

ELIZABETH II



1973 CHAPTER xvi

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Cromarty Firth Port Authority. [18th July 1973]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act, 1936, and it is requisite that the said order should be 1936 c. 52. confirmed by Parliament:

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

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation
of Order in
schedule.
2. This Act may be cited as the Cromarty Firth Port Authority Short title. Order Confirmation Act 1973.

SCHEDULE

CROMARTY FIRTH PORT AUTHORITY

Provisional Order to establish an Authority responsible for the improvement, conservancy, management and development of the Firth of Cromarty and to confer and impose on the Authority powers and duties including those of a harbour authority, and powers of acquisition and reclamation of land; and for other purposes.

Whereas—

1865 c. 125.

(1) The Firth of Cromarty (hereinafter called “ the Firth ”) is to the extent defined in an Order in Council dated 19th December, 1913, and made pursuant to the Dockyard Ports Regulation Act 1865 under the superintendence and protection of the Queen’s harbour master of the dockyard port of Cromarty:

(2) The Firth has natural advantages, including deep water areas suitable for the navigation of large ocean-going vessels, and other areas which by reclamation, dredging and other works could be made suitable for such navigation and for the reception and servicing of vessels, and constitutes a safe harbour and anchorage:

(3) Following recent industrial developments in the area of the Firth and the exploitation of oil in the North Sea it is in the public interest that further development be encouraged in that area:

(4) In connection with the foregoing it is expedient that an Authority be established for the improvement, conservancy and development of the said area, and that such powers be conferred as will enable the Authority to function as a port authority at appropriate stages of such development, and that the other provisions of this Order be enacted:

(5) It is expedient that the said Authority be empowered to reclaim from the foreshore and bed of the Firth, and to develop, lands at Nigg Bay and in the vicinity of Balconie Point in the county of Ross and Cromarty:

(6) A plan showing the lines and situations of the aforesaid lands at Nigg Bay and elsewhere and a book of reference to the plan showing the names of the owners or reputed owners, and of the occupiers, of the lands which may be used compulsorily for the purposes of or under the powers of this Order were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the sheriff-clerk of the county of Ross and Cromarty, which plan and book of reference are in this Order referred to respectively as the deposited plan and the deposited book of reference:

(7) The purposes aforesaid cannot be effected without an order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

1936 c. 52.

Now therefore in pursuance of the powers contained in the said Act of 1936 the Secretary of State orders as follows:—

PART I

PRELIMINARY

1.—(1) This Order may be cited as the Cromarty Firth Port Authority Order 1973. Citation and commencement.

(2) This Order shall come into force on such day or days as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions of this Order and for different provisions thereof so far as they apply to such circumstances as may be specified in any order made under this section.

(3) An order made under this section may include any consequential, incidental or supplementary provisions appearing to the Secretary of State to be requisite or expedient for the purposes of the order, including, but without prejudice to the foregoing generality, provisions—

(a) repealing or amending the Act Geo. IV cap. 43 (relating, 1826 c. xliii. inter alia, to the operation of the harbour at Invergordon) or any provision thereof;

(b) for transferring, on such terms and conditions as may be specified in or determined pursuant to the Order, any interest in property, rights or liabilities vested in or enjoyed by the Secretary of State, or to which he is subject, by virtue or in consequence of the agreement confirmed by the Invergordon Harbour (Transfer) Act 1920. 1920 c. c.

2. This Order is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Establishment, constitution and duties of the Authority.

Part III.—Powers of the Authority.

Part IV.—Acquisition and reclamation of land.

Part V.—Regulation of the Port.

Part VI.—Charges.

Part VII.—Financial.

Part VIII.—Miscellaneous.

Division of
Order into
Parts.

3.—(1) In this Order—

“the Authority” means the body constituted under section 5 (Establishment of Authority) of this Order as the Cromarty Firth Port Authority;

“the county council” means the council of the administrative county of Ross and Cromarty;

Interpretation.

PART I
—cont.

1968 c. 59.

- “ docks ” means the docks for the time being belonging to or administered by the Authority, and includes locks, basins and cuts forming part of those docks;
- “ dredging licence ” has the meaning assigned to that expression in section 16 (Licence to dredge) of this Order;
- “ enactment ” means any Act, whether general, local or personal, and any order (including this Order) or other instrument made thereunder and any provision in such Act, order or instrument;
- “ general direction ” means a direction authorised by section 39 (General directions to vessels) or by subsection (1) of section 41 (Directions to vessels at the docks) of this Order;
- “ hovercraft ” has the same meaning as in the Hovercraft Act 1968;
- “ hydrofoil vessel ” means a vessel, however propelled, designed to be supported on foils;
- “ land ” includes land covered by water, and any interest in land;
- “ the level of high water ” means the level of mean high-water springs;
- “ owner ” in relation to a vessel includes the charterer;
- “ the Port ” means the area of and adjoining the Firth of Cromarty, the limits of which are set out in Schedule 1 to this Order;
- “ the port manager ” means the person appointed as such pursuant to section 8 (Staff of Authority) of this Order, and includes the deputies and assistants of the person so appointed;
- “ the port premises ” means the docks, landing places and all other works and land for the time being vested in, belonging to or administered by the Authority as part of the undertaking;
- “ special direction ” means a direction authorised by section 40 (Special directions to vessels) or by subsection (2) or (3) of section 41 (Directions to vessels at the docks) of this Order;
- “ tidal work ” means so much of any work belonging to the Authority as is on, under or over tidal waters or tidal lands below the level of high water;
- “ the undertaking ” means the undertaking for the time being of the Authority;
- “ vessel ” means every description of vessel however propelled or moved, and includes any thing constructed or used to carry persons or goods by water, and a seaplane on or in the water, a hovercraft and a hydrofoil vessel;
- “ works ” means works of every description;
- “ works licence ” has the meaning assigned to that expression in section 15 (Licensing of works) of this Order.

(2) Reference in this Order to any enactment shall be construed as reference to that enactment as re-enacted, extended or amended by or by virtue of any other enactment, including this Order.

4.—(1) The following enactments, so far as they are applicable for the purposes and are not inconsistent with the provisions of this Order, are hereby incorporated with and form part of this Order:—

PART I
—cont.

Incorporation of enactments.

(a) the Lands Clauses Acts, except sections 120 to 124 and 127 of the Lands Clauses Consolidation (Scotland) Act 1845; 1845 c. 19.

(b) the Harbours, Docks and Piers Clauses Act 1847 (except sections 6 to 13, 16 to 19, 22, 25, 26, 28, 42 to 45, 48 to 53, 77, 83 to 90 and 95 to 101): 1847 c. 27.

Provided that in construing the provisions so incorporated the expression “the special Act” shall mean this Order:

Provided further that in construing the provisions of the Harbours, Docks and Piers Clauses Act 1847 so incorporated—

- (i) the expressions “the promoters of the undertaking” and “the undertakers” shall mean the Authority, the expression “the harbour, dock or pier” shall mean the Port, and the expression “the harbour master” shall mean the port manager;
- (ii) the meaning of the word “vessel” as defined in section 3 (Interpretation) of this Order 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 for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding one hundred pounds”;
- (iv) section 23 shall be read and have effect as if the words “provided that no such lease be granted for a longer term than three years” were omitted;
- (v) section 63 shall be read and have effect as if for the words from “penalty” to the end of the section there were substituted the words “penalty not exceeding one hundred pounds”;
- (vi) section 69 shall be read and have effect as if for the words from “sum” to the end of the section there were substituted the words “sum not exceeding fifty pounds”.

(2) The provisions of sections 652 to 654 of the Merchant Shipping Act 1894 are hereby incorporated with and form part of this Order and in construing those sections as so incorporated the expression “a local lighthouse authority” shall mean the Authority. 1894 c. 60.

