

[26 GEO. 5. & *Pier and Harbour* [Ch. lxxxiii.]
1 EDW. 8.] *Order (Paignton) Confirmation*
Act, 1936.



CHAPTER lxxxiii.

An Act to confirm a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 relating to Paignton. A.D. 1936.
[31st July 1936.]

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 amended and 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 and 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 (Paignton) Confirmation Act 1936. Short title.

[Price 1s. 0d. Net]

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A.D. 1936.

SCHEDULE.

PAINGTON HARBOUR.

Order for the transfer to the urban district council of Paington of the undertaking known as the Paington Harbour to confer powers on the said council with reference thereto and the maintenance management and improvement thereof and for other purposes.

PRELIMINARY.

- Short title. 1. This Order may be cited as the Paington Harbour Order 1936.
- Commencement of Order. 2. This Order shall come into operation on the day when the Act confirming this Order is passed and that day is in this Order referred to as "the commencement of this Order."
- Interpretation. 3. In this Order unless the context otherwise requires words and expressions to which by the enactments incorporated therewith or applied thereto respectively meanings are assigned have in this Order the same meanings And
- 10 & 11 Vict. c. 27. "The Harbours Clauses Act 1847" means the Harbours Docks and Piers Clauses Act 1847;
- 1 Vict. c. i. "The Act of 1838" means the Act 1 Victoriæ Cap i being an Act for making and maintaining a harbour and other works at Paington in the county of Devon;
- "The district" means the urban district of Paington;
- "The Council" means the urban district council of the district;
- "The general rate" and "the general rate fund" mean respectively the general rate and general rate fund of the district;
- "The company" means the Paington Harbour Company incorporated by the Act of 1838;
- "The harbour" means the harbour of Paington as authorised by the Act of 1838 and the land buildings works plant property and conveniences connected therewith or any part thereof as the case may be;
- "The undertaking" means and includes as the case may require the harbour and the lands property and conveniences held therewith transferred to the Council

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under the powers of this Order or the entire undertaking of the Council in connection with the harbour; A.D. 1936.

“ Authorised rates ” and “ authorised rate ” mean respectively the rates or rate which the Council are for the time being authorised to levy demand and recover in pursuance of this Order;

“ The Minister ” means the Minister of Transport;

“ Vessel ” includes a seaplane on the surface of the water;

“ Seaplane ” includes a flying boat and any other aircraft designed to manœuvre on the water;

“ The works ” means and includes the piers quays roads buildings and works and all conveniences connected therewith transferred to the Council under the powers of this Order or constructed purchased or otherwise acquired by the Council under this Order;

“ The piers ” means the piers or jetties of the harbour;

“ The purchase agreement ” means the agreement between the company and the Council which is confirmed by this Order;

“ The date of transfer ” means the day of the completion of the transfer of the undertaking in pursuance of the purchase agreement.

UNDERTAKERS AND INCORPORATION OF ACTS.

4. The Council shall be the undertakers for carrying this Order into execution. Undertakers.

5.—(1) The Lands Clauses Acts except so much thereof as relates to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking are hereby incorporated with this Order. Incorporation of Lands Clauses Acts.

(2) For the purposes of the incorporation of the said Acts and of the Harbours Clauses Act 1847 the expression “ the Special Act ” in those Acts shall mean this Order.

6.—(1) In the application to this Order of the Harbours Clauses Act 1847 the word “ vessel ” shall have the meaning assigned to it by section 3 (Interpretation) of this Order: Application of Harbours Clauses Act 1847.

Provided that nothing in the Harbours Clauses Act 1847 or this Order shall authorise a harbour master or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration modifying in any way its structure or equipment or otherwise affecting its airworthiness.

(2) Sections 12 and 13 16 to 19 and 84 to 87 of the Harbours Clauses Act 1847 shall not be incorporated with this Order.

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TRANSFER OF UNDERTAKING.

Transfer of
harbour.

7.—(1) The purchase agreement (a copy of which is set forth in the First Schedule to this Order) is hereby confirmed and made binding on the parties thereto respectively and the same may and shall be carried into effect accordingly.

(2) Subject to the provisions of this Order and of the purchase agreement the harbour and the undertaking and all rights powers authorities choses in action chattels effects moneys arrears of rates and things which are under the purchase agreement to be transferred to the Council shall as from the date of transfer be vested in the Council and the harbour and the undertaking may be maintained by the Council and the Council may exercise all the powers rights and authorities which are by the unrepealed provisions of the Act of 1838 conferred upon the company and are by this Order conferred upon the Council.

(3) As from the commencement of this Order the harbour shall be known and described as "the Paignton Harbour."

Saving
rights of
action.

8. Subject to the provisions of this Order nothing in this Order contained shall be held to prejudice or affect any action or suit or right or cause of action or suit or any remedy which at the date of transfer may be pending by or against the company or which the company may have against any person or which any person may have against the company but all such actions suits rights causes and remedies may be enforced or prosecuted by or against the company as if this Order had not been made.

Documents
&c. to be
transferred.

9. All documents books plans maps writings papers and effects belonging to or vested in the company evidencing the title of the company to the harbour and the undertaking or of any part thereof or which may be necessary or convenient for the proper carrying on and working of the harbour or the undertaking by the Council shall at the date of transfer be transferred to and belong to and be vested in the Council Provided that the Council shall give the company reasonable access to and allow the company to take copies of or extracts from any such documents books plans maps writings and papers so far as may be necessary to enable the company to wind up their affairs.

Winding up
of company.

10.—(1) From and after the date of transfer the company shall subsist only for the purpose of winding up their affairs and carrying into effect the purposes of this Order so far as they relate to the company and the directors of the company who are in office at the commencement of this Order and the survivor or survivors of those directors shall continue without re-election to hold office and those directors or the majority of them or if a liquidator of the company be duly appointed the liquidator shall have power and authority to take with respect to the company

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all proceedings necessary for carrying into effect the purposes of this section. A.D. 1936.

(2) If the number of directors of the company be reduced by death resignation or otherwise below three before the completion of the winding up of the company or the appointment of a liquidator thereof the continuing directors shall from time to time appoint a person or persons who immediately prior to the date of transfer was or were a shareholder or shareholders of the company to fill any vacancy or vacancies so caused.

(3) As soon as may be after the date of transfer the directors shall proceed to wind up the affairs of the company and shall pay and distribute the net consideration money in accordance with the provisions of this Order.

(4) The net consideration money shall be applied as follows:—

(1) in making provision for all debts and liabilities of the company;

(2) in repayment of the mortgages or debentures of the company and interest accrued thereon;

and any moneys then remaining shall be distributed amongst the shareholders of the company.

(5) The company shall on publication in a local newspaper circulating in the district of a notice signed by three or more directors and certifying that all the provisions of this Order relating to the company have been complied with be dissolved.

(6) In case the directors are for six months after the date of transfer unable after diligent inquiry to ascertain the person to whom any money ought to be paid or who can give an effectual receipt for the same they may pay such money into the High Court under any Act for the time being in force for the relief of trustees and every such payment or deposit shall effectually discharge the company and the directors from any further liability with respect to such money.

(7) If any money is payable or issuable to any holder of shares of the company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be sufficient discharge to the company and the directors.

11. As from the date of transfer the Act of 1838 shall be and the same is hereby repealed except so far as may be necessary to give effect to the provisions of the section of this Order of which the marginal note is "Winding up of company" and except the provisions which are set out in the Second Schedule to this Order all which last mentioned provisions shall continue and have effect as if they were re-enacted in this Order with any

Partial
repeal of
Act of 1838.

A.D. 1936. necessary modifications and as if references to the Council were substituted therein for references to the company and the promoters of the Act of 1838.

ACQUISITION OF LANDS.

Power to
take lands by
agreement.

