



Dart Harbour and Navigation Authority Act 1975

CHAPTER xxii

LONDON

HER MAJESTY'S STATIONERY OFFICE

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Dart Harbour and Navigation Authority Act 1975

CHAPTER xxii

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ELIZABETH II



1975 CHAPTER xxii

An Act to constitute and incorporate the Dart Harbour and Navigation Authority and to amalgamate under the jurisdiction of that Authority the undertakings of the Dartmouth Harbour Commissioners and the River Dart Navigation Commissioners; to confer upon the Authority powers and duties in relation to the amalgamated undertakings; and for other purposes.

[1st August 1975]

WHEREAS—

(1) Under the Dartmouth Harbour Act 1951 the Dartmouth Harbour Commissioners exercise jurisdiction and powers in respect of the harbour as in that Act defined, and under the River Dart Navigation Act 1962 the River Dart Navigation Commissioners exercise similar jurisdiction and powers in respect of the River Dart Navigation, being so much of the river Dart and its tributaries as are defined in that Act:

(2) The National Ports Council have represented that with a view to securing the more efficient and economical development of the respective harbour undertakings it is expedient that they should be amalgamated under a new harbour authority, and the Dartmouth Harbour Commissioners and the River Dart Navigation Commissioners have resolved accordingly:

(3) It is expedient that the said amalgamation be put into effect and that the other provisions of this Act be enacted:

(4) 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:—

PART I

PRELIMINARY

Short title. 1. This Act may be cited as the Dart Harbour and Navigation Authority Act 1975.

Interpretation. 2.—(1) In this Act, except where the subject or context otherwise requires—

1964 c. 40. “the Act” means the Harbours Act 1964;
 “the Authority” means the Dart Harbour and Navigation Authority incorporated under section 4 (Incorporation of the Authority) of this Act;
 “charges” include charges, rates, tolls and dues of every description for the time being payable under any enactment to the Authority in relation to the undertaking;
 “the Clerk” means the clerk to the Authority;
 “the commercial fishing member”, “the commercial passenger member”, “the cargo member” and “the boating members” mean respectively the members from time to time elected in accordance with the provisions of this Act by the persons by this Act qualified to elect the commercial fishing member, the commercial passenger member, the cargo member and the boating members respectively;
 “the council” means the South Hams District Council;
 “dangerous goods” means goods classified under rule 2 (2) of the Merchant Shipping (Dangerous Goods) Rules 1965;
 “Dartmouth Quay” means the quay, river wall and embankment constructed by the Dartmouth Harbour

Commissioners on the right bank of the river Dart at
Dartmouth under the provisions of the Dartmouth
Harbour Improvement Act 1882;

PART I
—cont.
1882 c. cc.

- “ the day of reconstitution ” means the 1st April 1976;
- “ dues ” means ship, passenger and goods dues as defined in section 57 (1) of the Act;
- “ the Duke of Cornwall ” means the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall;
- “ enactment ” means any Act, or any order, scheme or other instrument made thereunder, and any provision in any Act or in any such order, scheme or instrument;
- “ the existing harbour ” means the harbour at Dartmouth as regards which there are vested in the Harbour Commissioners immediately before the day of reconstitution statutory powers or duties of improvement, maintenance or management;
- “ the harbour ” means the harbour the limits whereof are specified in section 38 (Limits of jurisdiction) of this Act;
- “ the Harbour Commissioners ” means the Dartmouth Harbour Commissioners;
- “ the harbourmaster ” means the harbourmaster, quay master and dockmaster appointed by the Authority, and includes the authorised deputies and assistants of a person so appointed and any person authorised by the Authority to act in any of those capacities;
- “ harbour premises ” means the docks, piers, wharves, quays, berths, roads, railways, bridges, sheds and other works and conveniences, and the lands, buildings and property of every description and of whatever nature which are for the time being vested in or occupied or administered by the Authority;
- “ the Harbours Clauses Act ” means the Harbours, Docks and Piers Clauses Act 1847; 1847 c. 27.
- “ hovercraft ” has the same meaning as in the Hovercraft Act 1968; 1968 c. 59.
- “ hydrofoil vessel ” means a vessel, however propelled, designed to be supported on foils;
- “ land ” includes land covered by water, and any interest in land or any easement or right in, to or over land;
- “ the level of high water ” means the level of mean high-water springs;
- “ the navigation ” means that part of the river Dart and of the waterways discharging into it in respect of which there are vested in the Navigation Commissioners

PART I
—cont.

- immediately before the day of reconstitution statutory powers or duties of improvement, maintenance or management;
- “the Navigation Commissioners” means the River Dart Navigation Commissioners;
- “owner” in relation to a vessel includes the charterer;
- “passenger boat” means a vessel used to carry passengers for hire or reward;
- “port facilities” means services and facilities for or in connection with the berthing, moving or dry-docking of vessels, the loading or unloading of goods or the embarking or disembarking of passengers in or from vessels, the lighterage, sorting, weighing, warehousing or handling of goods and the movement of goods and passengers;
- “the principal office” means the principal office for the time being of the Authority;
- “tidal work” means so much of any work vested in the Authority by this Act as is on, under or over tidal waters or tidal lands below the level of high water;
- “transferring body” means the Harbour Commissioners or the Navigation Commissioners;
- “Trinity House” means the Corporation of Trinity House of Deptford Strond;
- “the undertaking” means the undertaking of the Authority as from time to time authorised;
- “water authority” means the South West Water Authority;
- “vessel” means every description of vessel, however propelled or moved, and includes any floating manufactured article and any thing constructed or used to carry persons or goods by water, and—
- (a) without prejudice to the generality of the foregoing, includes a hovercraft on, in or over the water; and
- (b) includes a seaplane whether in or on the water.

(2) In this Act, except where the context otherwise requires, a reference to the undertaking of a transferring body is a reference to the powers, duties, interests in property, rights and liabilities of that body in relation to the existing harbour or the navigation, as the case may be, which are transferred by this Act.

(3) In this Act, except where the context otherwise requires, references to any enactment shall be construed as references to that enactment as applied, extended, amended or replaced by, or by virtue of, any subsequent enactment, including this Act.

3.—(1) The provisions of the Harbours Clauses Act (except sections 6 to 13, 16, 17 to 20, 23, 25, 48 to 50, 83 to 88 and 101) so far as they are applicable for the purposes of, and are not inconsistent with, the provisions of this Act are hereby incorporated with and form part of this Act:

PART I
—cont.

Incorporation
of enactments.

Provided that in construing the provisions so incorporated—

- (i) the expression “the special Act” shall mean this Act, the expressions “the promoters of the undertaking” and “the undertakers” shall mean the Authority, and the expression “the harbour, dock or pier” shall mean the harbour;
- (ii) the meaning of the word “vessel” as defined in section 2 (Interpretation) of this Act shall be substituted for the meaning assigned to that word by section 3 of that Act;
- (iii) section 15 shall be read and have effect as if the words from “shall forfeit” to the end of the section were omitted and there were substituted therefor the words “without reasonable excuse shall be liable on summary conviction to a fine not exceeding £100”;
- (iv) section 44 shall be read and have effect as if the words “the matters so distrained or arrested to be appraised by two or more sworn appraisers, and afterwards cause” were omitted therefrom;
- (v) section 52 shall extend to empower the harbourmaster to give directions prohibiting the mooring of vessels in any particular part or parts of the harbour;
- (vi) section 53 shall not be construed to require the harbourmaster to serve a notice in writing of his directions upon the master of a vessel, but such directions may be given orally or otherwise communicated to the master in any case in which it is not reasonably practicable to serve a written notice on him;
- (vii) section 63 shall be read and have effect as if the words “and a further sum of one hundred pence for every hour that such vessel shall remain within the limits aforesaid after a reasonable time for removing the same has expired after such requisition” were omitted therefrom;
- (viii) section 69 shall be read and have effect as if the words “for every hour such combustible thing shall remain in any such place as aforesaid after the expiration of two hours from the service of the said notice” were omitted therefrom.

PART I
—cont.
1894 c. 60.

(2) The provisions of sections 652 to 654 of the Merchant Shipping Act 1894 are hereby incorporated with and form part of this Act, and in construing those sections as so incorporated the expression “a local lighthouse authority” shall mean the Authority.

PART II

CONSTITUTION AND FUNCTIONS OF AUTHORITY

Incorporation
of the
Authority.

4.—(1) On the day of reconstitution there shall be constituted by virtue of this Act an authority to be known as the Dart Harbour and Navigation Authority, for the purpose of exercising the functions from time to time conferred or imposed on them by virtue of this Act or of any other enactment.

(2) The Authority shall be a body corporate with perpetual succession and a common seal.

Constitution
of Authority.

5.—(1) The Authority shall consist of not less than thirteen nor more than fifteen members who shall, subject to the provisions of this Act, be appointed or elected as follows:—

- (a) four members appointed by the council, two of whom shall be appointed after consultation with parish councils of the parishes riparian to the harbour, namely, Dartmouth, Totnes, Kingswear, Dittisham, Berry Pomeroy, Stoke Gabriel, Cornworthy and Ashprington;
- (b) one member elected by the persons, partnerships or companies by this Act qualified to elect a commercial fishing member;
- (c) one member elected by the persons, partnerships or companies by this Act qualified to elect a commercial passenger member;
- (d) one member elected by the persons, partnerships or companies by this Act qualified to elect a cargo member;
- (e) two members elected by the persons by this Act qualified to elect a boating member;
- (f) one member appointed by the Secretary of State for Defence;
- (g) one member appointed by the South West Water Authority;
- (h) one member appointed by such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall for that purpose designates;
- (i) one member appointed by the Royal Yachting Association after consultation with member clubs of the association having their headquarters in or in the vicinity of the harbour.

(2) The Authority may co-opt persons not exceeding two to serve as members of the Authority during such period as may be specified at the time of their co-option:

Provided that the Authority shall co-opt a member or officer of the water authority in such circumstances and for such period as would be to the mutual advantage of the Authority and the water authority and as may be agreed or in default of agreement determined by the Secretary of State.

(3) The procedural and other provisions of Schedule 1 to this Act shall have effect with respect to the Authority.

(4) The Secretary of State and the bodies responsible under sub-paragraphs (a), (g), (h) and (i) of subsection (1) of this section for the appointment of members shall, not later than 1st January in the year 1976 and in each third year thereafter, appoint persons in accordance with those sub-paragraphs respectively to serve as members of the Authority for three years commencing on the 1st April following appointment.

(5) (a) The commercial fishing and passenger members, and the cargo and boating members shall be elected in the manner provided by this Act in the month of March 1976, and in the month of March in every third year thereafter.

(b) Each person elected pursuant to the provisions of this Act shall hold office from 1st April following his election, and shall remain in office for the ensuing three years unless he shall previously die, resign, become disqualified or otherwise cease to be a member, and on the expiry of his term of office shall if qualified be eligible for re-election.

(6) Notwithstanding the foregoing provisions of this section, for the period of twelve months beginning with the day of reconstitution, or any part of that period, if less than six persons who immediately before that day held office as Commissioners under the Dartmouth Harbour Act 1951 or the River Dart 1951 c. xxxiii. Navigation Act 1962 are holding office as members of the 1962 c. xlvi. Authority, the Authority shall have power to co-opt to their membership so many of those persons as will bring their number, as members of the Authority, to six.