PART II

ESTABLISHMENT, CONSTITUTION AND DUTIES OF THE AUTHORITY

5.—(1) For the purposes of exercising the powers and performing the duties conferred and imposed by this Order, there shall be and is hereby constituted a body to be called the Cromarty Firth Port Authority. Establishment of Authority.

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

6.—(1) The Authority shall consist of not less than six and not more than seven members as provided in this section. Constitution of Authority.

PART II
—cont.

(2) The Secretary of State shall, not later than the 1st December in the year 1973 and in each third year thereafter, appoint persons in accordance with subsection (3) below, to serve as members of the Authority for three years commencing on the 1st January following appointment.

(3) The members of the Authority to be appointed by the Secretary of State shall be appointed as follows:—

(a) three on the nomination of the county council;

(b) three from among such persons as shall appear to the Secretary of State, after consulting the National Ports Council, to have special knowledge, experience or ability appropriate to the efficient and economical discharge by the Authority of their duties under this Order.

(4) The Secretary of State shall not be obliged to appoint a person who is duly nominated in accordance with paragraph (a) of subsection (3) above but may request the county council to nominate someone else.

(5) The members of the Authority appointed by the Secretary of State may co-opt a person to serve as a member of the Authority during such period as may be specified by those members at the time of co-option.

(6) The procedural and other provisions of Schedule 2 to this Order shall have effect with respect to the Authority.

General duties.

7.—(1) It shall be the duty of the Authority, subject to the provisions of this Order, to take all such action as they consider necessary or desirable for or in connection with—

(a) the improvement and conservancy of the Port;

(b) the provision, maintenance, operation and improvement of port and harbour services and facilities in, or in the vicinity of, the Port;

(c) the control of development in the Port, and the promotion of development in and in the vicinity of the Port.

(2) The Authority shall have power either themselves or by arrangement between themselves and other persons to take such action as the Authority consider necessary or desirable whether or not in, or in the vicinity of, the Port—

(a) for the purposes of discharging or facilitating the discharge of any of their duties, including the proper development or operation of the undertaking;

(b) for the provision, maintenance and operation of—

(i) warehousing services and facilities;

(ii) services and facilities for the consignment of goods on routes which include the port premises;

(c) for the purpose of turning their resources to account so far as not required for the purposes of the undertaking.

(3) Particular powers conferred upon the Authority by this Order shall not be construed as derogating from each other or from the generality of subsections (1) and (2) of this section.

8. For and incidental to the performance of their duties under this Order the Authority shall employ and appoint a secretary, a port manager and such other officers and servants as from time to time they deem necessary or desirable.

PART II
—cont.
Staff of
Authority.

PART III

POWERS OF THE AUTHORITY

9.—(1) The Secretary of State may authorise the Authority to purchase compulsorily any land which they require for the purposes of the undertaking and of the performance of their duties under this Order, and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply as if the Authority were a local authority within the meaning of that Act and as if this Order had been in force immediately before that Act.

Acquisition
and disposal
of land.
1947 c. 42.

(2) The Authority may dispose of land belonging to them in such manner whether by way of sale, exchange, feu, lease, the creation of any servitude, right or privilege or otherwise, for such period, and upon such conditions and for such considerations as they think fit.

(3) The Authority—

(a) may for the purposes of the undertaking manage, use or develop land belonging to them as they think fit;

(b) in addition may 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 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.

(4) 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, feu, lease or otherwise for the purpose of developing it or of procuring its development together with the other land.

10. 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.

Provision of
vessels and
towage services.

PART III
—*cont.*

Machinery,
vehicles, etc.

11.—(1) The Authority may from time to time purchase, contract for or hire, maintain, operate, sell and otherwise dispose of machinery, vehicles and equipment for the purposes of the undertaking.

(2) The Authority may let upon hire, with or without the services of any of their employees, at such places and on such terms as they think fit, any machinery, vehicles or equipment belonging to them.

Power to acquire
undertakings.

12. The Authority may acquire by agreement an undertaking providing or intended to provide services or facilities of a kind which the Authority are themselves authorised to provide.

Power to
dredge.

13.—(1) The Authority may deepen, widen, dredge, scour, cut and improve the bed and banks of the Port and the seaward approaches thereto, and for such purpose may blast any rock within the Port or in or near the seaward approaches thereto.

(2) Any materials taken up or collected in the exercise of the powers of this section shall become the property of the Authority and may be used, sold, deposited or otherwise disposed of as the Authority think fit:

Provided that no such materials shall be deposited below the level of high water except in such position as the Secretary of State for Trade and Industry may approve and subject to such conditions or restrictions as he may impose.

Works in the
Port.

14.—(1) The Authority may construct, lay down, maintain and operate in and over the Port such works and equipment as are required for or in connection with the exercise by them of any of their functions.

(2) The Authority shall obtain the approval of the Commissioners of Northern Lighthouses and the Queen's harbour master of the dockyard Port of Cromarty before placing in or near the Port a buoy, beacon, light or other device of any nature designed to assist navigation.

Licensing of
works.

15.—(1) The Authority may upon such terms and conditions as they think fit grant to any person a licence (in this Order referred to as a works licence) to construct, maintain, alter, renew or extend any works on, under or over tidal waters or tidal land below the level of high water in the Port notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, maintained, altered, renewed or extended.

(2) Application for a works licence shall be made in writing to the Authority and shall—

- (a) be accompanied by plans, sections and particulars of the works to which the application relates;
- (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted;

and in granting such licence the Authority may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the date of the making of an application under subsection (2) of this section the Authority do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.

(4) Nothing in this section shall alter, prejudice or affect any of the rights and powers of the Post Office under the provisions of the Telegraph Acts 1863 to 1916.

(5) For the purposes of section 7 of the Telegraph Act 1878 any work proposed to be done under a licence granted in accordance with subsection (1) 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. 1878 c. 76.

(6) In the exercise of the powers of a works licence the holder of the licence shall not damage or injuriously affect any submarine cable maintained by the Post Office or, without the consent of the Post Office, interfere with or adversely affect the operation of any such cable.

16.—(1) The Authority may upon such terms and conditions as they think fit grant to any person a licence (in this Order referred to as a dredging licence) to dredge in any part of the Port. Licence to dredge.

(2) Application for a dredging licence shall be made in writing to the Authority and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence and in granting any such licence the Authority may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the date of making an application under subsection (2) of this section the Authority do not grant a dredging licence in accordance with the application, they shall be deemed to have refused the application.

(4) The issue of a licence under this section shall not confer statutory authority for the carrying out of the work covered by the licence.

(5) Any materials taken up or collected by means of dredging in pursuance of a dredging licence shall be the property of the holder of the licence and he may use, sell or otherwise dispose of or remove or deposit the materials as he thinks fit:

Provided that—

- (i) no such material shall be laid down or deposited in any place below the level of high water except in such position as may be approved by the Authority and subject to such conditions as may be imposed by the Authority;
- (ii) if it appears to the holder of the dredging licence that the Authority have unreasonably withheld their approval under paragraph (i) of this proviso or that any condition imposed by the Authority under that paragraph is unreasonable, he may appeal to the Secretary of State for Trade and Industry, whose decision shall be binding upon the parties.

PART III
—cont.

(6) In the exercise of the powers conferred by a dredging licence the holder of the licence shall not damage or injuriously affect any submarine cable maintained by the Post Office or, without the consent of the Post Office, interfere with or adversely affect the operation of any such cable.

Appeals in
respect of
works or
dredging
licence.