12. Subject to the provisions of this Order the Council may by agreement purchase and hold for the purposes of this Order any lands in addition to those transferred to the Council under and in pursuance of the purchase agreement not exceeding in the whole twenty acres but with respect to such additional lands nothing in this Order or in the Acts incorporated therewith shall exempt the Council from any indictment action or other proceedings for nuisance in the event of any nuisance being caused or permitted by them thereon.

LIMITS.

Limits of
harbour.

13. The limits within which the Council shall have authority and within which the powers of the harbour master may be exercised and within which the power to levy rates may be exercised shall comprise the works and an area below high-water mark bounded by imaginary lines—

- (a) running due north (true) and due south (true) from a point half a statute mile due east (true) of the eastern extremity of the north pier or jetty forming part of the works;
 - (b) running due east (true) and due west (true) through a point one statute mile and one quarter to the north (true) of the eastern extremity of the said pier or jetty; and
 - (c) running due east (true) and due west (true) through a point one statute mile and one quarter to the south (true) of the eastern extremity of the said pier or jetty;
- which limits are in this Order termed “ the limits of the harbour.”

WORKS AND POWERS.

Power to
construct
maintain
and improve
works.

14.—(1) Subject to the provisions of this Order the Council may upon any lands within the limits of the harbour maintain alter improve and extend the harbour and any works thereof and construct maintain alter and improve embankments walls foot-ways approaches steps landing places piers quays jetties slips wharves groynes sea defences buoys moorings cranes lights beacons roads sewers drains watercourses gas and water pipes electric light and power warehouses offices sheds and other works and conveniences which may be found necessary for the accommodation of vessels and traffic and for the protection of the harbour and may also from time to time lay down and

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maintain rails tramways sidings and turntables on and along the piers quays and other harbour works of the Council. A.D. 1936.

(2) No line of rails or tramways constructed under the powers of this Order shall be used for the public conveyance of passengers unless and until the same have been inspected and certified by the Minister to be fit for such traffic.

(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 undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1936 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section. 45 & 46 Vict. c. 56.

15.—(1) If the Council under the powers of this Order desire to execute any works within the limits of the harbour which may affect the railway or works of the Great Western Railway Company (in this section referred to as "the railway company") they shall give to the railway company one month's notice in writing of their desire to execute any such works accompanied by a sufficient plan section and specification of the proposed work and shall not commence to execute or carry out such work until the plan section and specification have been approved by the engineer of the railway company or by an arbitrator to be appointed as hereinafter provided. Provided that the approval of the said engineer shall not be unreasonably withheld and shall be deemed to have been given unless the said engineer signifies his disapproval within the said period of one month. For protection of Great Western Railway Company.

(2) Any difference between the Council and the railway company with respect to any of the provisions of this section shall unless otherwise agreed be referred to an engineer to be appointed in default of agreement between the Council and the railway company by the President of the Institution of Civil Engineers upon the application of either party after notice thereof to the other and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference.

16. Any person who wilfully obstructs any person acting under the authority of the Council in setting out the lines of the works or who pulls up or removes any poles or stakes driven into the ground for the purpose of such setting out shall for every such offence be liable to a penalty not exceeding five pounds. Penalty for obstructing works.

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Power to
erect
pavilions
and other
buildings.

17. The Council may construct and maintain on the piers or other parts of the works and may furnish and equip fishing-platforms pavilions saloons assembly concert lecture waiting refreshment reading and other rooms automatic machines bicycle-stands band stands shops bazaars kiosks aquaria lavatories baths and sanitary and other conveniences and they may also construct in the harbour and maintain swimming baths and may make such reasonable charges as they may determine for the use of such conveniences and for admission to such buildings or places as aforesaid.

Power to
dredge
and sell
materials.

18.—(1) The Council may deepen dredge scour and excavate the harbour as they may consider necessary and may deepen dredge scour and excavate any portion of the foreshore and bed of the sea to the extent necessary to secure a sufficient waterway and approach to the harbour for vessels using the same.

(2) All sand mud and other materials dredged up or removed shall be the property of the Council 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 Board of Trade having been first obtained.

(3) All money arising from any sale or other disposition of sand mud and other materials under this section after payment of the expenses connected therewith shall be applied in the same manner as the revenue from the harbour is to be applied.

(4) The powers of the Council under this section shall be exerciseable 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 Board of Trade on behalf of His Majesty may be given subject to such restrictions and conditions including the payment by the Council to the Commissioners of Crown Lands or to the Board of Trade of royalties or sums of money in respect of materials raised from any place below high-water mark and sold by the Council under this section or in respect of any place below high-water mark on which materials may be deposited as may be fixed by the Commissioners of Crown Lands or the Board of Trade as the case may be.

Power to
purchase
dredgers &c.

19. The Council may provide purchase take on lease hire and use such steam or other dredgers eroders engines lighters or other vessels machinery and apparatus as they may think necessary for effecting the purposes of this Order and may let the same on hire for such sums and upon and subject to such

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terms and conditions as they may think fit or may sell and dispose of the same All sums received in respect of any such letting on hire or sale shall be deemed to form part of the revenue of the undertaking Provided that if moneys are so received in respect of the sale of any dredgers eroders engines lighters vessels machinery or apparatus originally provided out of borrowed moneys all moneys realised by any such sale shall be applied towards carrying into effect any of the purposes of this Order to which capital is properly applicable.

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RATES.

20. The Council may within the limits of the harbour subject and according to the provisions of this Order levy and demand for the use of the works and the conveniences connected therewith and 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 entering or using the harbour such reasonable rates as may from time to time be approved by the Minister after consultation with the Secretary of State for Air and in respect of all other vessels persons and goods of every description and for services described in the Third Schedule to this Order any rates not exceeding those specified in that schedule and may receive and recover payment accordingly.

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

21. The Council 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 harbour or the works under the like circumstances and that anything done under this section shall not prejudice the other provisions of this Order.

Power to
vary
exemptions
and
compound
for rates.

22. The Council may (so far as the rates specified in the Third Schedule to this Order do not extend) demand and recover such reasonable rates or other consideration as they may determine for the use of any warehouses sheds buildings yards weighing machines mooring posts cranes buoys works and conveniences belonging to or provided by the Council or in respect of any services rendered by them in connection with the harbour.

Rates for
services and
accommo-
dation not
otherwise
provided for.

23.—(1) The master or owner of any vessel (not being a pleasure boat) with a take or cargo of fish shall on the arrival of the vessel within the limits of the harbour forthwith furnish to the collector of rates a true and accurate statement of his take or cargo of fish and the name of every person obtaining delivery thereof.

Master of
fishing
vessel to
report take
of fish.

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(2) If the master or owner of a vessel fails to comply with this section he shall for each offence be liable to a penalty not exceeding ten pounds.

Harbour
master may
prevent
sailing of
vessels.

24. The harbour master may prevent the removal or sailing from within the limits of the harbour of any vessel in respect of which or of the goods imported or exported therein any rates are payable until evidence has been produced to him of the payment of those rates to the collector and in the case of a vessel with a take or cargo of fish until the master or owner of the vessel has given in the account of his take or cargo of fish required by this Order.

Certain
fishing
vessels
under stress
of weather
exempt from
rates.

25. Fishing vessels belonging to countries with which for the time being treaties exist exempting from duties and port charges those vessels when forced by stress of weather to seek shelter in the ports or on the coast of the United Kingdom shall when forced by stress of weather to make use of the harbour and not breaking bulk while making use thereof be exempt from rates leviable under this Order.

Exemption
of lifeboat
crew.

26. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and all persons brought ashore from any vessel in distress shall at all times have free ingress passage and egress to along and from the harbour.

Power to
close piers
on special
occasions.

27.—(1) The Council may on any special occasions but not on more than twelve days in any one year or for more than three days consecutively close the piers or either of them against the public and may on such occasions admit any person to the piers on payment of such special rates of admission not exceeding one shilling for each person as the Council may determine.