6.—(1) In this section and in section 8 (Qualification of electors) of this Act—

“owner” in respect of a vessel includes a partner in a firm or director of a company which is the owner of that vessel;

“qualifying dues” means dues levied by and paid to the Harbour Commissioners, the Navigation Commissioners or the Authority during the twelve months ending on 31st December 1975, or any subsequent period of twelve months ending on 31st December immediately preceding the day of election.

Qualification
of commercial
fishing,
commercial
passenger,
cargo and
boating
members.

PART II
—cont.

(2) Subject to section 7 (Disqualification of members) of this Act a person shall be qualified to be—

- (a) a commercial fishing member if he is the owner of a commercial fishing vessel for the mooring or buoying of which qualifying dues have been paid and who is engaged full time in commercial fishing;
- (b) a commercial passenger member if he is the owner of a commercial passenger boat for the mooring or buoying of which qualifying dues amounting to not less than three pounds during the year have been paid;
- (c) a cargo member if he—
 - (i) was the consignor or consignee (or a partner in a firm or director of a company being such consignor or consignee) of goods on which qualifying dues amounting to not less than ten pounds have been paid; and
 - (ii) is a ratepayer (or a partner in a firm or director of a company being such ratepayer) in respect of premises situated within twenty miles of the harbour;
- (d) a boating member if he is the owner of a pleasure boat or yacht in respect of which annual harbour dues have been paid.

Disqualifica-
tion of
members.

7. A person shall be disqualified from being or acting as a member if—

- (a) he is an infant or alien; or
- (b) he holds or accepts any office or place of profit under the Authority; or
- (c) he has become bankrupt or made a composition or arrangement with his creditors; or
- (d) he is incapacitated by physical or mental illness; or
- (e) the company through or as representing which he derives his qualification is not registered in England or if an order has been made or a binding resolution passed for the winding up of such company; or
- (f) the partnership, association or body through or as representing which he derives his qualification is dissolved.

Qualification
of electors.

8. The qualification of electors of the commercial fishing and passenger members and the cargo and boating members respectively shall, subject to the provisions of this Act, be regulated as follows, that is to say:—

- (a) every person for the time being qualified to be a commercial fishing member shall be entitled to vote for the commercial fishing member;

PART II
—*cont.*

- (b) every person being the owner of a commercial passenger boat or boats registered with the Authority, for the mooring or buoing of which qualifying dues amounting to not less than three pounds during the year have been paid, shall be qualified to vote for the commercial passenger member according to the following scale, that is to say:—
- one vote in respect of the first three pounds so paid and an additional vote for each additional one hundred pounds so paid above the first three pounds;
- (c) every person being the consignor or consignee of goods on which qualifying dues amounting to not less than ten pounds have been paid shall be qualified to vote for the cargo member according to the following scale, that is to say:—
- one vote for the first ten pounds so paid and an additional vote for each additional sum of one hundred pounds so paid above the first ten pounds;
- (d) every person being the owner of a pleasure boat or yacht which during any year is habitually moored, berthed or launched (on payment of the proper dues for that year) to the north of an imaginary line drawn due east and west through the Anchor Stone Beacon shall be qualified to vote for one boating member for the area so situated, and shall have one vote;
- (e) every person being the owner of a pleasure boat or yacht which during any year is habitually moored, berthed or launched (on payment of the proper dues for that year) to the south of an imaginary line drawn due east and west through the Anchor Stone Beacon shall be qualified to vote for one boating member for the area so situated, and shall have one vote;
- (f) in the case of a partnership or body corporate or co-ownership the votes of such partnership or body or co-ownership shall be entered on the appropriate list to be made in accordance with section 12 (Lists of electors of commercial fishing, commercial passenger and cargo members) of this Act in the name of such partnership or body or co-ownership and shall be given as if they were votes of one individual;
- (g) in the case of a person trading either in a partnership name or in any other name than his own the trade or partnership name of such person shall be inserted in the appropriate list and such person shall vote in the name so appearing;
- (h) no person shall be entitled under paragraph (b) or (c) of this section to more than six votes in all in respect of each vacancy to be filled;

PART II
—cont.

- (i) no person shall be qualified at the same time to vote under both paragraph (d) and paragraph (e) of this section.

For the protection of the operators of the Dartmouth to Kingswear Higher Ferry.

9. For the purposes of qualification of electors and for the appointment to the Authority, the operators for the time being of the Dartmouth to Kingswear Higher Ferry shall be deemed to be qualified under section 6 (Qualification of commercial fishing, commercial passenger, cargo and boating members) and under paragraph (b) of section 8 (Qualification of electors) of this Act and in respect of the latter provision to be the owners of a commercial passenger boat registered with the Authority for the buoying of which qualifying dues amounting to not less than £10 during each year have been paid.

Registers.

10. The Clerk shall, subject to the provisions of this Act, prepare and keep separate annual registers of the persons mentioned in paragraphs (a) to (e) of section 8 (Qualification of electors) of this Act and shall from time to time insert therein the names and addresses of all persons entitled to be included in such registers respectively together with particulars of the amounts from time to time paid to the Authority by each such person for rates and dues in respect of which they are entitled to vote respectively:

Provided that the Clerk shall not be required to inquire as to the names and addresses of the persons entitled to be included in the register of electors of boating members but any person so entitled who wishes to claim a vote shall send to the Clerk particulars of his name and address and of the boat in respect of which the claim is made not later than 30th November preceding the day of election and the name of such person when registered shall remain on the register until the Clerk shall receive notice from or on behalf of any interested person that in consequence of a change of ownership the entry on the register requires to be amended.

Custody of registers.

11. The registers shall be kept at the principal office and shall be in charge of the Clerk and each register shall immediately before the preparation of the list of electors to be compiled therefrom be certified in writing by the Clerk as containing to the best of his knowledge and belief correct particulars in accordance with the provisions of this Act.

Lists of electors of commercial fishing, commercial passenger and cargo members.

12. On or before 15th January 1976, and in every third year thereafter the Clerk shall from the registers aforesaid make up three separate alphabetical lists of the persons entitled to vote as electors of commercial fishing and passenger members, and the cargo member respectively with the number of votes to which

they are respectively entitled and on or before the same day shall cause each such list to be printed and to be posted on the outer door of the principal office for seven days thereafter and printed copies of each such list shall be kept at such office for public inspection and the Authority shall deliver a printed copy of each list to the council and (on payment of such sum as the Authority think reasonable for each copy) to every person requiring it.

PART II
—cont.

13.—(1) The Clerk shall within fifteen days after 15th January 1976, and within fifteen days after 15th January in each succeeding third year revise at the office of the Authority the list of electors of the commercial fishing and passenger members, and the cargo member made out under this Act and notice of the time appointed for the commencement of such revision shall be posted on the outer wall of the principal office on every day for the five days before the day so appointed and shall be advertised at least once during such five days in one or more local newspapers published or circulating in Dartmouth and Totnes.

Revision of
lists of
electors of
commercial
fishing,
commercial
passenger and
cargo
members.

(2) On every such revision any person whose name is not inserted in the appropriate list may in person or by his agent claim to have his name inserted therein and any person whose name is or ought to be inserted in either of the lists may in person or by his agent claim to have the number of votes attributed or to be attributed to him corrected or correctly inserted therein and may object to the name of any person being retained or inserted in that list or to such person having the number of votes therein attributed to or claimed by him.

(3) Notice in writing of any such claim or objection shall be left with or sent by the recorded delivery service by the person making it to the Clerk at the principal office and (in the case of an objection) to the person whose name or number of votes is challenged at his place of business or, if none, at his residence on or before 25th January in the year in which the revision is to take place as the case may require or in each case on or before such later date as the Clerk may approve, but the Clerk shall not consider any such objection until he is satisfied that the person affected thereby has had a reasonable opportunity of being heard thereon.

(4) The Clerk shall in pursuance of such applications and objections as aforesaid and after affording reasonable opportunity to the parties affected thereby to be heard as above provided make all such corrections, insertions and erasures as are necessary to ensure to his satisfaction the accuracy of the lists.

(5) The decision of the Clerk with respect to the lists shall be final and conclusive and the Clerk shall forthwith after every

PART II
—cont.

revision sign his name at the foot of the lists revised and if the Clerk fails without reasonable excuse to complete the revision as provided by this Act he shall be liable on summary conviction to a fine not exceeding £50.

Evidence of
revised list.

14. Every list purporting to be a list revised according to this Act and signed by the Clerk shall be prima facie evidence of its being a list duly revised and signed according to this Act and of all the provisions of this Act relating to such list or to the revision thereof having been duly complied with.

Continuance
of revised
lists.

15. Subject to the provisions of section 10 (Registers) of this Act, every revised list shall be in force until the revision of the then next list and the persons whose names appear on the revised list from time to time in force shall be the persons entitled to vote at elections of the commercial fishing and passenger members, and the cargo member under this Act and shall at every such election be respectively entitled to such number of votes as appears in the revised list.

Revised lists
to be
conclusive
evidence of
right to vote.

16. The revised lists shall be conclusive evidence that the persons therein named and no others are entitled to vote at the election of the commercial fishing and passenger members and the cargo member respectively to be held in that year and that the persons named in each such list are entitled to the number of votes stated therein.

Printing and
sale of revised
lists.

17. Every revised list of electors shall within seven days from the revision thereof be printed by the Authority and thenceforth until the day of election the Authority shall cause printed copies thereof to be sold at a reasonable price to all persons desiring to buy the same.

Election of
commercial
fishing,
commercial
passenger and
cargo
members.

18. With respect to the election of the commercial fishing and passenger members, and the cargo member the following provisions shall have effect:—

- (1) The Clerk shall be the returning officer whose decision in reference to any question arising shall be final:
- (2) Twenty-eight days at least prior to the day of election the returning officer shall give public notice requiring the names of candidates to be sent in to him. Such notice shall be printed and posted on a board to be affixed on the outer wall of the principal office and in addition thereto shall be inserted in a local newspaper circulating in Dartmouth and Totnes twice at least before the time for nomination of candidates shall expire:

PART II
—*cont.*

- (3) Fourteen days at least prior to the day of election the name of each candidate shall be intimated to the returning officer in the Form A, the Form C, or the Form E (as the case may require) set forth in Schedule 2 to this Act or to the like effect and such form shall be signed by two electors of the commercial fishing member, the commercial passenger member, or the cargo member, as the case may be, and by the candidate in approval of his nomination:
- (4) Any candidate may withdraw from his candidature by notice signed by him and delivered to the returning officer by four o'clock in the afternoon of the day immediately succeeding the last day for sending in nominations:
- (5) If at four o'clock in the afternoon of the day immediately succeeding the last day for sending in nominations there is in respect of any class of candidate only one person nominated there shall be no poll in respect of that class and the returning officer shall on the day of election declare the candidate or candidates, as the case may be, duly elected, but if in respect of any such class there are more candidates than one a poll shall be taken in the manner hereinafter provided:
- (6) Seven days at least prior to the day of election the returning officer shall in the event of a poll send by post to each elector at the address given in the respective lists of electors of the commercial fishing, commercial passenger members and the cargo member hereinbefore provided for a voting paper in the Form B, the Form D, or the Form F (as the case may require) set forth in Schedule 2 to this Act or to the like effect containing the names of the candidates, and the votes of such electors shall be recorded in accordance with the directions in the said form:
- (7) Every elector may vote for one candidate in the class for which he is entitled to vote and the returning officer shall in summing up the votes allow to each of the candidates so voted for the number of votes to which the elector is entitled according to the list of electors:
- (8) The votes of a partnership or of a person trading in a partnership name or in any name other than his own name shall be given in the partnership or trade name:
- (9) It shall not be competent to use any voting paper or to reckon the same for the purposes of any poll unless it has been delivered by post or otherwise to the returning

PART II
—cont.

officer in a sealed envelope addressed to him so that the same shall be received by him at the principal office not later than the day before the day of election:

- (10) On the day of election and not before the voting papers shall be opened and the votes shall be counted by the returning officer and the candidate in each class who shall be found to have the greatest number of valid votes shall be declared by the returning officer the duly elected commercial fishing, commercial passenger and cargo members respectively:
- (11) Any candidate or an agent appointed by him in writing may be present at the opening of the voting papers and counting of the votes:
- (12) The returning officer shall make a return under his hand to the Authority of the persons elected and every person so returned shall be deemed duly elected and in case of an equality of votes the returning officer shall determine by lot between the candidates so equal:
- (13) In the event of the requisite commercial fishing, commercial passenger and cargo members not being elected at any election the Authority shall at the next convenient meeting thereafter elect a member to fill each vacancy.

