



# Lerwick Harbour Order Confirmation Act 1974

## CHAPTER XX

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**ELIZABETH II**



**1974 CHAPTER XX**

An Act to confirm a Provisional Order under the Private  
Legislation Procedure (Scotland) Act 1936, relating to  
Lerwick Harbour. [31st July 1974]

**W**HEREAS the Provisional Order set forth in the schedule  
hereunto annexed has 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 1936 c. 52.  
Order should be 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 Lerwick Harbour Order Short title.  
Confirmation Act 1974.

## SCHEDULE

### LERWICK HARBOUR

*Provisional Order to authorise the Trustees of the Port and Harbour of Lerwick to construct a new work in connection with the improvement of the harbour; to extend the limits of the harbour; to confer powers on the Trustees with respect to the management, regulation and control of development within the harbour; to establish a terminal for helicopters; to borrow money; and for other purposes.*

1877 c. cxciv.

Whereas by the Lerwick Harbour Improvements Act 1877 (hereinafter referred to as "the Act of 1877") the Trustees of the Port and Harbour of Lerwick (hereinafter referred to as "the Trustees") were constituted for the purposes of the management, maintenance and regulation of the port and harbour of Lerwick:

And whereas it is expedient that the Trustees should be authorised to carry out the works hereinafter described for the improvement of the harbour:

And whereas estimates have been prepared by the Trustees in relation to the construction of the work authorised by this Order and such estimates are as follows:—

Work No. 1—		£
	Demolition of existing jetties and buildings, construction of retaining sea wall in sheet steel piling, reclamation by granular infilling of impounded area and part decking in reinforced concrete ...	512,000
Work No. 2—		
	Construction of retaining sea wall, rubble mound and cellular steel sheet piling. Reclamation by infilling of area impounded and part decking in asphalt surfacing. Construction of quay face and deck in reinforced concrete, handling area, terminal buildings, fixed crane and vehicle marshalling areas ...	1,830,000
Work Nos. 3 and 4—		
	Fixed dolphin structures and walkways ...	42,000
		£2,384,000
		£2,384,000

And whereas plans and sections showing the lines, situations and levels of the work to be constructed under the powers of this Order have been deposited with the sheriff clerk of the county of Zetland and with the town clerk of Lerwick and such plans and sections are in this Order respectively called the deposited plans and sections:

And whereas it is expedient that the limits of the port and harbour of Lerwick should be extended as provided in this Order:

And whereas it is expedient that further powers should be conferred upon the Trustees with respect to the management, regulation and control of development within the harbour limits as extended by this Order:

And whereas it is expedient that the further provisions contained in this Order should be enacted:

And whereas 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 last-mentioned Act the Secretary of State orders as follows:—

## PART I

### PRELIMINARY

1.—(1) This Order may be cited as the Lerwick Harbour Order Short title. 1974.

(2) This Order may be included among the Acts and Orders which may be cited together as the Lerwick Harbour Acts 1877 to 1974 (hereinafter referred to as “the Harbour Acts”).

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively:—

“the added areas” means the added area north and the added area south by this Order added to the existing area and respectively described in Part I of the Schedule to this Order;

“commencement of this Order” means the date of the Act confirming this Order;

“deposited plans and sections” means the plans and sections deposited in connection with this Order;

“the existing area” means the area of the harbour limits as described in section 19 of the Order of 1952;

“the harbour” means the port and harbour of Lerwick as defined by the Harbour Acts and as extended by this Order and shall also include the work authorised by this Order;

“the level of high water” means the level of mean high-water springs;

“the limits of deviation” means the limits of deviation shown on the deposited plans;

*Lerwick Harbour Order  
Confirmation Act 1974*

PART I  
—cont.  
1964 c. 40.

- “ marine work ” has the meaning assigned to that expression by section 57 of the Harbours Act 1964;
- “ Order of 1927 ” means the Lerwick Harbour Order 1927;
- “ Order of 1952 ” means the Lerwick Harbour Order 1952;
- “ Order of 1971 ” means the Lerwick Harbour Order 1971;
- “ Order of 1973 ” means the Lerwick Harbour Order 1973;
- “ the Sheriff ” means the Sheriff Principal of Caithness, Sutherland, Orkney and Zetland and includes the Sheriff at Lerwick;
- “ tidal work ” means so much of any work authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;
- “ the Trustees ” means the Trustees of the harbour for the time being acting under the Harbour Acts;
- “ the works ” means the works authorised by this Order or as the case may require any part thereof;
- “ works licence ” means a licence granted under section 10 (Licensing of works) of this Order;
- “ the undertaking ” means the undertaking of the Trustees as for the time being authorised.

(2) Unless the context otherwise requires, any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by any subsequent enactment, including this Order.

PART II

WORKS

Power to  
construct  
works.

3.—(1) Subject to the provisions of this Order and without prejudice to the powers conferred on them by the Order of 1973 the Trustees may in the burgh and parish of Lerwick in the county of Zetland in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plans and sections construct and maintain the works hereinafter described (Work No. 1 being in lieu of the Work No. 4 authorised by the Order of 1973) together with all necessary and proper works and conveniences connected therewith or incidental thereto, that is to say:—

Work No. 1 A retaining sea wall mainly of steel sheet piling commencing by a junction with the sea wall Work No. 1 authorised by the Order of 1973 at a point on a line in prolongation eastwards of the southern face of the existing stone jetty lying to the north-east of Thule House and 57 feet or thereabouts from the south-eastmost point of the said jetty, thence proceeding south-eastwards for a distance of 1470 feet or thereabouts thence south-westward to a point on the line of high water 197 feet or thereabouts measured in a straight line south-eastward from the north face of the

existing stone and timber jetty (situated east-north-east of Sea View Cottage) as shown on the deposited plan, including within such sea wall structures for guiding the adjustable end of the adjustable steel link ramp Work No. 7 authorised by the Order of 1973 and supporting the hydraulic machinery for lifting and lowering the said link ramp at a point 29 feet or thereabouts south-east of the south-east face of the jetty Work No. 5 authorised by the Order of 1973.