(2) On all such occasions the Council shall reserve a sufficient passage along the piers between the landing steps and the shore for any persons landing or embarking at the piers the reserved passage to be open for use by those persons at the ordinary charge and without payment of any special rates so long only as they use the pier or piers as a passage and do not remain upon it or them.

(3) The special rate charged under this section shall be in lieu of and not in addition to the rate specified in the Third Schedule to this Order and any person paying the special rate shall not be liable to pay any further or other rate or sum for admission to the piers on the day for which the special rate is charged.

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(4) During at least two days before the day on which the piers are to be closed the Council shall exhibit conspicuously at the entrances to the piers a notice of their intention to close the piers under this section. A.D. 1936.

28.—(1) If it is represented by application in writing to the Minister— Revision of rates.

(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 Council;

that under 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 subject as hereinafter provided 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 any such inquiry as if it were an inquiry held in pursuance of that section:

Provided that the persons appointed to hold the inquiry shall be the rates advisory committee constituted under the Ministry of Transport Act 1919 or any sub-committee thereof to which the said advisory committee may under section 2 of the Harbours Docks and Piers (Temporary Increase of Charges) Act 1920 have delegated their powers or if the said advisory committee cease to exist some persons with similar qualifications to be appointed for the purpose by the Minister: 9 & 10 Geo. 5.
c. 50.
10 & 11
Geo. 5. c. 21.

Provided also that in cases in which no objection has been made to the application or in which any objection which has

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Saving for
 Paignton
 Pier
 Company.

29. Notwithstanding anything in this Order the Council shall not levy or demand any rates authorised by this Order upon or in respect of steam or other vessels or boats coming within the limits of the harbour for the purpose of landing or embarking passengers animals minerals goods or other traffic at the pier authorised by the Paignton Pier Act 1874 nor upon such passengers animals minerals goods and other traffic.

37 & 38 Vict.
 c. xlvii.

POWERS OF SALE AND LEASING.

Power to
 sell
 undertaking.

30.—(1) The Council may with the previous consent in writing and upon such terms conditions and restrictions as may be approved by the Minister sell the undertaking and the purchaser to the extent authorised by his conveyance shall have and may exercise all or any of the powers conferred upon the Council by this Order or which the Council have or might exercise under this Order and shall be subject to all the liabilities and obligations to which the Council are subject and shall perform all the duties of the Council under this Order.

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

Power to
 lease
 undertaking
 or rates.

31.—(1) The Council 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 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 Council by this Order which the Council have or might exercise under this Order and shall be subject to all the liabilities and obligations to which the Council are subject and shall perform all the duties of the Council 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.

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(4) The Council shall within one month after the date of any lease made under this section deposit a certified copy thereof at the offices of the Minister and shall upon failure to do so be liable to a penalty not exceeding twenty pounds. A.D. 1936.

(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 Council from their obligation to keep and render accounts and as from the date of any lease made under this section all the provisions of the Acts incorporated with this Order and 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 Council and all moneys received by the Council under or in respect of any such lease shall be deemed to be moneys levied by virtue of and income received under this Order.

32. The Council 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 person upon such terms pecuniary or otherwise and under such restrictions and conditions as they may determine. Power to lease pavilions &c.

ENTERTAINMENTS &C.

33. The powers of the Council under section 76 of the Public Health Acts Amendment Act 1907 and section 56 of the Public Health Act 1925 shall extend and apply to the piers and the pavilions or other buildings thereon as if they were a public park or pleasure ground. Concerts entertainments &c. 7 Edw. 7. c. 53. 15 & 16 Geo. 5. c. 71.

34. The Council may from time to time pay or contribute towards the cost of advertising by means of handbooks leaflets posters advertisements in newspapers or otherwise the harbour and any performances fêtes or other attractions thereon or given in connection therewith. Power to advertise harbour.

FINANCIAL.

35.—(1) The Council shall have power in addition without prejudice to their powers of borrowing under the Local Government Act 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column of the said table and they shall pay off all moneys so borrowed within such periods Power to borrow. 23 & 24 Geo. 5. c. 51.

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A.D. 1936. as the Council may determine not exceeding those respectively mentioned in the third column of the said table (namely) :—

1	2	3
Purpose.	Amount.	Period for repayment.
(a) For carrying the purchase agreement into effect.	The sum requisite.	Thirty years from the date or dates of borrowing.
(b) For the payment of the costs charges and expenses of this Order.	The sum requisite.	Five years from the commencement of this Order.

(2) The provisions of Part IX of the Local Government Act 1933 so far as they are not inconsistent with this Order shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

(3) In the application of Part IX of the Local Government Act 1933 to the borrowing of moneys for the purposes of this Order the Minister shall be the sanctioning authority.

Receipts and expenses.

36.—(1) Notwithstanding anything contained in any Act or Order all moneys received by the Council in connection with the undertaking whether on capital or revenue account including (but without prejudice to the generality of this provision)—

(a) all money received on account of the revenue of the undertaking;

(b) interest and other annual proceeds received on the investments forming part of any fund accumulated for the redemption of debt or as a reserve renewals repairs contingency or other similar fund in connection with the undertaking (including any interest payable to any such fund or any other fund in pursuance of section 89 (Use of moneys forming part of reserve and other funds) of the Paignton Urban District Council Act 1926);

16 & 17
Geo. 5. c. lxx.

shall be carried to and form part of the general rate fund and all payments and expenses made and incurred by the Council in respect of the undertaking or in carrying into execution the powers and provisions of this Order (including interest on moneys borrowed by the Council and all sums required by law to be paid

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or transferred or which the Council may determine to pay or transfer to any such fund as is referred to in paragraph (b) of this subsection) shall be paid or transferred out of the general rate fund : A.D. 1936.

Provided that an amount equivalent to the interest and other annual proceeds as aforesaid shall (subject in the case of any of the said funds to any prescribed limit on the amount thereof) be credited in the accounts to the fund on the investments of which the same is received.

(2) Nothing in this section shall authorise the Council to apply capital money to any purpose other than a purpose to which capital money is properly applicable.

37.—(1) The Council shall keep their accounts in respect of the undertaking so as to distinguish capital from revenue and as to revenue so as to show under a separate heading or division on the one side all receipts in respect of the undertaking including the income from any reserve or other similar fund formed in connection with the undertaking and on the other side all payments and expenses in respect of the undertaking such payments and expenses being divided so as also to show the amounts representing— Accounts of undertaking.

- (a) The working and establishment expenses and cost of maintenance of the undertaking ;
- (b) The interest on moneys borrowed by the Council for the purposes of or connected with the undertaking ;
- (c) The requisite appropriations instalments or sinking fund payments in respect of moneys borrowed for the purposes of the undertaking ;
- (d) All other expenses (if any) of the undertaking properly chargeable to revenue ;
- (e) The amount (if any) paid to any reserve fund which the Council are from time to time authorised to maintain ;
and
- (f) Any money expended on any of the purposes mentioned in the section of this Order of which the marginal note is " Application of revenue of undertaking."

(2) The Council shall show in their accounts relating to the undertaking all items (including receipts and payments in respect of loans applicable thereto) which ought to be entered therein in order to show the financial position of the undertaking.

(3) In all cases in which the Council keep separate accounts for separate purposes they shall so far as reasonably practicable apportion between those accounts or carry to any of them any

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Act, 1936.

A.D. 1936. — receipts credits payments and liabilities which from time to time ought to be so apportioned or carried.

Application
of revenue of
undertaking.