Election of
boating
members.

19. With respect to the election of the boating members the following provisions shall have effect:—

- (1) The provisions of paragraphs (1), (2), (4), (5), (11), (12) and (13) of the last foregoing section of this Act shall, with any necessary modifications, apply to the election of the boating members as they apply to the election of the commercial fishing, commercial passenger and cargo members:
- (2) Fourteen days at least prior to the day of election the name of each candidate shall be intimated to the returning officer in the Form G set forth in Schedule 2 to this Act or to the like effect and in accordance with the directions in the said form, and such form shall be signed by two electors of the boating members and by the candidate in approval of his nomination:
- (3) Seven days at least prior to the day of election the returning officer shall in the event of a poll insert in one or more local newspapers circulating in Dartmouth and Totnes notice of the date, time and place of election and the names and addresses of the candidates:

PART II
—cont.

- (4) The returning officer shall not less than four days prior to the day of election send to every elector on the register of electors of boating members who so requests in writing and who provides a self addressed stamped envelope a voting paper in the Form H set forth in Schedule 2 to this Act or to the like effect:
- (5) The election shall be held at the date, time and place stated in the notice and each elector attending shall, subject to the returning officer being satisfied of his eligibility, receive one voting paper in the Form H set forth in Schedule 2 to this Act or to the like effect containing the names of the candidates and the votes of such electors shall be recorded in accordance with the directions in the said form and placed in the ballot box provided:
- (6) Any voting paper delivered to the returning officer in a sealed envelope marked " Election of Boating Member " at the principal office not later than the day before the day of election shall be opened by the returning officer and subject to the returning officer being satisfied of the voter's eligibility placed by him in the ballot box provided at the commencement of the election:
- (7) The votes shall be counted by the returning officer and in respect of each of the areas north and south of the Anchor Stone Beacon the candidate who shall be found to have the greatest number of valid votes shall be declared by the returning officer the duly elected boating member.

20.—(1) It shall be the duty of the Authority—

General duties.

- (a) to provide, maintain, operate and improve such port and harbour facilities and services in and in the vicinity of the harbour as they consider necessary or desirable and to take such action as they consider necessary for or incidental to the provision of such facilities and services;
- (b) to take such action as they may consider necessary for the navigation and handling of vessels in the harbour;
- (c) to provide, maintain and operate facilities and services for the consignment of goods to and from harbour premises;
- (d) to turn their resources to account so far as not required for the purposes of the undertaking;
- (e) to take such action and do all other things which in their opinion are expedient or desirable for the efficient operation of the undertaking.

PART II
—*cont.*

(2) The Authority shall have power by agreement between themselves and any other person to take such action as they consider necessary or desirable for the purpose of facilitating the discharge of any of their functions.

(3) Particular powers conferred or particular duties laid upon the Authority by this Act shall not be construed as derogating from each other.

Provision of
vessels and
towage
services.

21. The Authority may construct, purchase, contract for or hire, and may maintain and use, vessels required by them for carrying out their functions, including tugs for the use and accommodation of vessels and may sell or dispose of any such vessels.

PART III

TRANSFER OF HARBOUR UNDERTAKINGS

Transfer of
undertakings.

22.—(1) On the day of reconstitution the respective harbour undertakings of the transferring bodies, including interests in all fixed and movable property held or used by those bodies for the purposes thereof and all rights and liabilities enjoyed or incurred by them for any of those purposes, shall be transferred to and vest in or be applied to the Authority.

(2) The benefits of, and liabilities under, contracts for the employment of officers and servants shall not be transferred by this Act.

(3) On the day of reconstitution the Harbour Commissioners and the Navigation Commissioners shall be dissolved.

Continuance
of proceedings.

23. Nothing in this Act shall release, discharge or suspend any action, arbitration or other proceeding, or any cause of action, arbitration or other proceeding, pending or existing immediately before the day of reconstitution by or in favour of or against a transferring body in relation to the undertaking of that body and, subject to the provisions of this Act, any such action, arbitration or proceeding or cause of action, arbitration or proceeding may be maintained, prosecuted or continued by or in favour of or against the Authority.

Saving of
agreements,
etc.

24. Subject to the provisions of this Act, all sales, conveyances, leases, grants, assurances, deeds, contracts (other than contracts the benefits of, and liabilities under, which are not transferred by this Act), bonds, agreements, notices and demands affecting the undertaking of a transferring body and in force immediately before the day of reconstitution shall (in so far as they relate to such an undertaking) on and from that day be as binding

and of as full force and effect in every respect and may be enforced as fully and effectively against or in favour of the Authority as if instead of the transferring body the Authority had been a party thereto or bound thereby or entitled to the benefits thereof.

PART III
—cont.

25. As from the day of reconstitution the liability of the transferring bodies under the provisions of the National Ports Council Provision of Funds Scheme 1965 to pay any sum for which a demand has been issued under article 3 of that scheme shall be transferred to, and become the liability of, the Authority.

National
Ports Council
levy.

26.—(1) As from the day of reconstitution the Authority shall take over and employ any officer or servant who immediately before that day is employed on a full-time or regular basis by either of the transferring bodies wholly or mainly in connection with the existing harbour or the navigation and who shall be willing to enter the service of the Authority and shall do so on terms and conditions not less favourable than those on which he is employed by that body immediately before the day of reconstitution:

Transfer of
staff.

Provided that the Authority shall not be required to take into their service any officer or servant whose contract of service was entered into after 5th April 1974 unless such contract was entered into to replace an officer or servant who had left the service of a transferring body and contained terms and conditions substantially similar to those of the contract with that officer or servant or unless such contract is approved in writing by the National Ports Council for the purposes of this proviso.

(2) Any question arising under subsection (1) of this section shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964.

1964 c. 16.

27. Where at any time within five years after the day of reconstitution the Authority consider it necessary in the interests of their more efficient organisation or administration to require an officer or servant who has entered their employment pursuant to section 26 (Transfer of staff) of this Act to work at a place other than that at which he worked before that day the Authority shall reimburse that officer or servant for any removal expenses and increase in travelling expenses which he may incur to such extent and for such period as may be reasonable in the circumstances.

Allowance for
removal or
travelling
expenses.

28.—(1) In this section—

Pensions, etc.

“the Fund” means the fund relating to any superannuation scheme established by the Authority under section 70 (Superannuation scheme) of this Act;

PART III
—cont.

“pension rights” in relation to any person means the rights of that person, his spouse and dependants, as respects pensions, gratuities and other like benefits and includes the possibility of receiving any such benefits pursuant to the exercise of a statutory discretion or to a customary practice and also the right to a return of contributions to a pension fund, with or without interest thereon.

(2) The Authority, in relation to any person who enters their service pursuant to section 26 (Transfer of staff) of this Act, shall as from the day of reconstitution provide, or secure the provision of, pension rights (taking into account all service before that day in respect of which pension rights applicable in relation to that person by virtue or in consequence of his employment by a transferring body have accrued) not less favourable than those which apply in relation to that person immediately before that day by virtue or in consequence of his employment by a transferring body regard being had to any contributions payable by the person in question in respect of pension rights applicable in relation to him by virtue or in consequence of his employment either before or after the day of reconstitution.

(3) On the day of reconstitution the moneys and other assets standing to the credit of any scheme or arrangement made by or on behalf of a transferring body for the purposes of pensions, superannuation, gratuities or allowances in respect of their employees shall be transferred to and form part of the Fund.

(4) If as a result of a person leaving the service of a transferring body and entering that of the Authority pursuant to the said section 26 of this Act contributions paid by that person under any superannuation or pension scheme are returned to him with or without interest thereon the amount so returned shall be paid by that person to the Authority and if he fails to make such payment within a reasonable time of being requested by the Authority so to do the Authority's obligations in relation to him under this section shall cease to have effect.

(5) Any pension or gratuity by way of periodical payments being paid immediately before the day of reconstitution by the Harbour Commissioners or the Navigation Commissioners (as the case may be) to a person previously employed by them or the spouse or dependants of such a person shall on and after that day continue to be paid by the Authority instead of the relevant Commissioners in accordance with the terms and arrangements relating to such pension or gratuity in operation immediately before the day of reconstitution and, following the death of any such person, the Authority shall make such payments to his spouse and dependants as, in accordance with the terms and

arrangements in operation immediately before the day of reconstitution, the relevant Commissioners would have done if this Act had not been passed.

PART III
—cont.

PART IV

POWERS OF THE AUTHORITY

29.—(1) The Authority may dispose of land belonging to them in such manner whether by way of sale, exchange, lease, the creation of any easement, right or privilege or otherwise, for such periods, upon such conditions and for such consideration as they think fit. Disposal, etc., of land.

(2) The Authority may—

- (a) for the purposes of the undertaking manage, use or develop land belonging to them as they think fit;
- (b) with a view to selling or otherwise disposing of any right or interest in the land after the development is carried out—

- (i) retain any part of the land belonging to them which is not required for the purposes of the undertaking and develop it or procure its development for use by other persons;

- (ii) where the use of land belonging to them and held for the purposes of the undertaking can be combined with its use for other purposes, develop the land or procure its development for use wholly or partly by other persons.

(3) Where the Authority intend to develop or procure the development of land belonging to them for purposes other than the purposes of the undertaking, and are of the opinion that the land cannot by itself be developed satisfactorily, they may acquire adjoining land by agreement, whether by way of purchase, exchange, lease or otherwise, for the purpose of developing it or of procuring its development together with the other land.

(4) Nothing in subsection (2) of this section shall relieve the Authority from liability for damage caused by them to any apparatus belonging to or maintained by the Central Electricity Generating Board or the South Western Electricity Board in the exercise of the powers of that subsection and the said powers shall be so exercised as not to obstruct or render unreasonably

PART IV
—cont.
1971 c. 78.

inconvenient the access to any such apparatus or operational land (as defined in section 222 of the Town and Country Planning Act 1971) of the said boards.

Power to
lease, etc.

30. Notwithstanding anything in this or any other statutory provision of local application, the Authority for the purposes of or in connection with the management of the harbour may lease or grant the use or occupation of or any easement, servitude or other right or interest in or over any lands, works, buildings, machinery, equipment or other property of the Authority for such period or periods, at such rents and considerations and on such terms and conditions as shall be agreed between the Authority and the person taking the same, and the lessee shall in respect thereof be subject to all the liabilities and obligations to which the Authority are subject and shall perform all the duties of the Authority under this Act in respect thereto.

Works in
harbour.