17.—(1) An applicant for a works licence or dredging licence who is aggrieved by—

- (a) the refusal of the Authority to grant the licence; or
- (b) any terms or conditions on or subject to which the licence is granted; or
- (c) any modifications required by the Authority in the plans, sections and particulars submitted by the applicant;

may within twenty-eight days from the date on which the Authority notifies the applicant of their decision or the date on which the Authority are under subsection (3) of section 15 (Licensing of works) or subsection (3) of section 16 (Licence to dredge) of this Order deemed to have refused the application, appeal—

- (i) in the case of a works licence, to the Secretary of State for Trade and Industry; or
 - (ii) in the case of a dredging licence, to the Secretary of State;
- whose decision shall be binding upon the parties.

(2) A person who appeals to the Secretary of State for Trade and Industry or the Secretary of State under this section shall give to the Authority notice of his appeal accompanied by a copy of his statement of appeal and the Authority may within twenty-eight days from the receipt of such notice furnish the Secretary of State for Trade and Industry or the Secretary of State with their observations on the appeal.

(3) On an appeal under this section the Secretary of State for Trade and Industry or the Secretary of State, as the case may be, may—

- (i) dismiss the appeal; or
- (ii) require the Authority to grant the licence upon such terms and conditions as the Secretary of State for Trade and Industry or the Secretary of State, as the case may be, may determine; or
- (iii) require the Authority to approve the plans, sections and particulars without modification or with such modifications as the Secretary of State for Trade and Industry or the Secretary of State, as the case may be, may determine.

(4) The Authority shall give effect to any requirement made by the Secretary of State for Trade and Industry or the Secretary of State under subsection (3) above.

Restriction
of works and
dredging.

18.—(1) No person other than the Authority shall—

- (a) construct, alter, renew or extend any works on, under or over tidal waters or tidal lands below the level of high water in the Port unless he is licensed so to do by a works licence and except upon the terms and subject to the conditions

(if any) upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 15 (Licensing of works) of this Order;

(b) dredge in the Port unless he is licensed so to do by a dredging licence and except upon the terms and subject to the conditions (if any) upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 16 (Licence to dredge) of this Order:

Provided that this subsection shall not apply to the construction, alteration, renewal or extension of—

- (i) any such works or to the carrying out of dredging in the Port specifically authorised under any enactment;
- (ii) a minor work consisting of a jetty, pier, slipway, landing place or similar work in respect of which the prior written consent of the Authority has been obtained being a work not extending to a point where the depth of water at mean low-water springs exceeds 4 feet; or
- (iii) the laying down, with the prior written consent of the Authority, of a mooring for a vessel of not more than 100 tons gross used wholly or mainly for recreation.

(2) Any person who fails to comply with any provisions of this section shall be guilty of an offence and liable to a fine not exceeding one hundred pounds.

19.—(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 Port or in or near any approach thereto) shall have effect—

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

- (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 passing of this Order.

(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 Authority 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 paragraph (b) of subsection (2) of the next following section, he shall be at liberty to

PART III
—cont.

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.

(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 or 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.

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

20.—(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—

- (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 paragraph (b) of subsection (2) 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
 - (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 and Industry 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 Authority 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 and Industry 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 and Industry 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:

PART III
—cont.

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 and Industry 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.

(4) Any limitation on the powers of the Authority in relation to any vessel arising by virtue of subsection (1) or subsection (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.

21.—(1) The Authority may remove—

- (a) anything, other than a vessel, causing or likely to become an obstruction or impediment in any part of the Port;

Removal of
obstructions
other than
vessels.

PART III
—cont.

(b) anything, other than a vehicle, causing or likely to become an obstruction or impediment to the proper use of the port premises.

(2) (a) If anything removed by the Authority under subsection (1) of this section is so marked as to be readily identifiable as the property of any person, the Authority shall within one month of its coming into their custody give notice, as required by subsection (5) of this section, to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period vest in the Authority.

(b) If anything removed by the Authority under subsection (1) of this section which is not so marked is not within three months of its coming into the custody of the Authority proved to their reasonable satisfaction to belong to any person it shall thereupon vest in the Authority.

(3) The Authority may at such time and in such manner as they think fit dispose of anything referred to in subsection (2) (b) of this section which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Authority under this section, and if it is sold the proceeds of sale shall be applied by the Authority in payment of the expenses incurred by them under this section in relation to the thing, and any balance—

(a) shall be paid to any person who within three months from the time when the thing came into the custody of the Authority proves to their reasonable satisfaction that he was the owner thereof at that time; or

(b) if within the said period no person proves ownership at the said time, shall vest in the Authority.

(4) If anything removed under this section—

(a) is sold by the Authority and the proceeds of sale are insufficient to reimburse them for the amount of the expenses incurred in the exercise of their powers of removal; or

(b) is unsaleable;

the Authority may recover as a debt in any court of competent jurisdiction the deficiency or the whole of the expenses, as the case may be, from the person who was the owner when the thing removed came into the custody of the Authority or who was the owner at the time of its abandonment or loss.

(5) A notice given under subsection (2) (a) of this section shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Authority possession may be retaken at a place named in the notice within the time specified therein, being not less than fourteen days after the date when the notice is served.

(6) The Authority shall not under the powers of this section move anything placed or constructed by a local authority or statutory undertakers under the provisions of a statute or of a consent or licence given or issued by the Authority thereunder.

(7) In subsection (6) of this section—

PART III
—cont.

“local authority” has the meaning assigned to that expression by section 379 of the Local Government (Scotland) Act 1947;

1947 c. 43.

“statutory undertakers” means a person authorised by statute to carry on any undertaking for the supply of electricity, gas or water.

22.—(1) The Authority may by notice require the owner or occupier of a landing place or embankment which in the opinion of the Authority is, or is likely to become, by reason of its insecure condition or want of repair—

Repair of
landing places
and embank-
ments.

(a) dangerous to persons or vessels using the Port;

(b) injurious to the condition of the Port as a navigable waterway;
or

(c) a hindrance to the navigation of the Port;

to remedy its condition to the satisfaction of a duly authorised officer of the Authority within a reasonable time specified in the notice.

(2) If a person to whom notice is given under this section fails to comply with it within the time stated in the notice, or, if he appeals and the appeal is not allowed, within the time stated in the notice or such other time as the court may substitute therefor—

(a) he shall be guilty of an offence and liable to a fine not exceeding one hundred pounds; and

(b) the Authority may carry out the works they consider necessary to remedy the condition of the landing place or embankment in question and may recover the expenses of so doing from the person on whom the notice was served as a debt in any court of competent jurisdiction.

(3) A notice under subsection (1) of this section shall have annexed to it a copy of this section.

(4) A person aggrieved by a notice served by the Authority under subsection (1) of this section may appeal to the sheriff.

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

Boarding
vessels.

(a) for the purposes of any enactment relating to the Authority or of any byelaw of the Authority including the enforcement thereof;

(b) to prevent or extinguish fire.

24.—(1) An officer of the Authority may require any person on or seeking access to the port premises or any vessel using the port 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 fails to comply with any such requirement shall be guilty of an offence and be liable to a fine not exceeding ten pounds.

Powers of
interrogation
and search.

PART III
—cont.

(2) Any officer of Her Majesty's Customs and Excise may detain and search on or within the port premises any person or any vehicle, vessel or other property, upon whom or in or about which there is reason or cause for believing that there may be found any uncustomed or prohibited goods.

Power to
survey goods

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

(a) goods at the port premises; and

(b) goods on board a vessel at the port 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 survey or examination carried out under this section.

Removal of
goods.

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

(a) which are obstructing or interfering with the use of the port 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.

Directions as
to loading or
unloading of
certain goods

27.—(1) The Authority may by resolution designate any quay or any portion of a quay for the loading and unloading of any goods to which this section applies.