38.—(1) If in respect of any year the moneys received by the Council on account of the revenue of the undertaking (including the interest and other annual proceeds received by the Council in that year on the investments representing or forming part of any such fund as is referred to in paragraph (b) of subsection (1) of the section of this Order of which the marginal note is "Receipts and expenses" provided in connection with the undertaking) shall exceed the moneys expended or applied by the Council in respect of the undertaking for the several purposes mentioned in paragraphs (a) (b) (c) and (d) of subsection (1) of the last preceding section the Council may in respect of that year (if they think fit but subject to the provisions hereinafter contained) apply out of the general rate fund a sum not exceeding the amount of such excess to any of the following purposes:—

- (a) In reduction of capital moneys borrowed for the purposes of the undertaking;
- (b) In the renewal construction extension or improvement of any works and conveniences for the purposes of the undertaking;
- (c) In providing a reserve fund in respect of the undertaking by setting aside such an amount as they may from time to time think reasonable and (unless the amounts so set aside are used under the provisions of section 89 (Use of moneys forming part of reserve and other funds) of the Paignton Urban District Council Act 1926) investing the same in statutory securities until the fund so formed amounts to the maximum reserve fund from time to time prescribed by the Council.

(2) Any reserve fund provided under this section may be applied—

- (a) in making good to the general rate fund any deficiency at any time happening in the income of the Council from the undertaking; or
- (b) in meeting any extraordinary claim or demand at any time arising against the Council in respect of the undertaking; or
- (c) in or towards the payment of the cost of renewing improving or extending any works forming part of the undertaking or otherwise for the benefit thereof;

and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

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(3) Resort may be had to a reserve fund provided under this section although such fund may not at the time have reached or may have been reduced below the prescribed maximum. A.D. 1936.
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39. The sections of this Order of which the marginal notes are "Receipts and expenses" "Accounts of undertaking" and "Application of revenue of undertaking" shall be deemed to have come into operation on the first day of April one thousand nine hundred and thirty-six. Date of operation of certain sections.

40. The Council shall within three months of the close of their financial year or such longer period as the Minister may allow send to the Minister a copy of the annual accounts of the undertaking. Annual account to be sent to Minister.

BYELAWS.

41.—(1) The byelaws which may from time to time be made by the Council 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. Byelaws.

(2) As respects byelaws made under this Order the confirming authority for the purposes of section 250 of the Local Government Act 1933 shall be the Minister :

Provided that—

(a) In the case of any byelaws which the Minister in consultation with the Board of Trade shall deem primarily to concern the interests of navigation the provisions of subsections (1) and (2) of this section shall apply as if the said Board were substituted for the Minister.

(b) The confirming authority shall consult the Secretary of State for Air before confirming any byelaws which relate to seaplanes.

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

42. The Council may appoint officers for securing the observance of the byelaws and regulations made by the Council under this Order in respect of the harbour 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. Appointment of officers to enforce byelaws and regulations.

A.D. 1936.

INQUIRIES.

Inquiries by
Minister.

43. 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 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.

LIFE-SAVING APPARATUS.

Provision for
life-saving
apparatus.

44.—(1) The Council shall whenever required by the Board of Trade provide at their own expense and to the satisfaction of the Board of Trade a site near the piers and build on that site a house or other proper accommodation for a lifeboat rocket apparatus and other life-saving apparatus.

(2) If the Council fail to comply with this section they shall be liable to a penalty not exceeding ten pounds for every month during which the failure continues.

Life-saving
apparatus
may be
attached to
piers.

45. The officers of the coastguard and all other persons for the time being actually employed in connection with the lifeboat or the apparatus for saving life may either permanently or temporarily without payment attach or cause to be attached to any part of the piers spars and other apparatus for saving life and may also either in course of using or of exercising the apparatus for saving life fire rockets over the piers.

Lifebuoys to
be kept.

46. The Council shall at all times keep at convenient places on the piers and in obedience to any requirements which may be made by the Board of Trade lifebuoys and lifelines in good order and fit and ready for use.

WRECKS.

Removal of
sunk
stranded or
abandoned
vessels.

47.—(1) Whenever any vessel is sunk stranded or abandoned in the harbour or in or near any approach thereto the Council may cause that vessel to be raised or removed or to be blown up or otherwise destroyed so as to clear the harbour and its approaches therefrom.

(2) The Council may cause any such vessel and the furniture and tackle and apparel thereof or any part thereof respectively which shall be raised or salvaged and also all or any part of the cargo goods chattels and effects which may be raised or salvaged from any such vessel to be sold in such manner as they think

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fit (subject to such notice being given of the intended sale as is prescribed by the first proviso to section 530 of the Merchant Shipping Act 1894) and out of the proceeds of sale may reimburse themselves for the expenses incurred by them under this section and also for any expenses incurred by them in marking buoys watching lighting or otherwise controlling the vessel and shall hold the surplus (if any) of the proceeds of the sale in trust for the persons entitled thereto :

A.D. 1936.

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57 & 58
Vict. c. 60.

Provided that the Council shall before selling any such cargo goods chattels or effects as aforesaid pay all duties which may be payable to His Majesty in respect of the cargo goods chattels or effects to be sold and they may retain the amount of the duties so paid out of the proceeds arising from the sale of such cargo goods chattels or effects.

(3) If the proceeds of the sale are insufficient to reimburse the Council for the aforesaid expenses and duties the Council may recover the deficiency or in case of an appeal under subsection (4) of this section such sum as is awarded by the arbitrator to be payable in respect of the deficiency from the person who at the time of the sinking stranding or abandonment of the vessel was the registered owner thereof or from the executors or administrators of such owner as a debt either summarily as a civil debt or in any court of competent jurisdiction.

(4) If on demand being made under this section for payment of any deficiency the person on whom the demand is made is dissatisfied with the amount demanded he may within fourteen days after the receipt of the demand appeal to the Board of Trade who shall appoint an arbitrator to determine and award whether any and (if so) what sum is payable in respect of the deficiency and the award of the arbitrator appointed by the Board of Trade that no sum is payable or as to the sum payable (as the case may be) shall be conclusive and binding on both parties. The costs of the appeal and the award shall be in the absolute discretion of the arbitrator and he shall award and order how those costs are to be borne and paid and any costs so awarded and ordered to be paid by either party may be recovered by the other party in the same manner as the sum payable in respect of the deficiency is recoverable under subsection (3) of this section.

(5) The powers given to the Council under subsection (1) of this section shall not be exercised in respect of a vessel if the registered owner thereof within twenty-four hours after the sinking stranding or abandonment of the vessel takes such steps as may in the opinion of the harbour-master be necessary for the raising or removal thereof and does all things necessary to raise and remove the vessel as speedily as possible.

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(6) The powers conferred by this section on the Council shall be in addition to and not in derogation of any other powers exercisable by them for or with respect to the removal of wrecks.

(7) Except for the purpose of removing any obstruction to the harbour nothing in this section shall entitle the Council to remove any wreck (as defined by section 510 of the Merchant Shipping Act 1894) to the prejudice or in derogation of the rights with respect to such wreck of the receiver of wrecks under the provisions of Part IX of the Merchant Shipping Act 1894 and if the Council shall for any such purpose as aforesaid remove any such wreck they shall (without prejudice to the rights of sale conferred upon them by the foregoing provisions of this section) hold and dispose of the same or any such surplus of the proceeds of sale thereof as is referred to in subsection (2) of this section in accordance with such directions (if any) as may be given to them by the said receiver.

LIGHTS.

Permanent
lights on
works.

48.—(1) The Council shall at or near the outer extremity of the works below high-water mark of ordinary spring tides exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Corporation of Trinity House Deptford Strond shall from time to time direct.

(2) If the Council fail to comply in any respect with the provisions of this section they shall be liable to a penalty not exceeding twenty pounds and in the case of a continuing offence to an additional penalty not exceeding two pounds for every day on which after conviction thereof they so fail.

Provision
against
danger to
navigation.

49.—(1) In case of injury to or destruction or decay of the works or any part thereof so far as the same shall be constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Council shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that Corporation for directions as to the means to be taken.

(2) If the Council fail to comply in any respect with the provisions of this section they shall be liable to a penalty not exceeding ten pounds and in the case of a continuing offence to an additional penalty not exceeding one pound for every day during which they omit after conviction thereof so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

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MISCELLANEOUS.