31.—(1) The Authority may execute, place, maintain and operate in and over the harbour such works and equipment as are required for or in connection with the exercise by them of any of their functions under this Act and may alter, renew or extend any works so constructed or placed:

Provided that any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by this section shall be so constructed, erected or laid down and so maintained, worked and used that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction or otherwise) with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Post Office or with telecommunication by means of such line.

1878 c. 76.

(2) The Authority shall exercise the powers conferred upon them by subsection (1) of this section on land not owned or leased by them only with the prior consent in writing of the owner and lessee thereof.

(3) In the exercise of the powers of this section the Authority shall not interfere with, damage or injuriously affect any apparatus belonging to or maintained by the Central Electricity Generating Board or the South Western Electricity Board and the said powers shall be so exercised as not to obstruct or render unreasonably inconvenient the access to any such apparatus or to operational land (as defined in section 222 of the Town and Country Planning Act 1971) of the said boards.

(4) In this section “works” means works of any description, and includes the reclamation of land reasonably required for the purpose of executing works.

32.—(1) The Authority may deepen, widen, dredge, scour and improve the bed and foreshore of the harbour and of the approaches to the harbour and may blast any rock within the harbour or in such approaches.

PART IV
—cont.

Power to
dredge.

(2) Any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) taken up or collected in the course of such operations shall be the property of the Authority and may be used, sold, removed, deposited or otherwise disposed of as the Authority may think fit: 1894 c. 60.

Provided that the Authority shall not lay down or deposit any materials in a place below the level of high water except in such position as the Secretary of State for Trade may approve and subject to such conditions or restrictions as he may impose.

(3) The Authority will in the event of exercising the power conferred by this section in respect of land belonging to the trustees of the Raleigh Estate offer to make available to those trustees any materials thereby taken up or collected from that land and will comply with the reasonable directions of the trustees as to the delivery to them of those materials.

(4) The powers of the Authority under this section shall be exercisable subject to the provisions of section 79 (Saving for rights of Duchy of Cornwall) and section 82 (Crown rights) of this Act and in particular and without prejudice to that general limitation any consent given to the exercise of such powers by the Duke of Cornwall or by the Crown Estate Commissioners on behalf of Her Majesty may be given subject to such restrictions and conditions including the payment by the Authority to the Duke of Cornwall or to the Crown Estate Commissioners, as the case may be, of royalties, rents or sums of money in respect of materials raised from any place below the level of high water and sold by the Authority under the powers of this section or in respect of any place below the level of high water upon which materials may be deposited as may be fixed by the Duke of Cornwall or by the Crown Estate Commissioners, as the case may be.

(5) (a) As early as possible, and in any event not less than twenty-eight days before any exercise of their powers under subsection (1) of this section within a distance of 50 metres (or, in the case of blasting operations, 150 metres) of any sub-aqueous cable belonging to or used by the Post Office, the Authority shall give notice in writing to the Post Office of such intended exercise.

(b) Any mud, sand, soil, rubbish, gravel, rock or other materials dredged up and removed shall not be laid down or deposited in

PART IV
—cont.

any place or manner so as to cover any subaqueous cable belonging to or used by the Post Office or to impede in any way the inspection, maintenance, removal or renewal of any such cable.

(6) The provisions of subsection (5) of this section shall extend and apply for the protection of the Central Electricity Generating Board and the South Western Electricity Board as if for the references therein to the Post Office and to any submarine cable placed and maintained by the Post Office in or across the navigation there were substituted reference to the Central Electricity Generating Board and the South Western Electricity Board and to any cable placed and maintained by the said boards.

(7) (a) If in the exercise of the powers of this section the Authority damage Dartmouth Quay or any other property of the council they shall compensate the council for the cost of making good such damage.

(b) If in the exercise of the powers conferred upon them by this section the Authority damage any county road or any retaining wall, embankment or slipway which supports any such road the Authority shall compensate the county council for the cost of making good such damage.

(c) Any dispute as to the amount of compensation to be paid under this subsection shall be determined by an arbitrator to be mutually agreed upon between the Authority and the council or the county council, as the case may be, or failing agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers.

1959 c. 25. (d) In this subsection the expression “county road” has the same meaning as in section 295 of the Highways Act 1959.

Moorings.

33.—(1) The Authority may place, lay down, maintain, use and have moorings, buoys and similar apparatus in the harbour on land owned or leased by the Authority, or in which they hold an appropriate interest, and on any other land with the consent in writing of the owner and lessee thereof.

(2) No person other than the Authority shall place, lay down, maintain or use, nor alter, renew or extend, moorings, buoys and similar apparatus within the harbour unless he is licensed to do so by a licence granted under this section, nor except in accordance with the terms and conditions upon which such licence is granted.

(3) The Authority may from time to time, on such terms and conditions and for such period as they shall think fit, grant a licence to any person to place, lay down, maintain or use, and to alter, renew or extend, a mooring, buoy or similar apparatus within the harbour:

Provided that—

PART IV
—cont.

(a) nothing in any such licence shall entitle a person to place, lay down, maintain, use, alter, renew or extend any mooring, buoy or similar apparatus on land not owned or leased by him or by the Authority, or in which he has no appropriate interest;

(b) the Authority shall not unreasonably refuse to grant a licence—

(i) to an owner or lessee of any land not leased by the Authority with respect to a mooring on that land; or

(ii) with respect to a mooring or to a mooring or berthing area existing on 4th December, 1974;

and any question whether the grant of a licence has been unreasonably refused shall be determined by the Secretary of State;

(c) in any case to which both heads (i) and (ii) of paragraph (b) of this proviso apply the Authority shall not refuse to grant a licence, and if on the grant of such licence the Authority impose terms or conditions which in the opinion of the applicant for the licence are unreasonable, the question of the reasonableness or otherwise of such terms or conditions shall be referred to and determined by the Secretary of State.

(4) For the purpose of section 7 of the Telegraph Act 1878 1878 c. 76. any work proposed to be carried out under a licence granted in accordance with subsection (3) of this section shall be deemed to be a work proposed to be done in the execution of an undertaking authorised by an Act of Parliament.

(5) The Authority may charge a reasonable fee for the grant of a licence under this section, but such fee shall not exceed an amount sufficient to recover the reasonable costs arising from the application for and the issue of the licence, and any necessary supervision of the mooring in respect of which the licence is issued.

(6) Without prejudice to the provisions of subsection (2) of this section, in the case of any existing mooring, buoy or similar apparatus which may have been placed or laid down within the harbour before the commencement of this Act without the permission of the harbour authority, the Authority may, by notice to the person using any such mooring, buoy or apparatus, require it to be removed unless on an application made under this section the Authority shall grant a licence in respect of the maintenance and use thereof.

PART IV
—cont.

(7) Any person who without reasonable excuse contravenes subsection (2) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(8) Nothing in this section shall relieve the Authority or any person licensed by the Authority from liability for damage caused by them or him to any apparatus belonging to or maintained by the Central Electricity Generating Board or the South Western Electricity Board in the exercise of the powers of this section and the said powers shall be so exercised as not to obstruct or render unreasonably inconvenient the access to any such apparatus or to operational land (as defined in section 222 of the Town and Country Planning Act 1971) of the said boards.

(9) This section shall come into operation on the day of reconstitution.

1971 c. 78.

Powers with
respect to
disposal of
wrecks.
1894 c. 60.

34.—(1) In their application to the Authority sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the Authority with respect to, and with respect to anything in or on, any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto) shall have effect—

(a) subject to the provisions of the next following section; and

(b) in relation to a vessel sunk, stranded or abandoned before, as well as after, the commencement of this Act.

(2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting his liability the Authority may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under the said section 530, any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the harbour-master a case of emergency, subsection (2) of this section shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying the Authority have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so; and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under subsection (2) (b) of the next following section he shall be at liberty to do so, and the Authority shall not exercise the powers aforesaid in relation

to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Authority.

PART IV
—cont.

(4) Notice under the last foregoing subsection to the owner of any vessel may be served by the Authority either by delivering it to him or by sending it to him by the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom, or, if the owner of any such place of business or abode is not known to the Authority by displaying the notice at the office of the Authority for the period of its duration.

(5) In this section the expression “owner” in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof.

(6) Except in a case which is, in the opinion of the Authority, a case of emergency, the Authority shall, before raising, removing or destroying under the powers conferred upon them by the said section 530 any vessel sunk, stranded or abandoned in the harbour or in or near any approach thereto and within a distance of 200 metres of any subaqueous cable belonging to or used by the Post Office, give to the Post Office in writing as long notice as is practicable of their intention to do so.

35.—(1) Without prejudice to section 741 of the Merchant Shipping Act 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906, the powers conferred on the Authority by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

Protection of
Crown
interests in
wrecks.
1894 c. 60.
1906 c. 48.

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) except with the consent of the Secretary of State for Defence which may be given with or without such a direction as is referred to in subsection (2)(b) of this section in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—

- (i) had been required to be placed at the disposal of Her Majesty or of a government department; and

PART IV
—cont.

(ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The Authority shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Trade of any decision of the Authority to exercise in relation to any vessel any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of the harbourmaster a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State for Defence and the Secretary of State for Trade before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Authority a direction by the Secretary of State for Defence or the Secretary of State for Trade that those powers shall not be exercised in relation to that vessel, except in such a case as aforesaid;

and where in any such case as aforesaid the Authority proceed to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if before the expiration of the period aforesaid such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of the last foregoing section:

Provided that—

- (i) the Authority shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of the foregoing subsection, but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the last foregoing section to have been duly served under paragraph (b) of this subsection;
- (ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Secretary of State for Trade for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Authority by the said section 530 the Authority shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section, in accordance with such directions, if any, as may be given to them by the Receiver of Wreck; and on exercising the said power of sale in the case of any property the Authority shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Authority under that section.

PART IV
—cont.

(4) Any limitation on the powers of the Authority in relation to any vessel arising by virtue of subsection (1) or (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on Trinity House by section 531 of the said Act of 1894.

36. The Authority shall have the appointment of meters and weighers at the harbour.

Meters and
weighers.

37. Nothing in this Part of this Act shall affect the operation of the Dumping at Sea Act 1974.

Saving for
Dumping at
Sea Act.
1974 c. 20.

PART V

REGULATION OF HARBOUR

38. The limits within which the Authority shall exercise jurisdiction as a harbour authority, and in respect of which the powers of the harbourmaster shall be exercised, shall extend from the weir at Totnes in the county of Devon southward by the level of high water to an imaginary straight line drawn between the south-western extremity of the Inner Froward Point at the eastern side to the entrance to the river Dart and the eastern extremity of Coombe Point at the western side of that entrance and shall include all creeks, inlets, bays and tributaries as far as the tide shall flow, with the exception of the Boatfloat, Dartmouth and Waterhead Creek, Kingswear.

Limits of
jurisdiction.

39.—(1) The Authority may from time to time by byelaws confirmed in accordance with this Act make provision for any matter falling within their duties under section 20 (General duties) of this Act and in particular, but without prejudice to the generality of their power, for any of the following purposes:—

General
byelaws.

- (a) to secure the conservation and improvement of the harbour as a harbour and a navigable waterway and to promote the ease, convenience or safety of navigation;

PART V
---cont.

