commissioners” means the Blyth Harbour Commissioners;

“the harbour” means the area the limits whereof are defined in section 11 below;

“owner” in relation to a vessel, includes the master, charterer, or other person in charge of the vessel and, in relation to goods, includes the consignor, shipper, consignee or other person in charge of the goods;

“the reconstitution date” means 1st January 1987;

“subsidiary” and “wholly-owned subsidiary” have the meanings given by section 736 of the Companies Act 1985;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the undertaking” means the undertaking of the Commissioners as from time to time authorised.

1985 c. 6.

Reconstitution
of Commis-
sioners.

3.—(1) On and after the reconstitution date the Commissioners shall, subject to any casual vacancies, consist of not less than 11 nor more than 14 persons, of whom 10 shall be appointed as provided in subsection (2) below, not more than three may be co-opted as provided in section 4 below and one shall be the general manager appointed under paragraph 11 of Schedule 1 to this Act.

(2) The 10 Commissioners referred to in subsection (1) above shall be appointed as follows:—

- (a) three by the National Coal Board;
- (b) three by the General Council of British Shipping, from amongst persons appearing to them to be representative of owners, charterers and managers of vessels who use the harbour and have offices within 20 miles of the harbour;
- (c) one by the British Railways Board;
- (d) one by the Blyth Valley borough council;
- (e) one by the Wansbeck district council; and
- (f) one by the Northumberland county council.

(3) The provisions set out in Schedule 1 to this Act shall have effect with respect to the Commissioners.

4.—(1) The Commissioners appointed under section 3 (2) above may, by a resolution supported by the votes of at least five of the Commissioners after notice of the meeting and of its purpose has been given in manner in which notices of meetings of the Commissioners are usually given, co-opt as additional Commissioners not more than three persons who in their opinion have a substantial interest in the improvement, maintenance or management of the harbour or of the undertaking or who in their opinion have special knowledge or experience that would be of value to the Commissioners in the discharge of their functions or who are engaged to a significant extent in the import or export of goods through the harbour.

Co-option of Commissioners.

(2) A person shall not be eligible for co-option under this section if he is employed by or is a member of any of the appointing authorities or any body controlling any of the appointing authorities.

(3) A Commissioner co-opted under this section shall (unless his office previously becomes vacant for any reason) continue in office for a period not exceeding three years beginning with the date of his co-option and on the expiry of his term of office shall be eligible for co-option again.

5.—(1) Each appointing authority shall not later than the sixth day preceding the reconstitution date make their appointment or appointments (as the case may be) in accordance with section 3 above.

Appointment of Commissioners and tenure of office.

(2) Each Commissioner so appointed shall (unless his office previously becomes vacant for any reason) continue in office for a period of three years beginning with the reconstitution date.

(3) (a) Each appointing authority shall not later than 1st December of the year in which the term of office of the Commissioner so appointed by them expires and of each third year thereafter make their appointment or appointments (as the case may be) in accordance with section 3 above.

(b) Subject to subsection (5) below, each Commissioner so appointed shall (unless his office previously becomes vacant for any reason) continue in office for a period of three years beginning with 1st January next following his appointment and upon ceasing to hold office shall be eligible for re-appointment.

(4) The appointments made under this section shall be notified in writing to the secretary to the Commissioners.

(5) A Commissioner appointed under section 3 (2) (d), (e) or (f) above may at any time be removed by resolution of the appointing authority.

Resignation of
Commissioners.

6. An appointed or co-opted Commissioner may at any time while he is in office resign his office by notice in writing to the secretary to the Commissioners and, in the case of an appointed Commissioner, to the appointing authority by whom he was appointed.

Casual
vacancies.

7.—(1) A casual vacancy arising in the office of a Commissioner appointed in accordance with section 3 above shall be filled by the appointing authority by whom that Commissioner was appointed by the appointment of another person to fill the vacancy.

(2) A person appointed under subsection (1) above to fill a casual vacancy shall (unless his office previously becomes vacant for any reason) hold office during the remainder of the term for which the person in whose place he has been appointed was appointed.

Disqualification
of Commis-
sioners.