A.D. 1936.

50. Notwithstanding anything in this Order any cables pipes or wires to be laid or placed under the powers of this Order by the Council on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides shall be laid or placed at such depth under or such height over the tidal waters or tidal lands as the Board of Trade may require.

Cables pipes
 or wires
 under or
 across tidal
 waters.

51. The Council shall have the appointment of meters and weighers within the limits of the harbour.

Meters and
 weighers.

52. Officers of the Board of Trade and 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 harbour without payment.

Officers
 exempt
 from rates.

53. The Council shall within the limits of the harbour be a local lighthouse authority for the purposes of the Merchant Shipping Act 1894.

Local
 lighthouse
 authority.

54. Except as hereinafter expressly provided nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Council 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 Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Crown
 rights.

55. The consent of His Majesty in right of His Duchy of Cornwall signified to this Order shall not be taken as a consent to the surrender of and nothing in this Order shall prejudice or affect any property rights powers or privileges of His Majesty or of the Possessor of the Duchy of Cornwall for the time being except to the extent provided for by the provisions of the Act of 1838 which are set out in the Second Schedule to this Order.

Saving of
 rights of
 Duchy of
 Cornwall.

56. Notwithstanding the provisions contained in the section of this Order of which the marginal note is "Crown rights" or in any public statute His Majesty and His Lessees for their respective interests may work any minerals belonging to His Majesty in right of His Crown under or adjacent to lands and works of the Council authorised to be taken or constructed by this Order but in the event of any such right being at any time intended to be exercised sections 77 to 85 (both inclusive) of the Railways Clauses

Crown
 minerals.

8 Vict. c. 20.

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A.D. 1936. Consolidation Act 1845 shall apply as if the same without amendment by subsequent enactment were in relation to such minerals incorporated in this Order and as if the Council were a railway company and the said lands and works were the railway and works of such railway company and as if the Commissioners of Crown Lands were the owners of the minerals and so that any compensation payable by the Council to or for the benefit of His Majesty as the owner of the minerals or payable to the Council by His Majesty as such owner shall be payable to or by the Commissioners of Crown Lands as the case may be.

Works to be
in parish of
Paignton.

57. The works shall be deemed to be for all purposes within the parish and urban district of Paignton and in the county of Devon.

Application
of provisions
of former
Acts.

58. The following provisions of the former Acts relating to the Council shall with any necessary alterations or modifications and subject to the provisions of this Order extend and apply for the purposes of this Order as if the same were re-enacted in this Order (that is to say) :—

1 & 2 Geo. 5.
c. liv.

Paignton Urban District Council Act 1911—

Section 14 (Persons under disability may grant easements &c.);

Section 77 (Recovery of penalties);

Section 78 (Recovery of demands);

Paignton Urban District Council Act 1926—

Section 30 (Power to retain sell &c. lands);

Section 31 (Proceeds of sale of surplus lands);

Section 107 (Damages and charges to be settled by justices);

Section 109 (Penalties to be paid over to the treasurer).

Costs of
Order.

59. All costs charges and expenses of and incident to the preparing and obtaining of this Order and otherwise incurred in reference thereto as taxed by the proper officer shall be paid by the Council.

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SCHEDULES referred to in the foregoing Order.

A.D. 1936.

FIRST SCHEDULE.

PURCHASE AGREEMENT.

AN AGREEMENT made this twenty-first day of December One thousand nine hundred and thirty-five between THE PAINGTON HARBOUR COMPANY whose principal office is situate at The Harbour Paignton (hereinafter referred to as "the Vendors") of the one part and the URBAN DISTRICT COUNCIL OF PAINGTON (hereinafter referred to as "the Purchasers") of the other part.

Stamp.

Ten
shillings

WHEREAS under and by virtue of the Act 1 Vic. cap i intituled "An Act for making and maintaining a harbour and other works at Paignton in the county of Devon" the Vendors are the undertakers for the purpose of carrying the said Act into execution and have exercised or may exercise the powers and privileges conferred by the said Act and are subject to the duties and liabilities thereby imposed:

And whereas the Vendors have agreed to sell to the Purchasers and the Purchasers have agreed to purchase the undertaking and property of the Vendors hereinafter mentioned upon the terms and conditions hereinafter contained:

Now it is hereby agreed and declared as follows:—

1. Subject to the Purchasers obtaining a Provisional Order confirmed by Parliament authorising the Purchasers to acquire the said undertaking and property with all necessary powers and authorities incidentally required the Vendors shall sell and the Purchasers shall purchase the undertaking of the Vendors (hereinafter referred to as "the undertaking") which expression shall be deemed to include the harbour piers works and buildings belonging to the Vendors (whether provided or constructed under the said Act or otherwise) and all powers rights rents fittings furniture stocks chattels things assets and property whatsoever of or belonging to the Vendors except as hereinafter expressly provided.

2. The undertaking is sold free from all mortgages or other incumbrances debts liabilities or other similar obligations of the Vendors and subject to the tenancy agreements affecting the lands

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A.D. 1936. or buildings forming part thereof and to all other leases tenancies
— and agreements easements liabilities and obligations affecting the
said lands and buildings or any part thereof except such as may
be entered into contrary to the provisions of clause 8 of this
agreement.

3. The Vendors shall prepare a statement of their accounts in respect of the year ended the thirtieth day of September nineteen hundred and thirty-five and a balance sheet as at that date which shall be audited on behalf of the Purchasers and shall be corrected by agreement or failing agreement by arbitration so as to show the financial position of the Vendors at that date and the consideration for the sale (which shall be paid by the Purchasers to the Vendors as hereinafter provided) shall be such a sum as is arrived at by deducting from the sum of seven thousand five hundred pounds (£7,500) the amounts (as shown in the said accounts and balance sheet) of—

- (a) the cash in hand and at the bank ;
- (b) the value (at cost) of any investments of the Vendors ;
- (c) the recoverable debts due to the Vendors ; and

by adding to the sum so ascertained the amount of the debts due by the Vendors (other than in respect of share capital) as shown in the said accounts and balance sheet.

4. The Purchasers shall accept the title of the Vendors to the undertaking but they shall be entitled if they so desire at their own expense to have an abstract of title of the Vendors to the property hereby agreed to be sold.

5. The sale and purchase hereby agreed to be made shall be completed within two months after the confirmation by Parliament of the said Provisional Order.

6. On the day of transfer the said consideration shall be paid and the Vendors shall execute and do all such assurances and things as may be reasonably required by the Purchasers for vesting in them and giving to them possession of the undertaking hereby agreed to be sold.

7. From and after the thirtieth day of September one thousand nine hundred and thirty-five and until the day of transfer the Vendors shall carry on the undertaking in the same manner as heretofore and shall properly and efficiently maintain the works and property forming the undertaking and for this purpose shall carry out any works of repair which may from time to time be necessary and which may be required by notice given by the Purchasers to the Vendors Provided that the cost of any such works so far as it exceeds thirty-four pounds (£34) per

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annum shall be repaid by the Purchasers to the Vendors on the completion of the purchase in addition to the consideration referred to in clause 3 of this agreement. A.D. 1936.

8. From and after the date of this agreement the Vendors shall not raise any capital or borrow any money or make or incur any expenditure or liability on capital account or on revenue account (otherwise than in the ordinary course of business) nor enter into any contract or agreement extending beyond the thirtieth day of June one thousand nine hundred and thirty-six without the consent of the Purchasers in writing under the hand of their clerk.

9. The Vendors shall be entitled to all profits from the undertaking and shall bear all outgoings and losses in connection with the undertaking which may be incurred between the thirtieth day of September one thousand nine hundred and thirty-five and the day of transfer.