- (b) to regulate vessels in the harbour and their entry into, departure from and movement within the harbour and, without prejudice to the generality of the foregoing, to prescribe the speed of vessels, rules for navigation and the lights and signals to be exhibited or made by or for the benefit of vessels in the harbour;
- (c) to prescribe parts of the harbour—
 - (i) where vessels or a specified class of vessels may not moor, anchor or be otherwise secured;
 - (ii) which vessels of a specified class may not enter;
 - (iii) where navigation during the hours between sunset and sunrise of passenger boats or any specified class of such boats is prohibited;
- (d) to regulate the placing, maintenance and use of moorings in the harbour;
- (e) to regulate the use and to prevent the misuse of services and facilities provided by the Authority in or beside the harbour;
- (f) to promote the safety of persons and vessels in the harbour;
- (g) to regulate the conduct of persons using the harbour or its banks or shores whether for business, recreation, training or any other purposes;
- (h) for the prevention of pollution (except in respect of the discharge or escape of any substance the discharge or escape of which is subject to the Prevention of Oil Pollution Act 1971) or nuisance in or beside the harbour.

1971 c. 60.

(2) Different byelaws may be made under this section in relation to different classes of vessels.

(3) Byelaws made under this section may provide for imposing upon persons who without reasonable excuse contravene them fines on summary conviction not exceeding in any one case £100.

1961 c. 50.

1951 c. 64.

1960 c. 54.

1974 c. 40.

(4) The discharge of trade or sewage effluent into the harbour in accordance with consent granted under the Rivers (Prevention of Pollution) Act 1961, section 7 of the Rivers (Prevention of Pollution) Act 1951, as applied by the Clean Rivers (Estuaries and Tidal Waters) Act 1960, or as from the date on which it comes into force, section 34 of the Control of Pollution Act 1974, shall not constitute an offence under, or a contravention of, any byelaw under paragraph (h) of subsection (1) of this section.

(5) Before making any byelaws under subsection (1) of this section, the Authority shall consult the water authority.

40.—(1) The Authority may make byelaws as to the loading and discharging by vessels within the harbour of dangerous goods and generally as to the precautions to be observed with respect to vessels carrying dangerous goods while in the harbour, and such byelaws may in particular provide—

PART V
—*conf.*

Byelaws as to
dangerous
goods.

(a) for regulating the places at which vessels are to load and discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;

(b) for regulating the places at which vessels carrying dangerous goods are to be moored.

(2) Byelaws made under subsection (1) of this section may provide for imposing on persons who without reasonable excuse contravene them fines on summary conviction not exceeding £100.

(3) This section does not apply to dangerous goods to which byelaws made by the Authority under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply.

41.—(1) All byelaws made by the Authority (whether under this Act or under any other enactment) shall be subject to the provisions contained in subsections (3) to (8) of section 236 of the Local Government Act 1972, and that section shall for the purposes of this section be construed as if the Authority were a local authority within the meaning of that section and the Clerk were the proper officer of that local authority.

Confirmation
of byelaws
and fines
thereunder.
1972 c. 70.

(2) The confirming authority for the purposes of the said section 236 shall be the Secretary of State for the Environment.

42.—(1) The owner or master of a vessel shall not bring or cause or permit to be brought any dangerous goods within the harbour unless he has provided the harbourmaster at least twenty-four hours beforehand with written notification of the quantity of the goods, the nature of the danger or dangers to which the goods give rise and their correct technical name and flash point (if any), and if without reasonable excuse such notice is not given the owner or master of the vessel shall be guilty of an offence and liable to a fine not exceeding £100 on summary conviction except that in the case of voyages of less than twenty-four hours' duration, such information shall be given as early as possible prior to entry into the harbour.

Notice before
entry of
dangerous
goods.

(2) This section does not apply to dangerous goods to which byelaws made by the Authority under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply.

PART V
—cont.Entry of
dangerous
goods.

43.—(1) The Authority may—

- (a) refuse entry into the harbour premises of any goods which in their opinion would endanger or be liable to endanger persons or property; or
- (b) permit the entry of any such goods subject to such terms and conditions (including specification of the part or parts of the harbour premises where such entry is permitted) as they think fit.

(2) The Authority shall publish a schedule of such goods—

- (a) entry of which is forbidden by them; and
- (b) entry of which is permitted by them only upon terms and conditions specified in the schedule.

(3) A person who after publication of the schedule referred to in subsection (2) of this section—

- (a) without reasonable excuse brings or causes or permits to be brought into the harbour premises any goods the entry of which is forbidden; or
- (b) without reasonable excuse fails in relation to any goods brought into the harbour premises to comply with any terms or conditions imposed by the Authority under subsection (1) of this section;

shall—

- (i) be guilty of an offence and liable on summary conviction to a fine not exceeding £100, and on conviction on indictment to a fine; and
- (ii) indemnify the Authority against all claims, demands, proceedings, costs, damages and expenses which may be made against or recovered from or incurred by the Authority in consequence of the commission of the offence;

and the Authority may remove the goods in question and may recover from the owner or offender the costs of such removal and of placing or storing the goods elsewhere.

(4) Publication of the schedule referred to in subsection (2) of this section shall be sufficiently effected by making copies of the schedule available at the principal office and the harbour-master's office during reasonable hours for public inspection free of charge and for sale at a reasonable price.

Declaration of
draught of
vessel.

44.—(1) The master of a vessel entering or leaving or intending to enter or leave the harbour shall if required to do so by the harbourmaster state correctly the draught of his vessel.

PART V
—cont.

(2) The master of a vessel who without reasonable excuse fails to comply with a requirement under subsection (1) of this section shall, without prejudice to any right of the Authority to compensation for loss or damage occasioned thereby, be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(3) For the purposes of this section “draught” in relation to a hovercraft or hydrofoil vessel means its draught when afloat and not supported on a cushion of air or foils or by any other means, and in relation to a seaplane means its draught when afloat.

45. Any duly authorised officer of the Authority may, on Boarding producing if so required his authority, enter and inspect a vessel vessels. in the harbour—

- (a) for the purposes of any enactment relating to the Authority or of any byelaw of the Authority including the enforcement thereof; or
- (b) to prevent or extinguish fire.

46.—(1) The Authority may from time to time set apart and appropriate any lands, works, buildings, machinery, equipment or other property of the Authority, for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or goods, or class of vessels or goods, subject to the payment of such charges and to such terms, conditions and regulations as the Authority may think fit. Power to appropriate lands, works, etc., for particular trades, etc.

(2) No person or vessel shall make use of any lands, works, buildings, machinery, equipment or other property so set apart or appropriated without the consent of the harbourmaster or other duly authorised officer of the Authority, and the harbourmaster or, as the case may be, such officer may order any person or vessel making use thereof without such consent to leave or be removed, and the provisions of section 58 of the Harbours Clauses Act 1847 shall extend and apply mutatis mutandis to and in relation to any such vessel.

47. The Authority shall not be responsible for the safety of any goods deposited in or on harbour premises not specifically set apart by them for the purpose of warehousing. Liability for safety of goods.

48. Any person who wilfully obstructs or interferes with the harbourmaster or with any officer or servant of the Authority in the exercise of his powers or the performance of his duties under this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50. Obstruction of harbourmaster and others.

PART V
—cont.Powers of
interrogation
and search.

49. An officer of the Authority may require any person on or seeking access to harbour premises or any vessel using harbour premises to state truly his name and address and the nature and place of his business or purpose thereon or in seeking access thereto, and may require any such person to produce for his inspection any pass or other authority which may have been issued to him by or on behalf of the Authority, and any person who without reasonable excuse fails to comply with any such requirement shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10.

Power to
survey goods.

50.—(1) The Authority may survey and examine—

- (a) goods at harbour premises; and
- (b) goods on board a vessel at harbour premises when those goods are to be or have been handled by the Authority or when the master of the vessel asks for a survey or examination to be made by the Authority.

(2) The Authority may make a reasonable charge for a survey or examination carried out under this section.

Removal of
goods.

51.—(1) The Authority may remove to another part of the harbour premises, or to a place of storage elsewhere, goods—

- (a) which are obstructing or interfering with the use of the harbour premises; or
- (b) which remain at a place used for the deposit or storage of goods for a longer time than that specified in relation to that place in a schedule of charges published by the Authority;

and such removal and storage shall be carried out at the risk and expense of the owner.

(2) Notwithstanding such removal or placing in store, such goods shall be liable to a general lien for the cost of removal, and for any charges payable to the Authority by the owner.

PART VI

CHARGES

Extension of
power to make
charges.

52. In addition to the power to levy ship, passenger and goods dues pursuant to section 26 of the Act, the Authority may demand, take and recover—

- (a) in respect of any dracone or floating dock, crane, rig or plant (not being a ship as defined in section 57 of the Act)

entering or leaving the harbour such charge as they think fit, and sections 30, 31, 32 and 34 of the Act shall with any necessary modification apply to any such charge as they apply to ship, passenger and goods dues; and

PART VI
—cont.

- (b) such reasonable charges for services and facilities provided by them or on their behalf as they may from time to time determine.

53. Nothing in section 30 of the Act shall require the Authority to include in the list of ship, passenger and goods dues to be kept under subsection (1) of that section charges subject to compounding arrangements in respect of, or reduced by a rebate allowed on, any due included in that list. Compounding,
etc., of
charges.

54.—(1) Where ship, passenger and goods dues (as defined in section 57 of the Act) are levied and recovered by the Authority in respect of the use of Dartmouth Quay, the Authority shall account for and pay to the council seventy-five per centum of the net amount of such dues. Charges at
Dartmouth
Quay.

(2) No mortgagee of the Authority shall have any claim upon the amount payable pursuant to subsection (1) of this section.

55.—(1) Charges shall be payable subject to such terms and conditions as the Authority may from time to time specify in their published list of charges. Conditions
as to payment
of charges.

(2) Without prejudice to the generality of subsection (1) of this section the terms and conditions may prescribe the time when a charge falls due for payment and may require such information to be given to the Authority by the owner or master of a vessel or a person using a service or facility of the Authority as the Authority may require in connection with the assessment or collection of a charge.

56.—(1) Charges on or in respect of—

Liability for
charges.

- (a) a vessel, shall be payable by the owner or master thereof;
(b) goods, shall be payable by the owner, consignee or shipper thereof.

(2) Where a charge payable to the Authority may be recovered from more than one person the said persons shall be jointly and severally liable.

PART VI
—cont.

(3) In addition to the remedy given by any enactment the Authority may recover charges as a debt due to them.

Security for
charges.

57. The Authority may require a person who incurs or intends to incur a charge to deposit with them, or to guarantee, such sum of money as is, in the opinion of the Authority, reasonable having regard to the amount or probable amount of the charge, and where such a person fails to deposit or to guarantee the sum of money required the Authority may detain a vessel in the harbour or goods on harbour premises, in respect of which a charge has been or will be incurred, until the requirement has been complied with or charge paid.

Certificate of
payment.

58. Where a person who has paid, or by agreement with the Authority given security for, a charge on or in respect of a vessel or goods, requests a certificate of his having done so for production to a customs officer in order to prevent refusal to receive a report inwards or to grant a clearance outwards or refusal to pass an entry under section 63 (Refusal of customs clearance) of this Act, the Authority shall give him a certificate in such form as they shall determine.

Liens for
charges.

59.—(1) A person who by agreement with the Authority collects charges on their behalf and who pays, or gives security for the payment of charges on goods in his possession, shall have a lien on those goods for the amount paid or security given in respect thereof.

(2) A wharfinger or carrier who is not himself liable for the payment of charges may pay or by agreement with the Authority give security for charges on goods in his custody and, in that event, he shall have a like lien on the goods for the amount of those charges as he would have in respect of his charges for safe custody or carriage of the goods, as the case may be.