8.—(1) If the Commissioners are satisfied that a Commissioner—

- (a) has been absent from meetings of the Commissioners for six consecutive months or more without the permission of the Commissioners; or
- (b) has been adjudged bankrupt or has made an arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness from discharging the functions of a Commissioner; or
- (d) is otherwise unable or unfit to discharge the functions of a Commissioner;

The Commissioners may declare his office as a Commissioner to be vacant and thereupon the office shall become vacant and the Secretary to the Commissioners shall notify the fact to the appointing authority.

(2) For the purposes of subsection (2) above the attendance of a Commissioner at a meeting of any committee of the Commissioners of which he is a member shall be treated as attendance at a meeting of the Commissioners.

9. The Commissioners may pay to any Commissioner such allowances and expenses as the Commissioners may determine. Expenses.

10. Section 265 of the Public Health Act 1875 shall apply to the Commissioners as if any reference in that section to the said Act of 1875 included a reference to any local enactment relating to the Commissioners, any reference in that section to a local authority included a reference to the Commissioners and any reference in that section to a member or officer of such authority included a reference to a Commissioner or to any officer of the Commissioners. Protection of Commissioners and officers from personal liability. 1875 c. 55.

11. The limits within which the Commissioners shall exercise jurisdiction as a harbour authority and within which the powers of the harbour master shall be exercised shall be— Limits of jurisdiction.

- (a) the lands and waters described in section 5 of the Blyth Harbour and Dock Act 1858; 1858 c. lxviii.
- (b) the further area described in Schedule 2 to this Act; and
- (c) the lands acquired by the Commissioners under any local enactment which are for the time being owned, occupied or administered by them for the purposes of the undertaking;

and, notwithstanding anything contained in the Blyth Harbour Acts and Orders 1858 to 1977, references in any of those Acts or Orders or in any byelaws, orders or regulations made under those Acts or Orders or under any other enactment to the harbour or to any similar expression shall be construed as references to those limits.

12.—(1) Subject to the provisions of this Act, the Commissioners may take such steps from time to time as they consider necessary for the improvement, maintenance and management of the harbour and the facilities afforded therein or in connection therewith. General powers in respect of harbour.

(2) For those purposes, and without prejudice to the generality of subsection (1) above, the Commissioners may—

- (a) improve, maintain, regulate, manage, mark and light the harbour and provide port facilities therein;

- (b) alter, demolish and reconstruct structures and works in the harbour;
- (c) acquire any undertaking or part of an undertaking;
- (d) subscribe for or acquire shares or securities of any body corporate;
- (e) lend money to any person for the purposes of an undertaking carried on by him or, where that person is a body corporate, any undertaking carried on by a subsidiary of that body corporate; and
- (f) do all other things which in their opinion are necessary or expedient to facilitate the proper carrying on or development of the undertaking.

(3) The Commissioners may—

- (a) maintain such reserve funds as they think fit;
- (b) invest any sums not immediately required for the purposes of the undertaking; and
- (c) turn their resources to account so far as not required for those purposes.

(4) This section is without prejudice to any powers of the Commissioners under or by virtue of any other enactment (including this Act).

Borrowing
powers.

13.—(1) The Commissioners may borrow money upon the security of all or any of the revenues and property of the Commissioners and by any method or methods they see fit:

Provided that—

- (a) the total amount of monies borrowed under this section and outstanding at any one time shall not exceed £25,000,000; and
- (b) in calculating for the purposes of paragraph (a) above the amount of money borrowed by the Commissioners and outstanding at any one time there shall be excluded any monies borrowed for use within 12 months of the date of borrowing for repayment of any sum for the time being outstanding by way of principal on any amount previously borrowed.

(2) Monies 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 subsection (2) above, but without prejudice to the generality thereof, purposes to which capital money is properly applicable shall be deemed to include—

- (a) the payment of any interest falling due on a sum of money borrowed under this section within the

five years immediately following the date of that borrowing; and

- (b) the repayment within 12 months of the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

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

Provided that the total amount outstanding at any one time of the money so borrowed shall not exceed £5,000,000.

(2) The power conferred by this section shall be in addition to any other borrowing power for the time being exercisable by the Commissioners.

15.—(1) The Commissioners may form and promote a wholly-owned subsidiary for carrying on any activities which the Commissioners have power to carry on. Subsidiaries.

(2) The Commissioners shall secure that any company formed in exercise of the powers conferred by subsection (1) above remains a wholly-owned subsidiary.