(2) Where pursuant to subsection (1) of this section the Authority has designated a quay or portion of a quay for the loading or unloading of goods of any description the port manager may direct that goods of that description intended to be loaded on board or unloaded from a vessel shall not be deposited or received upon any quay other than the quay or portion of quay so designated, and in the event of any person disobeying such direction the Authority may remove the goods to the quay or portion of quay so designated, and any expense incurred by them in so doing shall be a debt due from that person to the Authority and recoverable accordingly.

(3) The goods to which this section applies are goods in bulk and goods the nature or character of which is such as, in the opinion of the Authority, to give rise to special risk of contamination, taint, stain, injury or danger to other goods or persons, or to necessitate the provision of special facilities for the handling thereof or for the safety and protection, welfare or accommodation of persons employed in or in connection with such handling.

Appropriation
of berths.

28.—(1) The Authority may from time to time appropriate a particular berth or berths in the port premises for the use of vessels

of a particular owner or engaged in particular trades, and where a charge for the appropriation is made pursuant to subsection (2) of this section the vessel covered by the appropriation shall have priority in the use of the berth or berths as against other vessels.

PART III
—cont.

(2) The Authority may make a reasonable charge against the owner of a vessel for the appropriation of a particular berth or berths.

PART IV

ACQUISITION AND RECLAMATION OF LAND

29. Subject to the provisions of this Order, the Authority may enter upon, take, hold and use such of the bed, banks and shores of the Port and the lands shown on the deposited plan and described in the deposited book of reference as may be required for the purposes of exercising the powers of reclamation conferred by the provisions of this Part of this Order:

Power to acquire lands for reclamation.

Provided that the powers of the Authority under this section shall cease on 31st December, 1980.

30. Notwithstanding anything in this Order or in any Act wholly or partly incorporated herewith, the Authority may purchase and acquire such servitudes or rights as they may require for the purposes of this Order without the Authority being obliged or compellable to purchase any greater interest in, under or over the lands to which they relate, and the provisions of the Lands Clauses Acts shall extend and apply to such servitudes and rights as if they were lands within the meaning of those Acts.

Power to acquire servitudes compulsorily in certain cases.

31. All private rights of way over any lands which, under the powers of this Order, are acquired compulsorily shall, as from the date of such acquisition, be extinguished:

Extinction of private rights of way.

Provided that the Authority shall make compensation to all persons interested in respect of any such rights and the compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

32.—(1) If the deposited plan or the deposited book of reference are inaccurate in their description of any land or in their statement or description of the ownership or occupation of any land, the Authority, after giving ten days' notice to the owner, lessee and occupier of the land in question, may apply to the sheriff for the correction thereof.

Correction of errors in deposited plan and book of reference.

(2) If on any such application it appears to the sheriff that the misstatement or wrong description arose from mistake, he shall certify the fact accordingly and shall in his certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments and a copy thereof in the Private Bill Office, House of Commons, and with the sheriff-clerk of Ross and Cromarty, and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Authority to take the land and execute the works in accordance with the certificate.

PART IV
—cont.

(4) Any certificate or copy deposited under this section with any person shall be kept by him with the other documents to which it relates.

Servitudes, etc.,
by agreement.

33. Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may, if they think fit, subject to the provisions of those Acts and of this Order, grant to the Authority any servitude, right or privilege (not being a servitude, right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in, over or affecting any such lands, and the provisions of the said Acts with respect to lands and rentcharges or feu duties so far as they are applicable in this behalf shall extend and apply to such grants and to such servitudes, rights and privileges as aforesaid respectively.

Set-off of
betterment
against
compensation.

34. In determining the amount of compensation or purchase money payable to any person in respect of his interest in land acquired under this Order in a case where—

- (a) he has an interest in any other land contiguous with or adjacent to the land so acquired; and
- (b) the value of his interest in any such contiguous or adjacent land is enhanced by reason of the execution of the works authorised by this Order or any of them;

the amount of the enhancement in value shall be set off against the compensation or purchase money:

Provided that any such enhancement in value of an interest in land shall be estimated on the assumption that planning permission in respect of that land would be granted under the Town and Country Planning (Scotland) Act 1972 for the operations or uses specified in Schedule 6 to that Act but not for any other development.

1972 c. 52.

Reclamation
of land.

35. The Authority may, within the limits of land to be acquired for reclamation shown on the deposited plan, fill up, raise, enclose and reclaim land from the sea and the bed and foreshore of the Port, and for that purpose may place such piles and construct such groynes, retaining walls and other works in and upon the sea, bed and foreshore as the Authority deem necessary.

Further powers
of reclamation.

36. The Authority may fill up, raise and reclaim creeks, inlets, bends, mud flats and sands in and adjoining the Port, and for that purpose may place piles in the Port and construct groynes, retaining walls and other works in or upon the bed and banks of the Port:

Provided that the Authority shall not exercise the powers of this section—

- (a) in relation to any land not owned by them unless they first obtain a consent in writing of the owner thereof; or
- (b) in relation to any part of the Port in front of or adjoining land belonging to Her Majesty in right of Her Crown or to a government department or held in trust for Her Majesty for the purposes of a government department and protected

by section 85 (Crown rights) of this Order, without the consent in writing of the Crown Estate Commissioners or, as the case may be, the government department.

PART IV
—cont.

37. Land reclaimed under any of the provisions of the last two foregoing sections and not belonging to the Authority may, with the consent of the owner thereof, be used for the purposes of the undertaking, and land so reclaimed which belongs to the Authority may be used for the purposes of the undertaking or may be disposed of under the provisions of subsection (2) of section 9 (Acquisition and disposal of land) of this Order, and in particular may be so disposed of for the purpose of its development in connection with any undertaking or business which, in the opinion of the Authority, is likely to make use of any of the accommodation or facilities provided at the Port.

Use or disposal
of reclaimed
land.

PART V

REGULATION OF THE PORT

38.—(1) The master of a vessel entering or leaving or intending to enter or leave a dock shall if required to do so by the port manager state the draught of his vessel.

Declaration of
draught of
vessel.

(2) The master of a vessel who in response to a requirement under subsection (1) of this section gives incorrect information shall, without prejudice to any right of the Authority to compensation for loss or damage occasioned thereby, be guilty of an offence and liable to a fine not exceeding one hundred pounds.

(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.

39.—(1) The Authority may, after consultation in each case with the Chamber of Shipping of the United Kingdom, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the Port, and, without prejudice to the generality of the foregoing, for any of the following purposes:—

General
directions
to vessels.

- (a) for designating areas, routes or channels in the Port which vessels are to use or refrain from using for movement or mooring;
 - (b) for securing that vessels move only at certain times or during certain periods;
 - (c) requiring the master of a vessel to give to the port manager information relating to the vessel reasonably required by the port manager in order to effect the objects of this subsection.
- (2) Directions given under subsection (1) of this section may apply—
- (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction; and
 - (b) to the whole of the Port or to a part designated, or the designation of which is provided for, in the direction; and
 - (c) at all times or at times designated, or the designation of which is provided for, in the direction;

PART V
—cont.

and every direction made under this section shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c) of this subsection.

(3) The Authority may after such consultation as aforesaid revoke or amend directions given under this section.

Special
directions
to vessels.

40.—(1) A direction under this section may be given—

- (a) by the port manager to a vessel anywhere in the Port; and
- (b) by the port manager to a vessel in a part of the Port adjacent to a dock and designated by the Authority as an area in which the power to give directions under this section shall be exercisable by the port manager.

(2) A direction under this section may be given for any of the following purposes:—

- (a) requiring a vessel to comply with a requirement made in or under a general direction pursuant to section 39 (General directions to vessels) of this Order;
- (b) regulating or requiring the movement, mooring or unmooring of a vessel;
- (c) regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores.

(3) A direction under this section may be given in any manner considered by the port manager to be appropriate.

Directions to
vessels at the
docks.