Weighing,
etc., of goods
for purposes
of rates.

60.—(1) A person in possession of goods in respect of which information relating to the assessment or collection of charges has been given to the Authority shall give to a duly authorised officer of the Authority, on production of his authority, reasonable facilities for weighing, measuring and examining the goods and shall, if so requested, give to such an officer any information he may reasonably require for the purpose of checking or amplifying the information already given to the Authority in respect of the goods.

(2) A person who without reasonable excuse fails to comply with subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

PART VI
—cont.

61. Any person claiming the return of the whole or part of any Claims for charges paid to the Authority shall make such claim and produce repayment of all documents and give all information required by the Authority charges. in proof of such claim within twelve months from the time of payment and, in default thereof, the claim shall no longer be enforceable.

62.—(1) A duly authorised officer of the Authority may, Entry on on producing if so required his authority, board a vessel in the vessels. harbour to ascertain the charges payable on or in respect of the vessel of, on or in respect of goods carried therein, and to obtain any other information required for or in connection with the assessment and collection of charges.

(2) A master of a vessel who without reasonable excuse refuses to comply with a reasonable request for information or for the production of a document made by an officer of the Authority who has boarded his vessel pursuant to subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

63. A customs officer may refuse—

Refusal of
customs
clearance.

(a) to receive a report inwards or to grant a clearance outwards to a vessel; and

(b) to pass an entry for imported goods liable to charges;

unless he is satisfied that all charges payable to the Authority on or in respect of that vessel, or on those goods, as the case may be, have been paid or that sum of money or guarantee in respect thereof has been deposited with, or given to, the Authority under section 57 (Security for charges) of this Act.

64. An officer of the Authority may prevent a vessel from using Refusal to pay a landing place provided by the Authority if the master of the charges for vessel refuses to pay the charges for such use. landing place.

PART VII

FINANCE

65.—(1) The Authority may from time to time borrow upon General the security of the assets for the time being and of the revenues borrowing of the Authority, by any methods they see fit— powers.

(a) such sums of money as they think necessary not exceeding in the aggregate one million pounds; and

PART VII
—cont.

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

Provided that in calculating for the purpose of paragraph (a) of this subsection the aggregate sums of money borrowed by the Authority there shall be excluded any sums borrowed for use within twelve 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) Moneys borrowed by the Authority under this section shall be applied only to purposes to which capital money is properly applicable.

(3) For the purposes of the last foregoing subsection, 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 within the five years immediately following the date of the borrowing of any sum of money borrowed by the Authority under this section; and
- (b) the repayment within twelve months from the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

Temporary
borrowing.

66.—(1) The Authority may, for the purposes of meeting their obligations in carrying out their functions, raise money (whether on the security of the undertaking or unsecured) by means of overdraft from a bank or other temporary loan.

(2) The total amount of moneys raised by the Authority under this section and outstanding at any one time shall not exceed two hundred thousand pounds or such larger amount as the Secretary of State may sanction.

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

Reserve fund.

67.—(1) If in respect of any financial year the moneys received by the Authority on account of the revenue of the undertaking exceed the moneys expended or applied by the Authority in respect thereof, the Authority may in respect of that year apply and carry to the credit of a reserve fund in respect of the undertaking such sum as they consider reasonable, not exceeding the amount of such excess.

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

- (a) in making good any deficiency at any time arising in the income of the Authority from the undertaking; or

- (b) in meeting any extraordinary claim or demand at any time arising against the Authority in respect of the undertaking; or
- (c) for defraying any expenditure in connection with the undertaking for which capital is properly applicable, or in providing money for repayment of loans (but not in making any annual payment required to be made in respect of loans); or
- (d) for defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any buildings, works, plant, vessel, equipment or article forming part of the undertaking.

PART VII
—cont.

68.—(1) The accounts of the Authority shall be audited annually by an auditor appointed by the Authority but no person shall be qualified to be so appointed unless he is a member, or a firm all the members wherein are members, of one or more of the following bodies:—

the Institute of Chartered Accountants in England and Wales;
the Institute of Chartered Accountants of Scotland;
the Association of Certified Accountants;
the Institute of Chartered Accountants in Ireland;
the Chartered Institute of Public Finance and Accountancy;
any body of accountants established in the United Kingdom which is for the time being recognised for the purposes of section 161 (1) (a) of the Companies Act 1948 by the Secretary of State.

(2) The Authority shall on demand by the auditor produce to him all books, accounts, deeds, papers, writings and other documents and furnish him with all information in their possession or power and afford him all reasonable facilities for conducting the examination and audit.

(3) If the Authority without reasonable excuse refuse or neglect to comply with any of the provisions of this section they shall be liable on summary conviction to a fine not exceeding £20 for every month during which they neglect or refuse so to comply.

69. It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Saving for powers of the Treasury.
1946 c. 58.

70. The Authority may make, maintain and administer schemes (whether contributory or not) whereby provision is made with respect to the pensions, allowances or gratuities which, subject to the provisions of the Superannuation scheme.

PART VII
—cont.

to the fulfilment of such requirements and conditions as may be prescribed by any such scheme, are to be paid, or may be paid, to or in respect of such employees of the Authority as the Authority may determine.

Protection of
lenders from
inquiry.

71. A person lending money to the Authority shall not be bound to inquire whether the borrowing of the money is legal or regular or whether the money raised was properly applied and shall not be prejudiced by any illegality or irregularity or by the misapplication or non-application of any of that money.

PART VIII

MISCELLANEOUS

Houseboats.

72.—(1) In this section “houseboat” means any boat, barge, vessel or habitable structure or any part, remains or wreckage thereof, whether or not it shall be floating at any stage of the tide and whether or not it shall be used or intended to be used for human habitation, but does not include a vessel bona fide used for navigation.

(2) It shall not be lawful without the written consent of the Authority to moor, place, keep or maintain in the harbour a houseboat whether or not it shall have been so moored or placed before the passing of this Act:

Provided that no consent given under this subsection shall prejudice or affect any obligation existing under any other enactment to obtain the consent of any local authority within whose area the houseboat is or is proposed to be moored, placed, kept or maintained to such mooring, placing, keeping or maintaining.

(3) (a) If any houseboat shall be moored, placed, kept or maintained contrary to the provisions of subsection (2) of this section the Authority may by notice in writing to be given in the manner hereinafter provided require the person having the control of the houseboat to remove or demolish it.

(b) Any such notice shall be given by leaving it or sending it in a prepaid letter addressed to the person having the control of such houseboat at his usual or last known residence or (if it is not practicable after reasonable inquiry to ascertain the name and address of such person) by posting the notice in a conspicuous position on the houseboat or on the land or foreshore near to the houseboat, and shall specify the period within which such removal or demolition shall be completed.

(4) (a) If a person fails without reasonable cause to comply with any notice given by the Authority under subsection (3) of this section he shall be liable on summary conviction to a fine

not exceeding £100 and the Authority may at any time after the expiration of the period specified in such notice remove or demolish the houseboat referred to in the notice.

PART VIII
—cont.

(b) Subject as is provided in subsection (6) of this section the costs and expenses reasonably incurred by the Authority in or in connection with any such removal or demolition may be recovered by the Authority as a simple contract debt in any court of competent jurisdiction from the person having the control of such houseboat unless a fine shall have been recovered from that person under paragraph (a) of this section.

(5) For the purposes of subsections (3) and (4) of this section the owner of any houseboat shall until the contrary be proved be deemed to be the person having the control thereof.

(6) (a) Where a houseboat shall have been removed or demolished by the Authority as aforesaid the Authority may retain it or the materials thereof and may and shall if so required by the owner sell or dispose of the same or of such materials and subject as hereinafter provided retain the proceeds of such sale or disposal.

(b) For the purpose of ascertaining the amount recoverable by the Authority under subsection (4) (b) of this section in respect of the costs and expenses incurred by them in or in connection with the removal or demolition of any such houseboat credit shall be given for the net amount (if any) received by the Authority from the proceeds of the sale or disposal (after deduction of any costs and expenses incurred by the Authority in effecting the same) of such houseboat or the materials thereof. If such net amount shall exceed the amount of the costs and expenses incurred by the Authority in or in connection with such removal or demolition as aforesaid they shall, on receipt of a written request from the owner of such houseboat which shall have been removed or demolished, pay to him the amount of such excess.

(7) Nothing in this section shall be deemed to confer on the Authority any right, title or interest in or to any land (not for the time being belonging to the Authority) forming part of the bed or foreshore of the harbour.

73.—(1) A person who—

(a) in response or in purported response to a requirement made on him under this Act gives any information or makes a statement which he knows to be false in a material particular; or

False
information
and evasion
of charges.

(b) with intent to evade or to enable another person to evade a charge fails within the time prescribed by the Authority in their published list of charges to give

PART VIII
—cont.

information in response to a requirement to do so made on him thereby;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(2) A person who eludes or evades or attempts to elude or evade payment of, or refuses to pay, a charge due from him to the Authority shall be liable to pay to the Authority, in addition to the charge, a sum equal to the amount thereof, which sum shall be a debt due to the Authority and shall be recoverable by them in any court of competent jurisdiction notwithstanding the fact that subsequent to the institution of such proceedings he has tendered or paid to the Authority the charge in question.

Removal of
vehicles.

74.—(1) If a vehicle is left without the permission of the Authority—

- (a) in any place within the harbour where it is likely to obstruct or interfere with the use of harbour premises; or
- (b) in any part of the harbour premises where the parking of vehicles is prohibited and notice of such prohibition has been erected by the Authority;

the Authority may remove the vehicle, or cause it to be removed.

(2) Any notice erected under paragraph (b) of the foregoing subsection shall be conspicuously posted in or in proximity to the place to which it relates.

(3) Where the Authority in exercise of the powers of this section remove a vehicle or cause it to be removed, the expenses of and incidental to the removal shall be recoverable by the Authority from any person responsible as a debt in any court of competent jurisdiction.

(4) For the purposes of subsection (3) of this section, “person responsible” shall have the same meaning as in section 52 (3) of the Road Traffic Regulation Act 1967.

(5) If the Authority in exercise of the powers of this section remove a vehicle to a place not readily visible from the place whence it is so removed they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicle (Registration and Licensing) Regulations 1971 or any other regulations having the like effect for the time being in force, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this section and of the place to which the vehicle has been removed.

75. The Authority may contract and agree from time to time with a police authority for any police area for the execution by constables of the police force maintained for that area of police duty within the harbour or any part thereof on such terms and conditions and under such payment or consideration as the Authority shall think proper and as shall be agreed between them and the police authority.

PART VIII
—cont.

76.—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Authority at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

Abatement of
works
abandoned or
decayed.

(2) Where a work consisting partly of a tidal work and partly of works of the Authority on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the Authority, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Authority as a simple contract debt.

(4) The powers of the Secretary of State under this section shall be exercisable in respect of any work authorised by the Dartmouth Harbour Improvement Act 1882 and which was constructed or acquired by the mayor, aldermen and burgesses of the borough of Clifton-Dartmouth-Hardness under the powers conferred by section 19 (As to transfer of works to Corporation) of that Act and the provisions of this section shall apply to such work with the substitution for any reference therein to the Authority of a reference to the council.

77. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Authority as a simple contract debt.

Survey of
tidal works.

78. Nothing in this Act shall authorise the Authority to demand or take any dues in respect of goods carried by means of the ferry operating between Dittisham and Greenway.

Exemption of
Dittisham
Ferry.

PART VIII

—cont.