(3) The Commissioners may enter into arrangements with a company formed in exercise of the powers conferred by subsection (1) above for the transfer to that company from the Commissioners or from any other company so formed, in such manner and on such terms (including payments by any of the parties to the arrangements to any of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of the Commissioners or of that other company which are relevant to the carrying on of the activities to be carried on by the first-mentioned company.

16.—(1) Subject to subsection (2) below, the Commissioners may make such reasonable charges as they think fit for services and facilities provided by them or by any company formed under section 15 above. Charges for services and facilities.

(2) Subsection (1) above does not authorise—

(a) the levying of ship, passenger and goods dues within the meaning of the Harbours Act 1964; or

1964 c. 40.

(b) the making of a charge in any case where an enactment relating to the Commissioners expressly provides for freedom from charges or otherwise prohibits the making of a charge.

(3) Nothing in subsections (1) and (2) above shall affect any power to demand, take and recover charges which the Commissioners may for the time being have under or by virtue of any other enactment (including an enactment in this Act).

1847 c. 27.

(4) Without prejudice to any provision of this Act or any other enactment relating to the payment or recovery of charges due to the Commissioners, sections 27 to 46 of the Harbours, Docks, and Piers Clauses Act 1847 (which provide for various matters connected with liability for and collection of rates to be taken by the undertakers), as incorporated with or applied by any enactment relating to the Commissioners, apply to charges under subsection (1) above as if they were rates payable under that enactment.

As to payment of charges.

17.—(1) The several charges which the Commissioners are for the time being authorised to demand, take and recover in respect of vessels and goods under any enactment shall be payable before the removal from the harbour of any vessel or goods in respect of which they are payable and may be demanded, taken and recovered by such persons, at such places, at such times and under such regulations as the Commissioners may from time to time appoint.

(2) Charges payable to the Commissioners shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(3) Where charges payable to the Commissioners may be recovered by them from more than one person, the said persons shall be jointly and severally liable.

Penalty for evading payment of charges.

18. If the owner of any vessel or goods or any other person at any time evades or attempts to evade payment of any charges payable by such owner or person to the Commissioners at the time when they become due and payable, he shall be liable to pay to the Commissioners a sum equal to three times the amount of such charges, which sum shall be a debt due to the Commissioners and shall be recoverable by the Commissioners in the same manner as penalties imposed by the Harbours, Docks, and Piers Clauses Act 1847 may be recovered, or by action in any court of competent jurisdiction.

Claims for repayment of charges.

19. Any person claiming the return of the whole or any part of any charges paid to the Commissioners shall make his claim, and produce all documents and give all information required by the Commissioners in proof thereof, within one year from the time of payment; and in default thereof the claim shall cease to be enforceable.

20. The owner of any goods warehoused, placed, stored or yarded in a warehouse, transit shed or area, store or yard of the Commissioners shall, before the removal of those goods from the warehouse, transit shed or area, store or yard and at such date or dates as shall be fixed by the Commissioners, pay such charges as shall be then due and payable on those goods.

Payment of charges on warehoused goods.

21. The Commissioners may, if they think fit, require any person liable, or who will become liable, to pay charges to the Commissioners to deposit with them, or to guarantee, such sum as, in the opinion of the Commissioners, is reasonable having regard to the probable amount of the charges.

Deposit for charges.

22. In addition to any remedy given by this Act or any other enactment the Commissioners may recover any charges payable to them as a debt.

Recovery of charges.

23.—(1) Nothing in this Act shall authorise the Commissioners to levy charges on or regulate or subject to control a vessel in the service of Trinity House, not being a vessel carrying goods for reward.

Exemptions from charges for Trinity House.

(2) Nothing in this Act shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of Trinity House.

24.—(1) The Commissioners may demand, take and recover such reasonable tolls or charges for the use of any ferry service provided by them as they may determine and section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 shall not apply to any ferry undertaking of the Commissioners:

Ferries.

1954 c. 64.

Provided that the Commissioners shall not increase the tolls and charges which they may for the time being demand, take and recover under this subsection without having first consulted with the Northumberland county council.

(2) For the purposes of subsection (1) above, a toll or charge shall be regarded as reasonable if it is likely to result in the ferry undertaking receiving an annual revenue which is neither substantially less nor substantially more than is adequate to meet such expenditure on the working, management and maintenance of the undertaking and such other costs, charges and expenses of it as are properly chargeable to revenue, including reasonable contributions to any reserve, contingency or replacement fund.

Increase of penalties.