41.—(1) The Authority may give directions applicable to all vessels, or to a specified class of vessels, at the docks, for the purpose of ensuring the safety of vessels at the docks, preventing injury to persons at, or to property at, or forming part of, the docks or of securing the efficient conduct of the business carried on at the docks, and, without prejudice to the generality of the foregoing, such directions may relate to—

- (a) the movement, berthing or mooring of a vessel;
- (b) the dispatch of its business at the docks;
- (c) the disposition or use of its appurtenances or equipment;
- (d) the use of its motive power;
- (e) the embarking or landing of passengers;
- (f) the loading or discharging of cargo, fuel, water or ship's stores;
- (g) the use of ballast.

(2) The port manager may give a direction requiring the removal from a dock of a vessel if—

- (a) it is on fire;
- (b) it is in a condition where it is liable to become immobilised or waterlogged, or to sink;
- (c) it is making an unlawful or improper use of the dock;
- (d) it is interfering with the use of the dock by other vessels, or is otherwise interfering with the proper use of the dock or the dispatch of business therein;

(e) the removal is necessary to enable maintenance or repair work to be carried out to the dock or to an adjacent part of the port premises:

(3) The port manager may give a direction to a vessel at the docks for the following purposes:—

- (a) any of the purposes referred to in subsection (1) of this section;
- (b) requiring the vessel to comply with a general direction made under this section.

(4) In this section reference to a vessel at a dock includes reference to a vessel entering or about to enter a dock and to a vessel leaving or having just left a dock.

42.—(1) Notice of the designation of an area of the Port under subsection (1) of section 40 (Special directions to vessels) of this Order or of the revocation of such a designation, and, except in an emergency, notice of a general direction and of the amendment or revocation of a general direction shall, so soon as practicable after it is made, be published by the Authority once in Lloyd's List or some other newspaper specialising in shipping news, and, if the notice relates to the making of a designation or the making or amendment of a general direction, it shall state a place at which copies of the designation or direction may be inspected and bought and the price thereof.

Publication of designations and general directions.

(2) In an emergency notice of a general direction or of the amendment or revocation of a general direction may be given in any manner the port manager considers appropriate.

43.—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

Failure to comply with directions.

(2) It shall be a defence to the master of a vessel charged with an offence under subsection (1) of this section to prove that he had reasonable ground for supposing that compliance with the direction in question would be likely to imperil his vessel or that in the circumstances compliance was impracticable.

44.—(1) Without prejudice to any other remedy available to the Authority, if a special direction is not complied with within a reasonable time, the port manager may, where practicable, put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

Enforcement of directions.

(2) If there is no one on board a vessel to attend to a special direction, the port manager may proceed as if the direction had been given and not complied with:

Provided that the powers of this subsection shall not be exercised—

- (a) in relation to a vessel other than a lighter, unless, after reasonable inquiry has been made, the master cannot be found; or
- (b) in relation to a lighter unless it is obstructing the access to or exit from a dock or otherwise interfering with navigation.

PART V
—cont.

(3) Expenses incurred by the Authority in the exercise of the powers conferred by subsection (1) of this section shall be recoverable by them as if they were a charge of the Authority in respect of the vessel.

Master's
responsibility
in relation to
directions.

45. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

General
byelaws.

46.—(1) The Authority may from time to time by byelaws confirmed in accordance with this Order make provision for any matter falling within their duties under section 7 (General duties) of this Order and in particular, but without prejudice to the generality of their power, for any of the following purposes:—

- (a) to secure the conservation and improvement of the Port as a harbour and a navigable waterway and to promote the ease and convenience of navigation;
- (b) for the regulation of vessels in the Port and their entry into and departure from the Port and, without prejudice to the generality of the foregoing, to prescribe rules for navigation and the lights and signals to be exhibited or made by or for the benefit of vessels navigating in the Port;
- (c) to prescribe parts of the Port—
 - (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;
- (d) to regulate the use and to prevent the misuse of services and facilities provided by the Authority in or beside the Port;
- (e) to promote the safety of persons and vessels in the Port;
- (f) to regulate the conduct of persons using the Port or its banks or shores whether for business, recreation, training or any other purpose;
- (g) for the prevention of nuisances in or beside the Port.

(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 offending against them fines not exceeding in any one case fifty pounds.

Byelaws as to
dangerous
goods.

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

- (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) Where a person is charged with an offence against a byelaw in force under this section it shall be a defence for him to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and, if that person charged is the owner or master of a vessel, that all reasonable steps were taken by the master to prevent the commission of the offence.

(3) Byelaws made under subsection (1) of this section may provide for imposing on persons offending against them fines not exceeding one hundred pounds.

(4) 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. 1875 c. 17.
1928 c. 32.

48.—(1) Byelaws made by the Authority under this Order shall not come into operation until they have been confirmed by the Secretary of State. Confirmation of byelaws.

(2) (a) At least one month before an application for confirmation of byelaws is made by the Authority to the Secretary of State, notice of the intention to apply for confirmation and of the place at which and the times during which a copy of the byelaws shall be open to inspection shall be published as follows:—

(i) once in the Edinburgh Gazette;

(ii) once in each of two successive weeks in some one and the same daily morning newspaper circulating in the administrative county in which the Port is situated.

(b) Not later than the first date on which the notice under paragraph (a) of this subsection is published, the Authority shall send a copy of the notice to the clerk of the county council affected by the byelaws to which the notice relates and to the Secretary of State for Defence.

(c) During a period of at least one month before application is made for confirmation of the byelaws a copy of the byelaws shall be kept at the head office of the Authority and shall at reasonable hours be open to public inspection without payment.

(d) The Authority shall supply a copy of the byelaws or of part of the byelaws to a person who shall apply for it on payment of a reasonable charge.

(3) During the period of one month after completion of the publication of any notice required by paragraph (a) of subsection (2) of this section any person may make in writing to the Secretary of State any objection to or representation respecting the byelaws to which the notice relates.

(4) The Secretary of State may confirm the byelaws in the form submitted to him with such modifications as he thinks fit or may refuse to confirm them:

Provided that where the Secretary of State proposes to make a modification which appears to him to be substantial, he shall inform the Authority and require them to take any steps he considers necessary

PART V
—cont.

for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Authority and by other persons who have been informed of it.

(5) When confirmed the byelaws shall be published by the Authority.

Mode of
prosecution.

49. Proceedings against any person offending against or committing any breach or contravention of any of the provisions of this Order shall, unless otherwise provided, be instituted and conducted under and in conformity with the Summary Jurisdiction (Scotland) Acts.

Offenders to
make good
damage.

50.—(1) Any person offending against or committing any breach or contravention of any of the provisions of this Order or of any byelaw or direction made or given by or on behalf of the Authority shall, in addition to any fine thereby incurred, be liable to repay to the Authority the cost of repairing or making good any damage directly or indirectly occasioned thereby to the property of the Authority.

(2) The Authority may recover as a simple contract debt from any such person the cost of repairing or making good any such damage and may detain any vessel or other property belonging to or in charge of such person or belonging to the employers of such person until the cost has been paid or until reasonable security therefor has been given to the Authority.

Authority may
contract for
police.

51. 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 Port 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.

Entry of
dangerous
goods.

52.—(1) The Authority may—

- (a) refuse entry into the port 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 port 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) brings or causes or permits to be brought into the port premises any goods the entry of which is forbidden; or

(b) fails in relation to any goods brought into the port premises to comply with any terms or conditions imposed by the Authority under subsection (1) of this section;

PART V
—cont.

shall—

- (i) be guilty of an offence and liable to a fine not exceeding one hundred pounds, 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.