Saving for
rights of
Duchy of
Cornwall.

1863 c. 49.

79. In particular and without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall, nothing in this Act shall extend to authorise the Authority to take, enter upon or interfere with any land or take away or affect any rights, powers, privileges or authorities belonging to or enjoyed by the Duke of Cornwall without the consent in writing of some two or more of such of the regular officers of the Duchy of Cornwall or of such other persons as may be duly authorised under section 39 of the Duchy of Cornwall Management Act 1863 to exercise all or any of the said rights, powers, privileges and authorities by the said Act made exercisable or otherwise for the time being exercisable in relation to the said Duchy or as the case may be the consent of the said Duke testified in writing under the seal of the said Duchy first had and obtained.

Saving for
Harbours
Act.

80. Nothing in this Act shall exempt the Authority or any other person from the provisions of sections 9 and 10 of the Act.

Saving for
Coast
Protection
Act.

1949 c. 74.

81. Nothing in this Act shall exempt the Authority or any other person from the provisions of Part I of the Coast Protection Act 1949 or affect the application to any operation of sections 34 to 36 of that Act which require the consent of the Board of Trade or the Secretary of State for Trade to certain operations and contain other provisions for the safety of navigation.

Crown rights.

82. Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular, nothing in this Act shall—

(a) authorise the Authority to take, use or interfere with any land or rights—

(i) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners on behalf of Her Majesty; or

(ii) 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 the Crown Estate Commissioners or, as the case may be, that department; or

(b) prejudice the right of the Ministry of Defence (Navy) to lay and maintain moorings subject to the payment of the appropriate fees.

Repeals.

83. The following enactments shall as from the day of reconstitution be repealed:—

1951 c. xxxiii.

The Dartmouth Harbour Act 1951;

1962 c. xlv.

The River Dart Navigation Act 1962.

84. Without prejudice to the power of the Secretary of State to rescind, revoke, vary or amend regulations under section 42 of the Act, as from the day of reconstitution—

PART VIII
—cont.

Amendment
of enactment.

- (a) the Schedule to the National Ports Council Provision of Funds Scheme 1965; and
- (b) Schedule 1 to the Statutory Harbour Undertakings (Form of Accounts, etc.) (General) Regulations 1969;

shall be amended by substituting for the reference therein to each of the transferring bodies a reference to the Authority.

85. For the protection of the British Railways Board (in this section referred to as “the board”) the following provisions shall unless otherwise agreed in writing between the Authority and the board apply and have effect:—

For protection
of British
Railways
Board.

- (1) In this section—

“railway property” means any railway of the board and any bridge or other works connected therewith for the maintenance or operation of which the board are responsible and includes any lands held or used by the board for the purposes of such railway or works;

“the engineer” means an engineer to be appointed by the board:

- (2) In the event of the Authority intending to exercise the powers of section 31 (Works in harbour) or section 32 (Power to dredge) of this Act under or within 50 feet from railway property the Authority shall before exercising such powers furnish to the board proper and sufficient plans, sections, drawings and particulars thereof for the approval of the engineer and shall not exercise the said powers until such plans, sections, drawings and particulars shall have been approved by the engineer or in case of difference between the engineer and the Authority until they have been settled by arbitration:

Provided that—

(a) the approval of the engineer shall not be unreasonably withheld;

(b) if within twenty-eight days after such plans, sections, drawings and particulars have been furnished to the board the engineer shall not have intimated his approval or disapproval thereof he shall be deemed to have approved them:

- (3) Upon signifying his approval or disapproval of the plans, sections, drawings and particulars the engineer may specify any temporary or permanent works which should

PART VIII
—cont.

be carried out in order reasonably to ensure the stability of railway property or to protect it from injury and such temporary or permanent works as may be reasonably necessary for those purposes shall be constructed by the Authority by arrangement with and under the supervision if given of the engineer or at the option of the board by the board and the cost of constructing such protective works and the commuted sum representing the cost of maintaining any such works of a permanent nature shall be paid by the Authority:

- (4) The Authority shall be responsible for and make good to the board all costs, charges, damages and expenses occasioned to the board by reason of the exercise of the powers of the said sections 31 and 32 causing damage to or injuriously affecting railway property and the fact that any work or thing may have been done by the Authority in accordance with plans, sections, drawings or particulars approved by the engineer shall not excuse the Authority from any liability under the provisions hereof:
- (5) Any dispute or difference arising between the Authority and the board under this section 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 of the Institution of Civil Engineers.

For protection
of water
authority.

86. For the protection of the water authority the following provisions shall, unless otherwise agreed in writing between the Authority and the water authority, apply and have effect:—

- (1) (a) In this section unless the subject or context otherwise requires—

“authorised work” means—

(a) any work executed or placed or equipment erected under section 31 (Works in harbour) of this Act; or

(b) any work of deepening, widening, dredging, scouring or improving the harbour carried out under section 32 (Power to dredge) of this Act;

“to construct” includes to carry out, place, lay down, alter, renew or remove and “constructed” and “construction” shall be construed accordingly;

“the engineer” means the Director of Operations of the water authority;

“inland water” means any inland water as defined in subsection (1) of section 135 of the Water Resources Act 1963 which is under the jurisdiction of the water authority for the purpose of any of their functions; PART VIII
—cont.
1963 c. 38.

“plan” includes sections and particulars;

“protected work” means any work, building, structure, plant, appliance, main, pipe or other apparatus owned or maintained by, or under the control of, the water authority for the purpose of any of their functions;

(b) References in this section to interference with or damage to an inland water include—

(i) damage to, interference with or impairment of its efficiency for drainage purposes;

(ii) damage to, or interference with fish, the spawning grounds, spawn or food of fish in that inland water:

(2) The Authority shall not except with the consent of the water authority exercise the powers conferred on them by the said section 31 or the said section 32 of this Act in so much of the harbour as lies between Totnes Weir and Totnes Bridge:

(3) (a) Before exercising their powers under section 32 (Power to dredge) of this Act except within the navigable channel the Authority shall, except in a case which is, in the opinion of the Authority, one of emergency (in which case the Authority shall give the water authority notice thereof as soon as is practicable), submit to the water authority for their reasonable approval plans defining the nature, extent and manner of the operations to be carried out in the exercise of those powers and except as aforesaid the powers shall not be exercised otherwise than in accordance with such plans as may be reasonably approved by the water authority or as may be settled by arbitration and in such manner as may be reasonably approved by the water authority;

(b) If by reason of any dredging operations carried out by the Authority any protected work shall be injured or its efficiency impaired, the water authority may make good such injury and restore the protected work to a proper standard of efficiency, or may construct some other work or provide some other building, structure, plant, appliance, main, pipe or other apparatus in substitution therefor, and in any such case the Authority shall pay the water authority the costs reasonably incurred by the water authority (including a proper

PART VIII
—cont.

proportion of their overhead charges) in carrying out any such works or in providing such other building, structure, plant, appliance, main, pipe or other apparatus:

- (4) (a) Before commencing to construct an authorised work (other than an authorised work to which paragraph (3) of this section applies) the Authority shall submit a plan of the work to the water authority for their approval, which is not to be unreasonably withheld, and shall not commence to construct the authorised work until the plan has been approved by the water authority or, in the case of difference, until it has been settled by arbitration;
- (b) Not less than fourteen days before commencing a work of maintenance or repair of an authorised work which may interfere with a protected work or may interfere with an inland water the Authority shall, except in the case of emergency, submit to the water authority for their information a notice of intention to commence the work and a description of the work;
- (c) Sub-paragraph (a) of this paragraph shall not apply in any case to which sub-paragraph (b) thereof applies;
- (d) An authorised work shall be constructed, maintained and repaired to the reasonable satisfaction of the water authority;
- (5) (a) If the water authority do not signify their approval or disapproval of a plan submitted under either paragraph (3) or (4) of this section within two months after the receipt thereof they shall be deemed to have approved the plan;
- (b) In giving their approval of a plan submitted under either paragraph (3) or (4) of this section the water authority may attach thereto such conditions (including conditions requiring the construction of protective works by and at the expense of the Authority during the construction of an authorised work or during the carrying out of a dredging operation by the Authority) as are reasonably necessary to safeguard the protected work or inland water against interference or damage;
- (6) The Authority shall at all reasonable times afford to the engineer or his duly authorised representative access to an authorised work for the purpose of inspection;
- (7) No materials dredged up or removed pursuant to the said section 32 of this Act which has not been sold or otherwise disposed of by the Authority shall be deposited in the harbour on or below the level of high water nor

in any other place except with the consent of the water authority but such consent shall not be unreasonably withheld:

PART VIII
—cont.

- (8) Before using any explosive substance in pursuance of the powers in that behalf conferred by the said section 32 or section 530 of the Merchant Shipping Act 1894 as applied to the Authority by section 34 (Powers with respect to disposal of wrecks) of this Act the Authority shall consult with the water authority and no such substance shall be used except with the consent of the water authority which is not to be unreasonably withheld: 1894 c. 60.
- (9) (a) If by reason of—
- (i) the construction, maintenance or repair of an authorised work; or
 - (ii) the failure of that work or of the Authority to maintain it;
- a protected work or inland water is interfered with the water authority may—
- (A) make good the protected work or inland water so as to restore it to its former condition; or
 - (B) where necessary, construct some other work or provide some other building, structure, plant, appliance, main, pipe or other apparatus in substitution therefor;
- and may recover from the Authority the reasonable cost of so doing;
- (b) For the purposes of this paragraph the reasonable cost shall include a proper proportion of the overhead charges of the water authority and any cost of executing works needed for remedying any subsidence of the protected work or of the substituted work during such reasonable period as is agreed between the Authority and the water authority or, in default of agreement, as may be settled by arbitration:
- (10) If the water authority have reasonable grounds for believing that a protected work or inland water is likely to be damaged in any of the circumstances mentioned in the last foregoing paragraph, they may carry out such protective works as may be agreed between the water authority and the Authority or as, in default of agreement, may be settled by arbitration:
- (11) The Authority shall at all times keep the water authority indemnified against all damages, losses, costs and expenses which they may sustain or be liable for or

PART VIII
—cont.

reasonably and properly incur by reason or in consequence of any injury or damage which may be caused or may result to any protected work or an inland water by or as a direct consequence of the construction of an authorised work or in the exercise of any powers conferred by this Act:

Provided that the water authority shall give to the Authority notice of any claim or demand made against them which, in the opinion of the water authority, is a claim or demand for which the Authority may be liable under this paragraph and no settlement or compromise of any such claim or demand shall be made without the consent in writing of the Authority:

- (12) The Authority shall not without the consent of the water authority construct an authorised work so as to obstruct to an unreasonable extent access to a protected work or inland water by the water authority and their officers, servants, workmen, contractors and agents together with any vehicles, plant and machinery as may be reasonably necessary but such consent shall not be unreasonably withheld and may be given subject to reasonable terms and conditions:

- (13) Any difference which may arise between the Authority and the water authority under this section (save a difference as to the meaning thereof) shall be referred to and settled 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 of the Institution of Civil Engineers.

Exemption
from charges
for Crown,
etc.

87.—(1) Except in so far as may be agreed between the Authority and the government department or person concerned or as may be specifically laid down by statute, nothing in any enactment authorising the Authority to make charges shall extend to authorise them to make a charge on—

- (a) a vessel—

(i) belonging to or in the service of Her Majesty, any member of the Royal Family; or

(ii) in the service of the Commissioners of Customs and Excise and not carrying goods for reward; or

(iii) in the service of Trinity House and not carrying goods for reward;

- (b) troops landed at port premises or a person employed by the Secretary of State for Defence while in the execution of his duties;

- (c) goods or stores belonging to the Secretary of State for Defence.