25. For the penalties set out in column (2) of Schedule 3 to this Act (as prescribed in relation to the enactments respectively specified in column (1) thereof) there shall be substituted the penalties specified in column (3) thereof.

Certain enactments not to apply.

26. The following enactments shall cease to apply to the Commissioners and to the undertaking:—

1847 c.27.

(a) section 48 of the Harbours, Docks, and Piers Clauses Act 1847 (which empowers a customs officer to refuse to receive an entry or give a clearance etc. until harbour rates have been paid);

(b) section 49 of that Act (which requires the undertakers to keep certain records of charges, tonnages and other particulars);

1847 c.16.

(c) section 54 of the Commissioners Clauses Act 1847, (which provides for requiring and giving notice of certain attendances at the office of the Commissioners).

Crown rights.

27.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Commissioners to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

(a) 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; or

(b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

Repeals.

28. The enactments specified in Schedule 4 to this Act (which include enactments which were obsolete or spent before the passing of this Act) are hereby repealed to the extent mentioned in column (3) of that Schedule.

SCHEDULES

Section 3.

SCHEDULE 1

PROVISIONS APPLYING TO THE COMMISSIONERS

1.—(1) At the first meeting of the Commissioners held on or after the reconstitution date and at the first meeting of the Commissioners in each year thereafter the Commissioners present at the meeting shall choose one of their number to act as their chairman and at that meeting or any subsequent meeting the Commissioners present may choose another of their number to act as deputy chairman.

(2) So long as they continue as Commissioners the persons chosen under sub-paragraph (1) above to act as chairman and deputy chairman respectively shall hold office as such from and including the meeting at which they are chosen until the next appointment of a chairman.

2.—(1) If a casual vacancy occurs in the office of chairman the Commissioners shall as soon as may be after the occurrence of the vacancy choose some other Commissioner to fill the vacancy.

(2) If a casual vacancy occurs in the office of deputy chairman the Commissioners may choose some other Commissioner to fill the vacancy.

(3) So long as they continue as Commissioners every person chosen under this paragraph to act as chairman or deputy chairman shall continue in office as such so long as the person in whose place he has been so chosen would have been entitled to continue in office if such vacancy had not occurred.

3. In the absence of the chairman the person for the time being holding office as deputy chairman shall have all the powers of the chairman.

4. If at any meeting of the Commissioners neither the chairman nor the deputy chairman is present the Commissioners present at the meeting shall choose one of their number to be chairman of the meeting.

5. The Commissioners may act notwithstanding a vacancy in their number and no act of the Commissioners shall be invalid by reason of any irregularity in the appointment of any Commissioner, or by reason of any person irregularly acting as a Commissioner.

6. The Commissioners may, subject to such conditions as they think fit, delegate any of their functions to a committee of the Commissioners.

7. If at any meeting of the Commissioners or of a committee of the Commissioners there is an equality of votes on any question the chairman of the meeting shall have a second or casting vote.

SCH. 1
—cont.

8. The quorum required for a meeting of the Commissioners shall be five.

9.—(1) If a Commissioner has any pecuniary interest, direct or indirect—

- (a) in any contract or proposed contract to which the Commissioners are or propose to become a party; or
- (b) in any other matter with which the Commissioners are concerned;

and is present at a meeting of the Commissioners or of any committee of the Commissioners at which that contract or matter is considered, he shall—

- (i) so soon as practicable after the commencement of that meeting disclose his interest;
- (ii) not vote on any question with respect to that contract or matter; and
- (iii) withdraw from the meeting if the other Commissioners present by resolution require him so to do.

(2) Sub-paragraph (1) above shall not apply to any interest—

- (a) which a Commissioner has in respect of the fixing and payment of charges generally;
- (b) which arises in respect of the provision of harbour services or facilities affecting the trading community in general;
- (c) which a Commissioner has as an employee of a public utility undertaking or as a shareholder of a company (not being a director or possessing more than five per cent. of the issued share capital of that company); or
- (d) which the Commissioners present at the meeting by resolution declare to be too remote.

10. Subject to the provisions of this Schedule the procedure and business of the Commissioners shall be regulated in such manner as the Commissioners may from time to time determine.

11. The Commissioners shall appoint a general manager, a secretary, a harbour master and such other officers and servants as they may think necessary or expedient, on such terms and conditions as they think fit; and references in the Blyth Harbour Acts and Orders 1858 to 1977 to the clerk to the Commissioners shall be construed as references to the secretary appointed under this paragraph.