All debts rents rates taxes and other outgoings shall be paid and discharged by the Vendors up to the day of transfer and the Vendors shall be entitled to retain all cash in hand and at the bank and any investments and after completion to recover and retain all sums of money due to them in respect of the period prior to the date of completion.

10. The Vendors shall not be responsible for any damage caused to the piers and works or the buildings thereon after the date of this agreement by fire tempest or other inevitable accident and no claim shall be made against the Vendors for any deterioration thereof or damage thereto unless resulting from the wilful default of the Vendors. The Vendors shall as from the date of this agreement and until the day of transfer hold any subsisting policy or policies of insurance against fire or other risks or their interest therein and also any other policies of insurance relating to the undertaking hereby agreed to be sold in trust for the Purchasers subject to the consent of the office which issued the same and shall keep up or renew any policy or policies which may expire during the said period. All the premiums shall be apportioned as at the date hereof and any moneys received from such insurances shall be applied by the Vendors towards the repair of the said piers works and buildings.

11. The Purchasers shall forthwith take all steps necessary to apply for the before-mentioned Provisional Order and the confirmation thereof by Parliament and to obtain all powers necessary to enable them to carry this agreement into effect and such other powers as the Purchasers may think desirable in connection with the subsequent control and administration of the undertaking. Unless the said Provisional Order shall have

A.D. 1936. — been obtained and confirmed and the said powers acquired on or before the thirty-first day of October one thousand nine hundred and thirty-six or such further period as the parties hereto may agree to in writing this agreement shall be void except that in this event the Purchasers shall pay to the Vendors any reasonable costs charges and expenses properly incurred by the Vendors expressly at the request of the Purchasers.

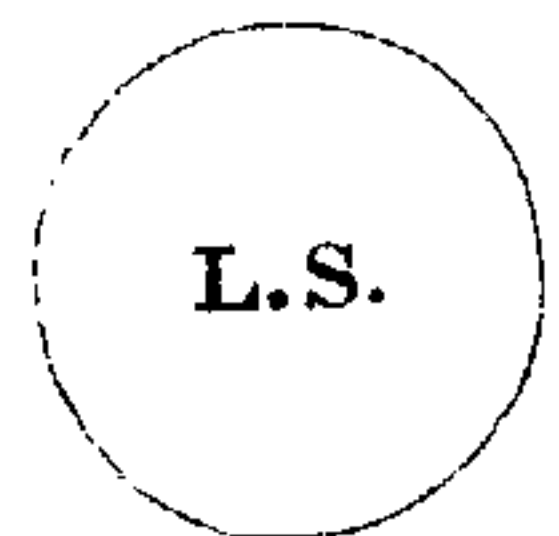
12. All costs charges and expenses in connection with the application for and obtaining of the Provisional Order hereinbefore referred to and its confirmation by Parliament and of exercising the powers obtained shall be borne by the Purchasers The Vendors shall have no claim against the Purchasers for any costs charges and expenses incurred by them in connection with this agreement the said Provisional Order and the transfer of the undertaking unless expressly incurred at the request of the Purchasers.

13. Any dispute difference or question arising between the parties under this agreement or in connection with the proposed transfer of the undertaking shall be referred to and determined by a single arbitrator to be agreed between the parties or failing agreement to be appointed on the application of either party after notice in writing to the other by the President for the time being of the Chartered Surveyors' Institution and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to such references.

14. This agreement is subject to such alterations as the Minister of Transport or Parliament may think fit to make herein but in the event of the Minister of Transport or either House of Parliament making any material alteration in this agreement it shall be competent to either of the parties hereto to withdraw from the agreement by notice in writing given to the other party before the Bill to confirm the said Provisional Order is read a third time in the Second House.

In witness whereof the Vendors and the Purchasers have caused their respective common seals to be hereunto affixed the day and year first before written.

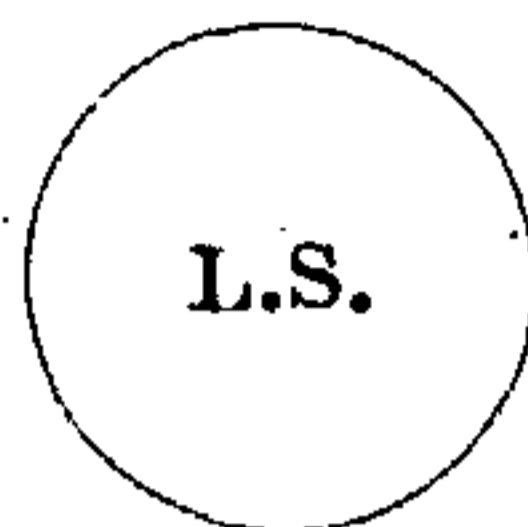
The common seal of the Paington
Harbour Company was hereunto
affixed in the presence of



JOHN JACKSON
J. A. MATTHEW
S. CORNISH COWLING
} *Directors.*
Secretary.

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The common seal of the Urban
District Council of Paignton was
hereunto affixed in the presence
of



A.D. 1936.

J. S. HUGGINS
Chairman.

JOHN HARTLEY
Clerk.

SECOND SCHEDULE.

PROVISIONS OF THE ACT OF 1838 SAVED FROM REPEAL.

VIII. And be it further enacted, That all such Fundus or Soil below Low-water Mark so claimed to belong to the said Duchy of Cornwall as aforesaid, and of the Shores between High and Low Water Mark, if any, as may hereafter be established to belong to Her Majesty, in right and as Parcel of Her said Duchy, as shall be used for the Purposes of this Act, shall from thenceforth be deemed and taken to be held of Her Majesty or other the Personage for the Time being entitled to the Revenues of the said Duchy of Cornwall, as Part and Parcel of the said Duchy, for the Purposes of this Act only, and for no other Purpose whatsoever; and that the several Parties hereby authorized and empowered to erect, build, and maintain such Piers, Jetties, Breakwaters, Quays, Wharfs, Slips, and other Works as aforesaid shall, after the Establishment of such Claim, without prejudice to the Rights of other Parties, pay or cause to be paid annually to the Bailiff of the Duchy of Cornwall, in respect of such Water and Bailiwick aforesaid, the yearly Rent or Sum of Five Shillings for erecting, building, and maintaining such Part or Parts of the said Piers, Jetties, Breakwaters, Quays, Wharfs, Slips, and other Works as may be situate below Low-water Mark, and the further yearly Sum of Five Shillings to the said Bailiff or other the Person or Persons entitled to the same for erecting, building, and maintaining such other Part or Parts of the said Piers, Jetties, Breakwaters, Quays, Wharfs, Slips, and other Works as may be erected and built between High and Low Water Mark; such Rent or Rents respectively to be paid, on or within Ten Days after the Twenty-fifth Day of March in every Year, to the Person or Persons or Body or Bodies Politic or Corporate

Rent to be
paid for
Fundus or
Soil taken
for the
Purposes of
the Act.

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A.D. 1936. — holding such Office of Bailiff otherwise Water Bailiff as aforesaid for the Time being, and if the same shall not be paid, on Demand, the said Rent or Rents may be recovered as any Rent of the Duchy of Cornwall may be recovered.

If Piers, &c. shall be omitted to be used, they shall revert to such Persons as shall be entitled thereto.

IX. Provided always, and be it further enacted, That if the said several Persons so authorized and empowered as aforesaid to carry this Act into execution shall at any Time hereafter neglect or omit to use such Piers, Jetties, Breakwaters, Quays, Wharfs, Slips, and other Works as aforesaid, or the said Fundus or Soil, for the Purposes of this Act, then and in such Case, and upon such Non-user, the said Fundus and Soil, as to such Part or Parts thereof as shall have been established to belong to the said Duchy of Cornwall, and shall have been used for the Purposes of this Act, shall revert to the said Duchy of Cornwall, and the said Rent or Rents of Five Shillings respectively shall thereupon cease and determine.

Saving the Rights of the Lords of the Manor of Paington.