PART VIII
—cont.

(2) Officers of the Department of Trade in the execution of their duty shall at all times have free ingress, passage and egress on, into, from, over, along, through and out of the harbour and any works of the Authority by land, and with their vessels or otherwise.

88.—(1) After the completion of a tidal work, the Authority shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House shall from time to time direct. Permanent lights on tidal works.

(2) If the Authority without reasonable excuse fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

(3) In any proceedings for an offence under this section it shall be a defence for the Authority to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(4) If in any case the defence made under subsection (3) of this section involves an allegation that the commission of the offence was due to the act or default of another person, the Authority shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, they have served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that person as was then in their possession.

89. The Secretary of State 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 Act, and section 250 of the Local Government Act 1972 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Authority were a local authority. Inquiries. 1972 c. 55.

90. The costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, and otherwise in relation thereto, shall be paid by the Dartmouth Harbour Commissioners and the River Dart Navigation Commissioners in such proportions as may be agreed between them. Costs of Act.

SCHEDULES

Section 5.

SCHEDULE 1

PROCEDURAL AND OTHER PROVISIONS WITH RESPECT TO THE
AUTHORITY

1. The Authority shall at their first meeting, and after each triennial appointment and election of members appoint one of their number to be chairman and one to be deputy chairman, each of whom shall, unless he resigns office or ceases to be a member of the Authority, continue in office for the three years following and any chairman or, as the case may be, deputy chairman on vacating office shall, if qualified to continue as a member of the Authority, be re-eligible for appointment as chairman or deputy chairman, as the case may be.

2.—(a) On a casual vacancy occurring in the office of chairman or deputy chairman of the Authority the vacancy shall be filled by the appointment by the Authority of one of their members at a meeting held as soon as practicable after the vacancy arises, and the person so appointed shall hold office until the date on which the person in whose place he is appointed would ordinarily have retired, and shall then retire.

(b) If at any time a casual vacancy occurs in the office of a member of the Authority—

- (i) if the member is an appointed member the person or body, as the case may be by whom that member was appointed shall as soon as practicable appoint another person to be a member in his place;
- (ii) if the member is an elected member the Authority shall as soon as practicable nominate another person to fill the vacancy;

and the person so appointed or nominated shall hold office during the same period as the person in whose place he has been appointed or nominated would have held office if the vacancy had not arisen.

3. An appointed member of the Authority may resign his office at any time by notice in writing given to the chairman of the Authority and to the person or body by whom he was appointed.

4.—(1) The office of a member of the Authority shall be vacated if the member—

- (a) has been absent from meetings of the Authority for six consecutive months without the permission of the Authority; or
- (b) has become bankrupt or made a composition or arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness from discharging his functions as a member; or
- (d) is otherwise unable or unfit to discharge such functions.

(2) For the purpose of sub-paragraph (1) (a) of this paragraph the attendance of a member of the Authority at a meeting of any committee of the Authority of which he is a member shall be treated as attendance at a meeting of the Authority.

SCH. 1
—cont.

5. The Authority may appoint such committees consisting of members of the Authority as the Authority think fit, and may delegate to a committee appointed under this paragraph any of their powers or duties except their powers to borrow money.

6. The Authority shall allow the attendance at its meetings of members or officers of the water authority to take part in the discussion but not (except in the case of the members appointed or co-opted under section 5 (Constitution of Authority) of this Act) to exercise a right to vote.

7. The proceedings of the Authority, or of any committee thereof, shall not be invalidated by any vacancy in their number or by any defect in the appointment or the qualification for appointment of any person as a member, or as chairman or deputy chairman, of the Authority or committee.

8. Subject to the provisions of this Schedule, the Authority may determine their own quorum and procedure and the quorum and procedure of committees appointed by them under paragraph 5 of this Schedule.

9. If a member of the Authority is in any way directly or indirectly personally interested in any contract or proposed contract to which the Authority is, or would be, a party and is present at a meeting of the Authority or of any committee thereof at which that contract is the subject of consideration, he shall as soon as practicable after the commencement of that meeting disclose the fact and shall not take any part in deliberation or a decision of the Authority or committee with respect to that contract.

10. The Authority may appoint such officers and servants as they may from time to time think proper and shall pay to such officer and servants such remuneration as the Authority think fit.

11. The Authority may pay to the chairman and other members of the Authority such fees and such allowances as the Authority think fit.

12. The application of the seal of the Authority shall be authenticated by the signature of the chairman of the Authority and some other member authorised by the Authority to authenticate the application thereof, and of the Clerk or some person authorised by the Authority to act in his stead in that behalf.

Section 18.

SCHEDULE 2

FORM A

DART HARBOUR AND NAVIGATION AUTHORITY

NOMINATION OF COMMERCIAL FISHING MEMBER

We A.B. [here insert name and designation] and B.C. [here insert name and designation] hereby nominate [here insert name and designation of candidate] for election as a commercial fishing member.

Given under our hands this day of , 19 .

Elector.

Elector.

And I the said hereby sanction and
approve of the said nomination.

Candidate.

To the Clerk to the Dart Harbour and Navigation Authority.

DIRECTIONS FOR SIGNING

This nomination shall be signed by two electors of the commercial fishing member and the candidate and delivered to the returning officer fourteen days at least prior to the day of 19 , being the day of election.

Each candidate must be nominated by a separate nomination paper.

The nomination paper shall be signed in case of a partnership by one of the partners in the partnership name and in the case of a body corporate by the secretary or clerk of the body.

SCH. 2
—cont.

DIRECTIONS FOR VOTING

The voter shall place a X against the name of the candidate for whom he votes in the column for that purpose and shall sign the voting paper in the presence of a witness who must affix his signature and address in verification of the signature of the voter.

The voter can only vote once at each election of the commercial fishing member.

The cross placed against the name of the candidate voted for will entitle him to the vote specified in the above voting paper.

The voting paper must be delivered by post or otherwise to the returning officer in a sealed envelope addressed to him so that the same shall be received by him at the principal office of the Authority not later than the day before the day of election and must be entire.

In case of a partnership the voting paper shall be signed by one of the partners in the partnership name and in the case of a body corporate the voting paper shall be signed by the secretary or clerk of the body.

FORM C

DART HARBOUR AND NAVIGATION AUTHORITY

NOMINATION OF COMMERCIAL PASSENGER MEMBER

We A.B. [here insert name and designation] and B.C. [here insert name and designation] hereby nominate [here insert name and designation of candidate] for election as a commercial passenger member.

Given under our hands this day of , 19 .

Elector.

Elector.

And I the said hereby sanction and approve
of the said nomination.

Candidate.

To the Clerk to the Dart Harbour and Navigation Authority.

DIRECTIONS FOR SIGNING

The nomination shall be signed by two electors of the commercial passenger member and the candidate and delivered to the returning officer fourteen days at least prior to the day of , 19 , being the day of election.

Each candidate must be nominated by a separate nomination paper.

The nomination paper shall be signed in case of a partnership by one of the partners in the partnership name and in the case of a body corporate by the secretary or clerk of the body.

SCH. 2
—cont.

DIRECTIONS FOR VOTING

The voter shall place a X against the name of the candidate for whom he votes in the column for that purpose and shall sign the voting paper in the presence of a witness who must affix his signature and address in verification of the signature of the voter.

The voter can only vote once at each election of the commercial passenger member.

The cross placed against the name of the candidate voted for will entitle him to the vote specified in the above voting paper.

The voting paper must be delivered by post or otherwise to the returning officer in a sealed envelope addressed to him so that the same shall be received by him at the principal office of the Authority not later than the day before the day of election and must be entire.

In case of a partnership the voting paper shall be signed by one of the partners in the partnership name and in the case of a body corporate the voting paper shall be signed by the secretary or clerk of the body.

FORM E

DART HARBOUR AND NAVIGATION AUTHORITY

NOMINATION OF CARGO MEMBER

We A.B. [here insert name and designation] and B.C. [here insert name and designation] hereby nominate [here insert name and designation of candidate] for election as a cargo member.

Given under our hands this day of , 19 .

Elector.

Elector.

And I the said hereby sanction and approve
of the said nomination.

Candidate.

To the Clerk to the Dart Harbour and Navigation Authority.

DIRECTIONS FOR SIGNING

The nomination shall be signed by two electors of the cargo member and the candidate and delivered to the returning officer fourteen days at least prior to the day of , 19 , being the day of election.

Each candidate must be nominated by a separate nomination paper.

The nomination paper shall be signed in case of a partnership by one of the partners in the partnership name and in the case of a body corporate by the secretary or clerk of the body.

FORM F
DART HARBOUR AND NAVIGATION AUTHORITY

SCH. 2
—cont.

Election of the cargo member on the day of ,
19 .

VOTING PAPER

Number of voting paper	Name and address of voter	Number of votes

Names and addresses of candidates	Column for voter's cross

I or we (as the case may be) vote for the person in the list against
whose name I (or we) have placed a cross.

(Signed).....

Signature of witness.....

Address of witness

.....

SCH. 2
—cont.

DIRECTIONS FOR VOTING

The voter shall place a X against the name of the candidate for whom he votes in the column for that purpose and shall sign the voting paper in the presence of a witness who must affix his signature and address in verification of the signature of the voter.

The voter can only vote once at each election of the cargo member.

The cross placed against the name of the candidate voted for will entitle him to the vote specified in the above voting paper.

The voting paper must be delivered by post or otherwise to the returning officer in a sealed envelope addressed to him so that the same shall be received by him at the principal office of the Authority not later than the day before the day of election and must be entire.

In the case of a partnership the voting paper shall be signed by one of the partners in the partnership name and in the case of a body corporate the voting paper shall be signed by the secretary or clerk of the body.

FORM G

DART HARBOUR AND NAVIGATION AUTHORITY

NOMINATION OF BOATING MEMBER

We A.B. [here insert name and designation] and B.C. [here insert name and designation] hereby nominate [here insert name and designation of candidate] for election as a boating member.

Given under our hands this day of , 19 .

Elector.

Elector.

And I the said hereby give sanction and approve of the said nomination.

Candidate.

To the Clerk to the Dart Harbour and Navigation Authority.

DIRECTIONS FOR SIGNING

The nomination shall be signed by two electors of the boating member and the candidate and delivered to the returning officer fourteen days at least prior to the day of , 19 , being the day of election.

Each candidate must be nominated by a separate nomination paper.

A candidate for the area to the north of the Anchor Stone Beacon may be nominated only by electors qualified for that area in accordance with section 8 (d) of the Dart Harbour and Navigation Authority Act 1975, and for the area to the south by electors so qualified in accordance with section 8 (e) thereof.

FORM H
DART HARBOUR AND NAVIGATION AUTHORITY

SCH. 2
—cont.

Election of the boating member North/South* of the Anchor Stone
Beacon on the day of , 19 .

VOTING PAPER

Number of voting paper	Name and address of voter

Names and addresses of candidates	Column for voter's cross

I vote for the person in the list against whose name I have placed
a cross.

(Signed).....

DIRECTIONS FOR VOTING

The voter shall place a X against the name of the candidate for
whom he votes in the column for that purpose and shall sign the
voting paper.

The voter can only vote once at each election.

The voting paper must, unless the voter exercises his right to vote by
post, be placed in the ballot box provided.

(* Delete as appropriate)

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