



Harbours and Passing Tolls, &c. Act 1861

1861 CHAPTER 47 24 and 25 Vict

PART I.—LOANS TO HARBOURS

3 ^{F1}Advances of money to harbour authorities.

The [^{F2}Treasury]^{F3}... may, out of the funds for the time being at their disposal or provided by Parliament for the purpose, advance to any harbour authority, for the purpose of constructing, improving, maintaining, or lighting any public harbour, or for carrying into effect any other shipping purpose, such sum or sums of money as may be required, subject to the following regulations:

- (1) No harbour authority shall borrow any money from the [^{F4}Treasury] under this Act without the approval of the Board of Trade, in writing, signed by one of their secretaries or assistant secretaries:
- (2)^{F5}
- (3) The period for repayment of any sums advanced shall not exceed fifty years:
- (4) The repayment of any advances and of the interest thereon shall be secured upon all or any of the rates leviable by the harbour authority to whom such advances are made, either alone, or together with such other property or income as may be agreed on; and it shall not be incumbent on the [^{F2}Treasury] to require any other security:
- (5) Any harbour authority which has for the time being power to levy rates and tolls immediately or prospectively, or is or may be entitled to any other income or property applicable to shipping purposes, shall have power to borrow money from the [^{F4}Treasury] under this Act on the security of the said rates, tolls, income, and property, or any part thereof, and to charge the same accordingly:
- (6) For the purposes of loans made to any public harbour authority under this Act the clauses of the ^{M1}Commissioners Clauses Act 1847, with respect to the mortgages to be executed by [^{F6}the Treasury], except so far as the same may be inconsistent with the clauses and provisions of the said Public Works Loan Act and the Acts therein mentioned, shall be incorporated with this Act; and in the construction of this Act, and

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of the said incorporated clauses, this Act shall be deemed to be the special Act, and the harbour authority to which an advance is made shall be deemed to be [^{F6}the Treasury]:

- (7) No harbour authority, being the proprietor of any private harbour, shall borrow any money from the [^{F4}Treasury] under this Act unless such regulations are made in respect of the rates to be taken in such harbour, and the user thereof by the public, as the Board of Trade may approve; and for the purpose of making and enforcing such regulations, it shall be lawful for Her Majesty, by Order in Council, to declare that the ^{M2}Harbours, Docks, and Piers Clauses Act 1847, shall apply to such harbour, and to fix a schedule of rates . . . ^{F7} to be taken in the said harbour; and thereupon the said Harbours Clauses Act, with the exception of such clauses as may be excepted in the said Order, shall apply to the said harbour in the same manner as if it had been declared to apply thereto by Act of Parliament: And in the construction of this Act and of the said incorporated Act this Act shall be deemed to be the special Act; and the expression “the undertaker” shall be deemed to mean the proprietor of the said harbour, and the “rates” shall be deemed to be such rates as may be sanctioned by the said Order in Council:
- (8) Where any harbour authority, being the proprietor of any harbour, is entitled to a “limited estate” therein, he shall have power to make the repayment of any monies borrowed by him under this Act, with the interest, a charge on his limited estate in the said harbour, and on the estate and interest of every person taking under the same settlement any estate or interest in such harbour in defeasance or expectancy or by destination on the determination of the said limited estate; but it shall be subject to all incumbrances on the harbour subsisting at the time of the charge:
- (9) No advance or part of any advance shall be made in pursuance of this Act to any person entitled to a limited estate so as to charge the estate or interest of any person taking in defeasance or expectancy or by destination, except to an amount to be specified in certificates to be from time to time issued under the hand of one of the secretaries or assistant secretaries of the Board of Trade; and no such certificate shall be issued until it has been proved, to the satisfaction of the Board of Trade, that the amount specified in the certificate has been properly expended upon the said harbour.

Textual Amendments

- F1** By [The Public Bodies \(Abolition of Public Works Loan Commissioners\) Order 2020 \(S.I. 2020/176\)](#), art. 1(2), [Sch. 1 para. 2\(2\)](#) (with art. 9) it is provided (25.2.2020) that the words “the Treasury” be substituted in the heading for the words “Public Works Loan Commissioners under 19 & 20 Vict c 17”
- F2** Word in s. 3 substituted (25.2.2020) by [The Public Bodies \(Abolition of Public Works Loan Commissioners\) Order 2020 \(S.I. 2020/176\)](#), art. 1(2), [Sch. 1 para. 2\(3\)](#) (with art. 9)
- F3** Words in s. 3 omitted (25.2.2020) by virtue of [The Public Bodies \(Abolition of Public Works Loan Commissioners\) Order 2020 \(S.I. 2020/176\)](#), art. 1(2), [Sch. 1 para. 2\(4\)](#) (with art. 9)
- F4** Word in s. 3 substituted (25.2.2020) by [The Public Bodies \(Abolition of Public Works Loan Commissioners\) Order 2020 \(S.I. 2020/176\)](#), art. 1(2), [Sch. 1 para. 2\(5\)](#) (with art. 9)
- F5** S. 3(2) repealed by [National Loans Act 1968 \(c. 13\)](#), [Sch. 6 Pt. II](#)
- F6** Words in s. 3(6) substituted (25.2.2020) by [The Public Bodies \(Abolition of Public Works Loan Commissioners\) Order 2020 \(S.I. 2020/176\)](#), art. 1(2), [Sch. 1 para. 2\(6\)](#) (with art. 9)
- F7** Words repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

Modifications etc. (not altering text)

- C1** S. 3 modified (S.) by [Harbours, Piers and Ferries \(Scotland\) Act 1937 \(c. 28\)](#), s. 6; amended by [Harbours Act 1964 \(c. 40\)](#), s. 13(2)(a)

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Marginal Citations

M1 1847 c. 16.

M2 1847 c. 27.

Changes to legislation:

There are currently no known outstanding effects for the Harbours and Passing Tolls, &c. Act 1861, Section 3.