CXXVI. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to restrain, hinder, or prevent the Lord or Lady, Lords or Ladies of the Manor of Paington, or any of them their Heirs or Assigns, from exercising any manorial or other Rights vested in them or any of them, or to which they or any of them are entitled, in such Manner, to all Intents and Purposes, as if this Act had not been passed, so as not to prevent, hinder, or obstruct the carrying of the several Powers and Authorities given by this Act into execution.

Saving the Rights of the Duchy of Cornwall.

CXXVII. Provided always, and be it further enacted, That neither this Act nor any thing herein contained shall extend or be deemed or construed to extend, by Implication or otherwise, to affect, alter, take away, destroy, lessen, or prejudice the Rights or Interests of Her Majesty, Her Heirs and Successors, in right or in respect of the said Duchy of Cornwall, or Her, His, or Their Lessee or Lessees, in or to the several Dues, Duties, Customs, and Payments heretofore and now due and payable at Paington aforesaid, and the other Ports, Precincts, and Liberties of and within the said Water and Water Bailiwick, nor at any Time or Times be admitted in any Court of Law or Equity or otherwise considered as Evidence upon any Occasion prejudicially to affect in any Manner such Rights of Her Majesty, or other the Personage for the Time being entitled to the Revenues of the said Duchy, but that all such Dues, Duties, Customs, and Payments shall be received, due, and payable, and all such Rights shall remain of the same Force and Effect, as if this Act had not been made and passed, any thing herein contained to the contrary thereof in anywise notwithstanding.

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1 EDW. 8.] *Order (Paignton) Confirmation*
Act, 1936.

CXXVIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed or taken to extend to authorize or empower Her Majesty, Her Heirs or Successors (in right or in respect of Her said Duchy), or other the Personage for the Time being entitled to the Revenues of the said Duchy, or Her, His, or Their Lessees or Lessee as aforesaid, to demand, collect, or levy from any Ship or Vessel whatsoever anchoring in Torbay aforesaid, or within the said Harbour, any Toll, Due, or Duty in the Name or Nature of Anchorage Toll, or to demand, collect, or levy any Tolls, Dues, or Duties whatsoever at Paignton aforesaid other than those now payable or paid to Her said Majesty, Her Heirs and Successors, in right of Her said Duchy, or to Her, His, or Their Lessees of the Water Bailiwick of Dart otherwise Dartmouth aforesaid.

A.D. 1936.

—
Act not to
authorize
Her Majesty
to levy
Anchorage
Toll in
Torbay.

THIRD SCHEDULE.

I.—RATES ON VESSELS (OTHER THAN FISHING BOATS)
ANCHORING OR MOORING AT THE HARBOUR OR WITHIN
THE LIMITS OF THE HARBOUR.

	Per ton register.
	<i>s.</i> <i>d.</i>
For every vessel except as hereinafter specified - -	6
For every vessel trading coastwise and for every collier	4
All lighters from any vessel inside the limits of the harbour shall be exempted from rates but if the vessel does not enter the limits of the harbour every lighter shall pay for each trip - - -	4
For every vessel remaining in the harbour after one month per ton register per week or part thereof -	2
Composition rates payable in advance :—	
	Per annum.
	£ <i>s.</i> <i>d.</i>
For every pleasure boat or vessel not exceeding 10 tons register - - - - -	2 0 0
Above 10 tons and not exceeding 20 tons register -	4 0 0
Above 20 tons and not exceeding 60 tons register -	6 0 0
Above 60 tons register - - - - -	8 0 0
	Per ton register.
For every vessel entering within the piers of the harbour for shelter owing to stress of weather and not loading or taking on board cargo or passengers	<i>d.</i> 2

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Vessels entering the harbour (but not entering within the piers) for shelter owing to stress of weather and not loading or taking on board passengers or cargo and not remaining within the harbour for a longer time than 60 hours shall be exempt from rates.

Ships' boats and boats entirely open with fresh fish (other than herrings for curing) which carry no other cargo nor any passenger shall be exempt from rates.

II.—RATES ON FISHING BOATS.

For every fishing boat as a composition for any fishing season payable in advance :—

	Per annum.
	£ s. d.
Not exceeding 3 tons register - - - - -	10 0
Above 3 tons and not exceeding 6 tons register -	15 0
Above 6 tons and not exceeding 10 tons register -	2 0 0
Above 10 tons and not exceeding 20 tons register -	4 0 0
Above 20 tons and not exceeding 60 tons register -	6 0 0
Above 60 tons register - - - - -	8 0 0

For every fishing boat not paying the above composition rates discharging fish of any description in respect of each entry or visit :—

	s. d.
Not exceeding 3 tons register - - - - -	0 6
Above 3 tons and not exceeding 6 tons register	1 0
Above 6 tons and not exceeding 10 tons register	1 6
Above 10 tons and not exceeding 20 tons register	2 0
Above 20 tons and not exceeding 30 tons register	3 0
Above 30 tons and not exceeding 40 tons register	3 6
Above 40 tons register - - - - -	4 0

For every fishing boat of any description entering the Harbour windbound or on passage :—

Per ton register per day - - - - -	2
------------------------------------	---

The above charges shall be payable in respect of any hull lying in the harbour for the purposes of being completed or engined and also for boats lying in the harbour waiting for or undergoing repairs.

In the event of any boat not paying the above composition rates remaining in the harbour more than 24 hours the above rates shall be payable for the first 24 hours and for each 24 hours or part thereof thereafter.

III.—RATES FOR USE OF PIERS.

A.D. 1936.

	£	s.	d.
For every passenger or other person landing on the piers from or embarking from the piers on board of any vessel or boat for each time any sum not exceeding - - - - -			2
For every person using the piers for the purpose of walking for exercise pleasure or any other purpose except for bathing embarking or disembarking for each time any sum not exceeding - - - - -			2
For every bath chair (including attendant) taken on the piers for each time any sum not exceeding -			6
For every perambulator (including attendant) taken on the piers for each time any sum not exceeding			6
For every person using the piers for the purpose of bathing any sum not exceeding - - - - -	1	0	
For every master of any vessel lying outside the harbour using the piers for the purpose of going to or returning from his own vessel an annual sum not exceeding - - - - -	1	0	0

The master and every member of the crew of any vessel lying within the harbour shall be entitled to use any of the piers free of charge for the purpose of landing from or embarking on board his or their vessel.

IV.—RATES IN RESPECT OF ANIMALS AND GOODS SHIPPED UNSHIPED OR TRANSHIPPED IN HARBOUR.

	Per	s.	d.
Agricultural implements - - - - -	ton	2	0
Alum - - - - -	ton	1	8
Ammonia carbonate or sulphate of - - - - -	ton	1	0
Anchors iron or steel - - - - -	ton	1	0
Animals live :—			
Asses - - - - -	each	1	0
Bulls - - - - -	each	1	0
Calves - - - - -	each		4
Cows - - - - -	each	1	0
Dogs - - - - -	each		3
Goats - - - - -	each		3
Horses - - - - -	each	2	6
Lambs - - - - -	each		1
Mules - - - - -	each	1	0
Pigs - - - - -	each		2
Sheep - - - - -	each		2
Wild—subject to special arrangement			
Not otherwise specified - - - - -	each		3