SCHEDULE 2

Section 11.

FURTHER AREA OF JURISDICTION

The area referred to in section 11 (b) of this Act is that within the following imaginary straight lines, namely:—

- (a) a line from a point at latitude 55° 06.50'N, longitude 1° 29.44'W ("Point W") to a point at latitude 55° 06.00'N, longitude 1° 28.00'W ("Point X");
- (b) a line from Point X to a point at latitude 55° 06.95'N, longitude 1° 28.00'W ("Point Y");
- (c) a line from Point Y to a point at latitude 55° 07.17'N, longitude 1° 28.38'W (Point C, within the meaning of section 5 of the Blyth Harbour and Dock Act 1858);
- (d) a line from Point C to a point at latitude 55° 06.64'N, longitude 1° 28.38'W (Point B, within the meaning of that section);
- (e) a line from Point B to a point at latitude 55° 06.64'N, longitude 1° 29.53'W ("Point Z"); and
- (f) a line from Point Z to Point W.

1858 c. lxxviii.

Section 25.

SCHEDULE 3

INCREASE OF PENALTIES

	Enactment (1)	Existing penalty (2)	New penalty (3)
1858 c. lxxviii.	BLYTH HARBOUR AND DOCK ACT 1858		
	Section 54 (Exemption of certain vessels)	£100	level 3 on the standard scale.
	Section 79 (Penalty for breaking lamps, etc.)	£20	level 2 on the standard scale.
	Section 81 (Penalty for throwing ballast overboard within certain limits)	£100	level 3 on the standard scale.
	Section 83 (Penalty on masters of lighters improperly discharging or taking up ballast)	£100	level 3 on the standard scale.
1912 c. cix.	BLYTH HARBOUR ACT 1912		
	Section 77 (Penalties on persons practising frauds)	£20	level 1 on the standard scale.
	Section 78 (Penalties in case of offences by toll collectors)	£100	level 3 on the standard scale.
	Section 148 (Report to collectors of rates of vessels entering or leaving harbour): subsection (4) (penalty on master of any vessel failing to make any such report)	£100	level 3 on the standard scale.
	Section 149 (Master to deliver account in writing of fuel and ballast)	£100	level 3 on the standard scale.
	Section 150 (Master to deliver a copy of bill of lading or manifest)	£100	level 3 on the standard scale.
	Section 153 (Harbour master may prevent sailing of vessels when rates have not been paid)	£100	level 3 on the standard scale.
	Section 154 (Regulations with respect to timber, logs, rafts, etc.)	£20	level 1 on the standard scale.
	Section 162 (Additional byelaws): subsection (2) (penalties)	level 2 on the standard scale.	level 4 on the standard scale.

SCHEDULE 4

Section 28.

REPEALS

Chapter or S.I. number	Short title	Extent of repeal
21 & 22 Vict. c.lxviii.	Blyth Harbour and Dock Act 1858.	Sections 6, 16, 30 to 33, 42, 43, 64 to 66, 69 and 100.
23 & 24 Vict. c.cvi.	Blyth Harbour and Dock Act 1860.	Sections 9, 23, 24 and 27.
45 & 46 Vict. c.liv.	Blyth Harbour Act 1882.	Sections 68, 73, 94 to 97 and 108.
2 & 3 Geo. 5 c.cix.	Blyth Harbour Act 1912.	Sections 5 to 51, 61, 62, 65 to 68, 73 to 76, 79, 89, 100 and 164 and the First and Third Schedules.
5 & 6 Geo. 5 c.xiv.	Blyth Harbour Act 1915.	Sections 21 to 26, 47 and 48.
9 & 10 Geo. 5 c.xi.	Blyth Harbour Act 1919.	The whole Act.
5 & 6 Eliz. 2 c.vi.	Blyth Harbour Act 1957.	Sections 4 to 9, 12 to 15, 25 and 26 and the Second Schedule. In section 21 (1), the words from "Act of 1882" to "revenues)".
S.I. 1969/1652	Blyth Harbour (Amendment of Local Act) Order 1969.	The whole Order.
S.I. 1977/2125	Blyth Harbour Revision Order 1977.	Articles 3 and 6 to 8 and the Schedule.

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CHAPTER xxi

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