53.—(1) Except in case of emergency, the owner or master of a vessel—

- (a) which it is intended to bring into the Port carrying dangerous goods; or
- (b) which is within the Port and on which it is intended to place dangerous goods;

Notice before
entry of
dangerous
goods.

shall, not less than twenty-four hours before that vessel enters the Port or before the dangerous goods are placed on board, as the case may be, give notice to the port manager of the nature and quantity of the dangerous goods in question and, if 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 one hundred pounds.

(2) Where the owner or master of the vessel is charged with an offence under subsection (1) of this section it shall be a defence to prove that he did not know and could not with reasonable diligence have ascertained the nature of the goods in respect of which the proceedings are taken.

(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.

1875 c. 17.
1928 c. 32.

PART VI

CHARGES

54. The Authority may demand, take and recover in respect of any dracone or floating dock crane, rig, drilling rig or any floating plant, which is not a ship as defined by section 57 of the Harbours Act 1964, entering or leaving the Port such charge as they think fit, and the provisions of sections 30, 31, 32 and 40 of the said Act of 1964 shall with any necessary modifications apply to the charges authorised by this section as they apply to ship, passenger and goods dues.

Charges for
floating
plant, etc.
1964 c. 40.

PART VI
—cont.Charges for
services and
facilities.Rules as to
charges.Exemption
from charges for
Crown, etc.

55. The Authority may demand, take and recover such reasonable charges for services and facilities provided by them as they may from time to time determine.

56. The provisions of Schedule 3 to this Order shall have effect with respect to charges which the Authority is permitted to make under this or any other enactment.

57.—(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 or 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 the Commissioners of Northern Lighthouses and not carrying goods for reward;

(b) the Commissioners of Customs and Excise in respect of a vessel or goods under customs seizure;

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

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

(2) Officers of the Department of Trade and Industry 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 Port and any works of the Authority by land, and with their vessels and otherwise.

PART VII

FINANCIAL

Power to county
council to assist
the Authority.

58.—(1) For the purposes of facilitating the exercise of the powers and the performance of the duties conferred or imposed on the Authority by this Order the county council shall have power from time to time to guarantee the repayment of capital and the payment of interest on securities granted by the Authority for the repayment of any sums which the Authority are or may be authorised to borrow, and to make grants or loans to the Authority.

(2) The county council may, in such terms as to payment or otherwise as they think fit, make available to the Authority any administrative, professional or technical services, including the services of any of their officers, and accommodation and facilities.

Power to invest
in securities
of bodies
corporate.

59.—(1) In order to provide or facilitate the provision of funds for—

(a) the establishment, carrying on or extension by any body corporate of warehouses, factories or works at or near the port premises;

- (b) the establishment or carrying on by any body corporate of an undertaking or business connected with or ancillary to the carrying on of the undertaking;
- (c) the establishment or carrying on by any body corporate of an undertaking or business concerned with the transport or handling of goods;
- (d) the carrying on by any body corporate of any other undertaking or business which appears to the Authority to be advantageous or convenient for, or in connection with, the undertaking or to be for the benefit of the Authority either directly or indirectly;

and, to the extent requisite therefor, the Authority may subscribe for, purchase, take up and hold or dispose of any shares, stock, mortgages, debentures or debenture stock of such body corporate and may in respect of any such shares, stock, mortgages, debentures or debenture stock for the time being held by them exercise either by themselves or through some person nominated by them for the purpose all or any of the rights exercisable by an individual holder of such shares, stock, mortgages, debentures or debenture stock.

(2) The Authority may apply for the purposes of this section any of their capital or funds for the time being available.

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

- (a) such sums of money as they think necessary not exceeding in the aggregate twenty-five million pounds; and
- (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 on 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.

PART VII
—cont.Temporary
borrowing.

61.—(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 million 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.

Lender's
concern with
application
of money.

62. It shall not be necessary for a person who lends money to the Authority to enquire into the application of that money.

Recognition of
trusts, etc.

63. The Authority shall not be bound to see to the execution of, or be affected by notice of, any trust, whether express, implied or constructive to which any bill, bond, mortgage or other document relating to moneys borrowed, or the principal moneys or interest thereby secured, or any money received on deposit or interest thereon may be subject, and the receipt of the holder of the bill or the receipt of the person in whose name any bond and mortgage or other document, or any money received on deposit, stands in the books of the Authority, as the case may be, shall be a sufficient discharge to the Authority for any money payable in respect thereof, notwithstanding any trust to which it or the money secured thereby may be subject; and the Authority shall not be bound to see to the application of the money paid upon such receipt.

Ranking of
moneys
borrowed.

64. All moneys borrowed by the Authority and secured on the assets and revenues of the undertaking shall rank *pari passu* without any priority on account of the date of issue or on any other account.

Power to charge
interest to
capital.

65. Where the Authority commence any work from which revenue may after its completion be derived, they may during such period as they determine, not exceeding ten years from the commencement of the work or such longer period as the Secretary of State may in writing agree, charge to capital as part of the costs of work interest on any moneys raised to defray—

(a) the cost of acquisition of lands for the purpose of the work; and

(b) the expenses of constructing or carrying out the work.

Saving for
powers of the
Treasury.

1946 c. 58.

66. It shall not be lawful to exercise the powers of borrowing conferred by this Order 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.

Accounts
and audit.

67.—(1) The Authority shall keep proper accounts and proper records in relation thereto.

(2) The accounts for each financial year shall be audited by an auditor or firm of accountants appointed by the Authority.

(3) A person or firm shall not be qualified to be appointed as auditors under this section unless he is a member, or in the case of a firm all the partners are members, of one or more of the following bodies:—

PART VII
—cont.

- (a) the Institute of Chartered Accountants of Scotland;
- (b) the Institute of Chartered Accountants in England and Wales;
- (c) the Association of Certified Accountants;
- (d) the Institute of Chartered Accountants in Ireland;
- (e) any body of accountants established in the United Kingdom and at the time of the appointment of the auditors under this section recognised by the Board of Trade for the purposes of paragraph (a) of subsection (1) of section 161 of the Companies Act 1948.

1948 c. 38.

(4) The Authority shall cause copies of the annual accounts as audited to be kept available at the principal office of the Authority for inspection by the public without charge during reasonable hours and for supply on demand to any person on payment of such reasonable charge as the Authority may determine.

(5) The Authority shall pay to the auditor or firm of accountants appointed under this section for auditing the accounts such sum as they shall deem reasonable.

PART VIII

MISCELLANEOUS

68. The Authority shall not be responsible for the safety of goods deposited in any part of the port premises not specifically set apart by them for the purpose of warehousing.

Liability for safety of goods.

69. So much of any works constructed or placed in accordance with a licence granted under section 15 (Licensing of works) of this Order, and of any of the port premises, as is not within a parish, and any alteration or extension of such works, shall be deemed for all purposes to be within the parish to which it is nearest.

Works, etc., to be within the nearest parish.

70.—(1) In the case of injury to or destruction or decay of a tidal work or any part thereof the Authority shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

Provision against danger to navigation.

(2) If the Authority fail to comply in any respect with a provision of this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

71.—(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

Abatement of works abandoned or decayed.

PART VIII
—cont.

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.

(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 a debt due from the Authority to the Secretary of State and recoverable accordingly.

(4) In this and the next succeeding section "the Secretary of State" means the Secretary of State for Trade and Industry.

Survey of
tidal works.

72. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work or of the site upon which the Authority propose to construct a tidal work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be a debt due to him from the Authority and recoverable accordingly.

Permanent
lights on
tidal works.

73.—(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 preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Authority 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 one hundred pounds and on conviction on indictment to a fine.

For protection
of The British
Aluminium
Company
Limited.
1964 c. 40.

74.—(1) Nothing in the Harbours Act 1964 or this Order shall entitle the Authority to demand, take or recover ship, passenger or goods dues in respect of the use by any vessel of the pier constructed by and belonging to The British Aluminium Company Limited at Saltburn in the Firth of Cromarty.