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—	Apples - - - - -	ton	1 8
	Ashes - - - - -	ton	1 0
	Asphalt - - - - -	ton	1 0
	Bacon - - - - -	ton	3 4
	Ballast - - - - -	ton	6
	Bark - - - - -	ton	6
	Barrels empty - - - - -	cwt.	4
	Bars iron or steel - - - - -	ton	1 0
	Baskets—minimum charge as for 28 lbs. - - - - -	cwt.	4
	Beer - - - - -	ton	2 0
	Bicycles pedal - - - - -	each	6
	Bicycles motor - - - - -	each	1 0
	Bicycles motor with sidecar - - - - -	each	1 6
	Biscuits - - - - -	ton	2 0
	Boats - - - - -	each	2 6
	Bones - - - - -	ton	1 0
	Books - - - - -	ton	3 4
	Boots and shoes - - - - -	ton	3 4
	Bottles - - - - -	gross	1 0
	Brass - - - - -	ton	2 0
	Bread - - - - -	ton	2 0
	Bricks common - - - - -	1,000	2 0
	Bricks fireclay and bath - - - - -	1,000	2 6
	Brushes - - - - -	cwt.	1
	Butter - - - - -	ton	3 4
	Candles - - - - -	ton	3 4
	Canvas - - - - -	ton	3 4
	Carriages and carts <i>see</i> Vehicles.		
	Cement - - - - -	ton	1 0
	Chains iron or steel - - - - -	ton	1 6
	Chalk - - - - -	ton	6
	Cheese - - - - -	ton	3 4
	Chemicals not otherwise specified - - - - -	ton	1 0
	Cider - - - - -	ton	2 0
	Cinders - - - - -	ton	1 0
	Clay - - - - -	ton	1 0
	Coal - - - - -	ton	1 0
	Coke - - - - -	ton	1 0
	Copper - - - - -	ton	2 0
	Cordage - - - - -	ton	2 0
	Cork - - - - -	ton	5 0
	Cornmeal &c. :—		
	Barley - - - - -	ton	1 8
	Beans - - - - -	ton	1 8
	Bran - - - - -	ton	1 8
	Maize (Indian corn) - - - - -	ton	1 8

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Cornmeal &c.— <i>cont.</i>	Per	s.	d.	A.D. 1936.
Malt - - - - -	ton	1	8	—
Oats - - - - -	ton	1	8	
Oatmeal - - - - -	ton	1	8	
Peas - - - - -	ton	1	8	
Rye - - - - -	ton	1	8	
Wheat - - - - -	ton	1	8	
Culm - - - - -	ton	1	0	
Drugs - - - - -	ton	6	8	
Dyestuffs and woods not otherwise specified	ton	1	0	
Earthenware - - - - -	ton	2	0	
Eggs - - - - -	ton	3	4	
Fish :—				
Herrings sprats cockles mussels and mackerel	cwt.		1	
Crabs lobsters oysters and salmon - -	cwt.		2½	
Not otherwise specified—fresh cured or salted - - - - -	ton	1	0	
Fixtures for buildings such as doors and window frames - - - - -	ton	2	0	
Flax - - - - -	ton	2	6	
Flour - - - - -	ton	1	8	
Fruit fresh not otherwise specified - - - - -	ton	3	4	
Fruit dried - - - - -	ton	3	4	
Furniture - - - - -	ton	3	0	
Glass - - - - -	ton	2	0	
Glue - - - - -	ton	3	4	
Gramophones and accessories - - - - -	ton	5	0	
Grates - - - - -	ton	1	6	
Gravel - - - - -	ton	1	0	
Groceries not otherwise specified - - - - -	ton	3	4	
Gunpowder - - - - -	ton	6	0	
Hardware - - - - -	ton	3	4	
Hay - - - - -	ton	1	0	
Hides and skins - - - - -	ton	2	0	
Hoops iron and steel - - - - -	ton	2	0	
Hops - - - - -	ton	10	0	
Ice - - - - -	ton	1	0	
Iron and steel goods not otherwise specified - - - - -	ton	1	0	
Lard - - - - -	ton	3	4	
Lead pig and scrap - - - - -	ton	1	0	
Leather - - - - -	ton	2	6	
Lime - - - - -	ton		6	
Machines and machinery not otherwise specified	ton	2	0	

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—	Chemical - - - - -	ton	1	0
	Not otherwise specified - - - - -	ton	1	0
	Marble - - - - -	ton	2	0
	Meat fresh or salted - - - - -	ton	3	4
	Mineral waters - - - - -	ton	1	0
	Motor vehicles <i>see</i> Vehicles.			
	Musical instruments not otherwise specified -	ton	5	0
	Nitrate of soda - - - - -	ton	1	0
	Nuts - - - - -	ton	3	4
	Oakum - - - - -	ton	2	6
	Oil - - - - -	ton	2	0
	Ores (other than iron ore) - - - - -	ton	1	0
	Ores iron ore - - - - -	ton		6
	Paints and colours - - - - -	ton	3	4
	Paper - - - - -	cwt.		2
	Pitch or resin - - - - -	ton	1	0
	Poultry and game - - - - -	cwt.		2
	Rags - - - - -	ton	2	6
	Ropes new - - - - -	ton	1	0
	Ropes old - - - - -	ton		10
	Saddlery - - - - -	ton	2	6
	Sails - - - - -	ton	3	4
	Salt - - - - -	ton	1	0
	Sand - - - - -	ton	1	0
	Scrap iron or steel - - - - -	ton	1	0
	Seeds—agricultural or vegetable not otherwise specified - - - - -	cwt.		1
	Slates common - - - - -	ton	1	0
	Soap - - - - -	ton	3	4
	Soda - - - - -	ton	1	6
	Spirits <i>see</i> Wines.			
	Starch - - - - -	ton	1	8
	Steel <i>see</i> Iron.			
	Stone - - - - -	ton	1	0
	Stoves - - - - -	ton	1	6
	Sugar - - - - -	ton	3	4
	Tallow - - - - -	ton	1	0
	Tar - - - - -	ton	1	0
	Tea - - - - -	cwt.		6
	Tiles common roofing paving or draining -	ton	1	0
	Tin - - - - -	ton	2	0
	Tobacco - - - - -	cwt.		6
	Twine - - - - -	ton	1	0

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	Per	s.	d.	A.D. 1936.
Vegetables not otherwise specified - - -	ton	1	0	—
Vehicles mechanically propelled not otherwise specified - - - - -	each	5	0	
Vehicles horse-drawn carriages—				
Two wheeled - - - - -	each	2	6	
Four wheels - - - - -	each	5	0	
Vinegar - - - - -	18 gallons		3	
Wines and spirits - - - - -	108 gallons	2	0	
Wire iron or steel - - - - -	ton	1	0	
Wood - - - - -	ton	1	0	
Wool - - - - -	ton	2	0	
Zinc - - - - -	ton	1	0	

For all articles not specified in this part of the schedule sums may be charged equal to the rates payable in respect of goods specified therein which are as nearly as may be of like nature package and quantity.

V.—RATES FOR THE USE OF CRANES WEIGHING MACHINES AND SHEDS.

1.—CRANES.

	s.	d.
All goods or packages per ton - - - - -		4

2.—WEIGHING MACHINES.

For goods weighed for each ton or part of a ton -	2
---	---

3.—SHEDS.

For each ton or forty cubic feet of goods which shall remain in any shed on any of the quays or piers for a longer time than 24 hours the sum of three pence and the sum of three pence per ton or forty cubic feet for each day during which such goods shall remain after the first 24 hours.

VI.—RATES FOR SUPPLYING WATER.

	s.	d.
For each 100 gallons of water supplied to any vessel		3

VII.—RATES ON PASSENGERS AND PASSENGERS' LUGGAGE.

	s.	d.
For every passenger or other person (not being a member of the crew) who shall use the harbour for the purpose of landing from or embarking on board of any vessel - - - - -		2
For each article of luggage not carried by the passengers - - - - -		4

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NOTES WITH REFERENCE TO THE FOREGOING SCHEDULE.

1. All returned empties are exempted from payment of rates.
2. All goods landed and reshipped on board the same or any other vessel shall be liable to one rate only provided that the goods were consigned in the first instance from the original forwarding point through to the destination to which they are reshipped and no change of ownership of the goods has in the meantime taken place.
3. In charging the rates on goods weighed or measured the gross weight or measurements shall be taken. Fractional parts of any weight measure number or value shall be charged proportionately and the minimum charge for a single packet or thing shall be one penny.

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