(2) In this section "pier" has the same meaning as in The British Aluminium (Saltburn Pier) Order 1971.

Saving for
Harbours
Act 1964.

75. Nothing in this Order shall exempt the Authority or any other person from the provisions of sections 9 and 10 of the Harbours Act 1964.

Saving for
Coast Protection
Act.
1949 c. 74.

76. Nothing in this Order shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Board of Trade or the Secretary of State for Trade

and Industry to certain operations and contain other provisions for the safety of navigation) or of any enactment which requires the consent or approval of the Board of Trade or the Secretary of State to such operation.

PART VIII
—cont.

77.—(1) Section 274 of the Town and Country Planning (Scotland) Act 1972 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the Session of the 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Order as if it had been passed during that session; and accordingly the Town and Country Planning (Scotland) Act 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Order.

Saving for
Town and
Country
Planning.
1972 c. 52.

(2) In their application to development authorised by any provision of this Order, article 3 of, and class XI in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1950 (which permit development authorised by any local or private Act or by any order approved by both Houses of Parliament, being an Act or order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by such provision were limited to development begun within five years after the coming into force of that provision.

(3) In this section the reference to article 3 of, and class XI in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1950 includes a reference to corresponding provisions of any general order superseding that order made under section 21 of the Town and Country Planning (Scotland) Act 1972 or any corresponding provision of an Act repealing that section.

78. Without prejudice to any restriction imposed by any other provision of this Order, the Authority shall not exercise any of their powers within the limits for the time being established by or under any enactment of any harbour, pier or dock undertaking carried on wholly or partly within the Port by any person other than the Authority without the prior agreement of the undertakers except so far as may be necessary or expedient for the purpose of maintaining, improving, protecting or regulating the navigation within the Port outside, or between points outside, those limits, and any dispute arising under this section shall be referred to and determined by the Secretary of State whose decision shall be binding on all parties.

Saving for
existing harbour
undertakings.

79. For the protection of the Countryside Commission for Scotland and the Natural Environment Research Council (hereinafter called "the protected bodies") the provisions of this section shall, unless otherwise agreed in writing between the protected bodies and the Authority, apply and have effect:—

For protection
of Countryside
Commission
and Natural
Environment
Research
Council.

(1) In this section "the Nigg Bay reclamation areas" means the areas shown coloured pink on the plan signed in duplicate by

*Cromarty Firth Port Authority Order
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PART VIII
—cont.
1936 c. 52.

Thomas Oswald, the chairman of the commissioners appointed pursuant to the Private Legislation Procedure (Scotland) Act 1936 to whom this Order was referred by the Secretary of State, one copy of which has been deposited in the office of the Secretary of State in Edinburgh and the other at the principal offices of the county council:

- (2) The Authority shall consult the protected bodies before exercising any of the powers of section 35 (Reclamation of land) or section 36 (Further powers of reclamation) of this Order and before exercising the powers of section 13 (Power to dredge) of this Order in any area above mean low-water springs in Nigg Bay except in the Nigg Bay reclamation areas:
- (3) Notwithstanding anything shown on the deposited plan or contained in this Order the Authority shall not under the powers of the said section 35 or section 36 fill up, raise, enclose or reclaim any land in Nigg Bay except in the Nigg Bay reclamation areas, or in any area above mean low-water springs in Udale Bay between Chapelton Point at longitude 4 degrees 10 minutes 00 seconds west and longitude 4 degrees 06 minutes 00 seconds west:
- (4) The Authority shall not deposit dredged materials under the powers of section 13 (Power to dredge) or approve the deposit of such materials under section 16 (Licence to dredge) of this Order in any area above mean low-water springs—
 - (a) in Nigg Bay, except in the Nigg Bay reclamation areas;
 - (b) in Udale Bay between Chapelton Point at longitude 4 degrees 10 minutes 00 seconds west and longitude 4 degrees 06 minutes 00 seconds west.

For protection
of North of
Scotland
Hydro-Electric
Board.

80. For the protection of the North of Scotland Hydro-Electric Board the following provisions shall, unless otherwise agreed in writing between the board and the Authority, apply and have effect:—

- (1) In this section—

“ apparatus ” means electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the board and includes any works constructed for the lodging therein of apparatus;

“ the board ” means the North of Scotland Hydro-Electric Board;

“ in ” in a context referring to apparatus includes under, over, across, along or upon;

“ operational land ” means land used by the board for the purpose of carrying on its undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable

1882 c. 56.

rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of the board's undertaking:

PART VIII
—cont.

(2) Nothing in the following sections of this Order shall relieve the Authority or any person acting with the consent of or on the requirement of the Authority from any liability for damage caused by them or him to any apparatus in the exercise of the powers of the said sections and the said powers shall be so exercised as not to obstruct or render unreasonably inconvenient the access to any apparatus or operational land:—

- Section 7 (General duties);
- Section 13 (Power to dredge);
- Section 14 (Works in the Port);
- Section 15 (Licensing of works);
- Section 16 (Licence to dredge);
- Section 29 (Power to acquire lands for reclamation);
- Section 35 (Reclamation of land);
- Section 36 (Further powers of reclamation).

81. Nothing in this Order shall prejudice or derogate from, or in any way alter, affect or interfere with, the jurisdiction or authority of the Commissioners of Northern Lighthouses.

Saving for
Commissioners
of Northern
Lighthouses.

82. Nothing in this Order shall prejudice the authority or powers of the Secretary of State for Defence under the Dockyard Ports Regulation Act 1865 or derogate from any regulations or rules made under that Act for the protection of Her Majesty's vessels, dockyards or property or for meeting the requirements of Her Majesty's Naval Service.

Saving for
Secretary of
State for
Defence.
1865 c. 125.

83. Nothing in this Order shall affect prejudicially any powers conferred on the county council under the provisions of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965.

Saving for
county council.

84.—(1) Nothing in the provisions of this Order shall be deemed to derogate from such rights of the Wakelyn Trustees and their successors in title as heritable proprietors of the lands in the parish of Nigg in the county of Ross and Cromarty as were vested in them immediately before the commencement of this Order.

Saving for the
rights of
Wakelyn
Trustees.

(2) The Authority shall not exercise the powers of section 29 (Power to acquire lands for reclamation) of this Order in the area ex adverso of the lands belonging to the said Wakelyn Trustees and their successors as foresaid, which area is shown coloured black on the plan referred to in section 79 (For protection of Countryside Commission and Natural Environment Research Council) of this Order.

85. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular,

Crown rights.

PART VIII
—cont.

nothing in this Order shall 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.

Costs of Order.

86. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order, and otherwise in relation thereto, shall be paid by the county council.

SCHEDULES

SCHEDULE 1

Section 3.

LIMITS OF PORT AREA

1. In this Schedule—

“the inland limit” means a straight line drawn across the Cromarty Firth from Arduilie Point on the north shore to Findon Pier on the south shore;

“mean high-water level” means the level which is half-way between mean high-water springs and mean high-water neaps;

“the seaward limit” means the seaward limit of the dockyard port of Cromarty (defined in the Order in Council dated 19th December, 1913, relating to that port) comprising—

on the north a straight line drawn from the rock which dries 6 feet situated about .45 miles 190° (south 29° west magnetic) from Port an Righ to a position in latitude $57^{\circ} 42' 30''$ north, longitude $3^{\circ} 52'$ west;

on the east a straight line drawn from a position latitude $57^{\circ} 42' 30''$ north, longitude $3^{\circ} 52'$ west to a position latitude $57^{\circ} 38'$ north, longitude $3^{\circ} 57'$ west;

on the south so much of a straight line drawn from Navity Chimney to a position in latitude $57^{\circ} 38'$ north, longitude $3^{\circ} 57'$ west as lies to seaward of the coast.

2. The limits shall commence at the inland limit and shall extend along both banks of the Cromarty Firth at mean high-water level to the seaward limit, and shall include the port premises.

SCHEDULE 2

Section 6.

PROCEDURAL AND OTHER PROVISIONS RELATING TO THE AUTHORITY

1. Every appointment by the Secretary of State to membership of the Authority shall be notified in writing by him to the secretary of the Authority.

2. A member of the Authority may resign his membership by notice in writing to the Secretary of State and to the secretary of the Authority.

3. The first chairman of the Authority shall be appointed by the Secretary of State from among the members thereof, and the chairman so appointed shall, unless he resigns office or ceases to be a member of the Authority, continue in office until the first meeting in 1974.

4. The Authority shall at their first meeting in 1974 and at their first meeting in every subsequent year appoint one of their number to be chairman, and the chairman shall, unless he resigns his office or ceases to be a member of the Authority, continue in office until the next annual appointment to that office.

SCH. 2
—cont.

5. The Authority shall at their first meeting each year appoint one of their number to be vice-chairman and the vice-chairman shall, unless he resigns office or ceases to be a member of the Authority, continue in office until the next annual appointment to that office.

6. On a casual vacancy occurring in the office of chairman or vice-chairman of the Authority the vacancy shall be filled by the appointment by the Authority of one of their number at a meeting to be held as soon as practicable after the vacancy occurs, 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.

7. Subject to the provisions of this Schedule a person who has completed his term of office as chairman, vice-chairman or other member of the Authority shall be eligible for reappointment.

8. If the Secretary of State is satisfied that a member whom he has appointed to the Authority—

- (a) has been absent from meetings of the Authority for three consecutive months or more without the permission of the Authority; or
- (b) has had an award of sequestration made against his estate or has made a trust deed for behoof of his creditors, or a composition arrangement; or
- (c) is incapacitated by physical or mental illness from discharging the functions of a member; or
- (d) is otherwise unable or unfit to discharge the functions of a member;

the Secretary of State may declare his office as a member of the Authority to be vacant and thereon the office shall become vacant.

9.—(1) A casual vacancy arising in the office of a member of the Authority shall be filled by the appointment by the Secretary of State of another person in accordance with the provisions of section 6 (Constitution of Authority) of this Order.

(2) A person appointed to fill a casual vacancy in the office of a member of the Authority shall, subject to this Schedule, hold office (unless he previously dies or vacates his office) during the remainder of the term for which the person whom he replaces was appointed.

10. The Authority may—

- (a) pay to a member of the Authority such salary, fee, allowance and expenses as the Authority may determine; and
- (b) make provision for or pay to or in respect of a person who is or has been a member of the Authority such pension, grant or life benefit as the Authority may determine.

11. The application of the seal of the Authority shall be authenticated by the signature of the chairman or vice-chairman and of the

secretary of the Authority or some person authorised by resolution of the Authority to act in his stead in that behalf (whether or not the secretary is absent or incapable of acting).

SCH. 2
—cont.

12. Subject to the provisions of this Schedule the Authority may determine their own quorum and procedure.

13. The Authority may promote or oppose any local or private legislation.

14.—(1) Any notice, licence or other document given or issued by the Authority under any enactment shall, unless the contrary intention is expressed in the enactment in question, be sufficiently authenticated if signed by the secretary of the Authority or by one of his deputies, and need not be sealed by the Authority.

(2) Without prejudice to the generality of sub-paragraph (1) of this paragraph all documents relating to goods on the port premises or to the management of business in the Port shall be sufficiently authenticated if signed by a duly authorised officer of the Authority and need not be sealed by the Authority.

SCHEDULE 3

Section 56.

RULES AS TO CHARGES

1. Charges shall be payable subject to such conditions as the Authority may from time to time specify in their published list of charges.

Conditions as to payment of charges.

2. Charges in respect of any vehicle or goods shall be payable by the owner thereof.

Liability of owner of goods.

3. Where charges are recoverable from more than one person, the liability of those persons shall be joint and several.

Joint and several liability.

4. Nothing in section 30 of the Harbours Act 1964 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 reduced by virtue of compounding arrangements in respect of, or rebate allowed on, any due included in that list.

Compounding, etc., of charges. 1964 c. 40.

5. 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 at the Port, or goods on the port premises, in respect of which a charge has been or will be incurred, until the requirement has been complied with or charge paid.

Security for charges.

SCH. 3
—cont.Entry on
vessels.

6.—(1) A duly authorised officer of the Authority may, on producing if so required his authority, board a vessel in the Port to ascertain the charges payable on or in respect of the vessel or 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 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 sub-paragraph (1) of this paragraph shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

Penalty for
evading
payment
of charges.

7. 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—

- (a) 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; and
- (b) be guilty of an offence and liable to a fine not exceeding one hundred pounds;

notwithstanding the fact that subsequent to the commission of the offence he has rendered or paid to the Authority the charge in question.

Claims for
repayment
of charges.

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

Payment of
charges on
warehoused
goods.

9. The owner or person having the charge of any goods warehoused, stored, or yarded, in a warehouse, store or yard of the Authority shall, before the removal of such goods from the warehouse, store, or yard and at such date or dates as shall be fixed by the Authority, pay such charges as shall be then due and payable on such goods.

How charges
to be paid.

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

Refusal of
customs
clearance.

11. A customs officer may refuse—

- (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 a sum of money or guarantee in respect thereof has been deposited with, or given to, the Authority under paragraph 5 (Security for charges) of this Schedule.

SCH. 3
—cont.

12. In addition to the remedy given by any enactment, the Authority may recover charges as a debt in any court of competent jurisdiction. Recovery of charges.

13.—(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 the said goods for the amount paid or security given in respect thereof. Liens for Port rates.

(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 said 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.

14.—(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. Weighing, etc., of goods for purposes of charges.

(2) A person who fails to comply with sub-paragraph (1) of this paragraph shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

15. A person who—

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

(b) with intent to evade or to enable another person to evade a charge fails within the time prescribed in the said regulations to give information in response to a requirement to do so made on him thereby;

False information, etc.

shall be guilty of an offence and liable to a fine not exceeding one hundred pounds.

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

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CHAPTER xvi

ARRANGEMENT OF SECTIONS

Section

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CROMARTY FIRTH PORT AUTHORITY

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Section

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20. Protection of Crown interests in wrecks.
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60. General borrowing powers.
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62. Lender's concern with application of money.
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65. Power to charge interest to capital.
66. Saving for powers of the Treasury.
67. Accounts and audit.

PART VIII

MISCELLANEOUS

68. Liability for safety of goods.
69. Works, etc., to be within the nearest parish.
70. Provision against danger to navigation.
71. Abatement of works abandoned or decayed.
72. Survey of tidal works.
73. Permanent lights on tidal works.
74. For protection of The British Aluminium Company Limited.

*Cromarty Firth Port Authority Order
Confirmation Act 1973*

Section

75. Saving for Harbours Act 1964.
76. Saving for Coast Protection Act.
77. Saving for Town and Country Planning.
78. Saving for existing harbour undertakings.
79. For protection of Countryside Commission and Natural Environment Research Council.
80. For protection of North of Scotland Hydro-Electric Board.
81. Saving for Commissioners of Northern Lighthouses.
82. Saving for Secretary of State for Defence.
83. Saving for county council.
84. Saving for the rights of Wakelyn Trustees.
85. Crown rights.
86. Costs of Order.

SCHEDULES:

Schedule 1—Limits of port area.

Schedule 2—Procedural and other provisions relating to the Authority.

Schedule 3—Rules as to charges.