Work No. 2 A wall or embankment commencing at a point on the existing sea wall National Grid Reference 464E, 429N (Ordnance Survey Plan HU4642 and Plan HU4742) and at a distance of 65 feet or thereby in a northerly direction along high-water line from the South Burn of Gremista, thence proceeding seaward as a rubble faced mound construction at a bearing of 103 degrees or thereby for a distance of 1,060 feet or thereby, thence continuing as a cellular sheet pile construction for a further distance of 40 feet or thereby, thence proceeding through 90 degrees as a cellular sheet pile construction in a northerly direction for a distance of 800 feet or thereby and forming a berthing face of reinforced concrete above low-water level with timber or rubber fendering supported on cellular sheet piling, thence proceeding through 90 degrees in a westerly direction for a distance of 40 feet or thereby in the said cellular sheet pile construction, thence continuing as rubble faced mound construction for a distance of 60 feet or thereby, thence proceeding as a rubble faced mound construction through 90 degrees in a southerly direction for a distance of 475 feet or thereby, through 90 degrees in a westerly direction for a distance of 740 feet or thereby, through 90 degrees in a northerly direction for a distance of 360 feet or thereby, through 90 degrees in a westerly direction for a distance of 230 feet or thereby, thence proceeding in the same construction generally southward in a line parallel to the existing road to the point of commencement.

Work No. 3 A mooring dolphin of solid construction 42 feet or thereby in diameter with reinforced concrete deck slab together with a walkway 82 feet or thereby in length connecting the said dolphin to the south side of the sheet steel pile portion of the wall (Work No. 2) hereinbefore described commencing at a point 124 feet or thereby southward of the said portion of the wall (Work No. 2) and terminating by a junction with the said Work No. 2 together with all necessary fendering of the said dolphin in timber or rubber.

Work No. 4 A walkway 82 feet or thereby in length and a mooring dolphin of solid construction with reinforced concrete deck slab 42 feet or thereby in diameter commencing on the north side of the sheet steel pile portion of the wall Work No. 2 hereinbefore described and terminating at a point 124 feet or thereabouts north of the point of commencement and together with all necessary fendering of the said dolphin in timber or rubber.

PART II  
—cont.

(2) The Trustees may within the limits of deviation reconstruct, renew, enlarge and alter temporarily or permanently the works.

Alteration of  
works  
authorised by  
Order of 1973.

4.—(1) The Trustees will not proceed with the construction of Work No. 6 authorised by the Order of 1973 rendered unnecessary by Work No. 1 authorised by this Order.

(2) The descriptions of Works Nos. 5 and 8 in the Order of 1973 shall be read and have effect as if in lieu of references therein to " Work No. 4 " there were substituted a reference to Work No. 1 authorised by section 3 (Power to construct works) of this Order.

(3) The description of Work No. 7 in the Order of 1973 shall be modified so that its point of commencement instead of being as described therein by reference to Work No. 4 in that Order shall be described as being at a distance of 95 feet or thereabouts south-westward of the sea wall work authorised by this Order.

Power to  
reclaim lands.

5.—(1) The Trustees may by means of Work No. 1 reclaim so much of the foreshore or bed of the sea lying between that work and the existing sea walls shown upon the deposited plan as an area of land to be reclaimed.

(2) In connection with the provisions of the foregoing subsection the Trustees may carry out works including granular infilling for the purpose of levelling up the lands reclaimed under the provisions of this section and may demolish or surface over all existing piers and jetties within the area to be reclaimed.

(3) The Trustees may also by means of Work No. 2 reclaim all that area of the foreshore and bed of the sea as lies within the perimeter of the said Work No. 2 and in connection therewith may carry out works for infilling the said area and erect thereon a handling area, terminal buildings and vehicle marshalling areas.

Works to  
form part of  
undertaking.

6. The works shall for all purposes form part of the undertaking and shall be deemed for all purposes to be within the burgh and parish of Lerwick in the county of Zetland.

Incorporation  
of provisions  
of Order of  
1971.

7. The following provisions of the Order of 1971 are incorporated with and form part of this Part of this Order:—

- Section 4 (Subsidiary works);
- Section 5 (Power to deviate);
- Section 6 (Fine for obstructing work);
- Section 7 (Tidal works not to be executed without approval of Secretary of State);
- Section 8 (Survey of tidal works);
- Section 9 (Provision against danger to navigation);
- Section 10 (Abatement of works abandoned or decayed);
- Section 11 (Lights on tidal works during construction);
- Section 12 (Permanent lights on tidal works):



Provided that—

- (i) in subsections (1) and (2) of section 7 of the Order of 1971 after the word “constructed” there shall be added the word “reconstructed”;
- (ii) in section 11 (1) after the word “construction” there shall be added the word “reconstruction”;
- (iii) at the end of sections 9, 11 and 12 of the Order of 1971 there shall be added the words “and on conviction on indictment to a fine”;
- (iv) section 11 shall also apply during the demolition of all existing piers and jetties referred to in section 5 (Power to reclaim lands) of this Order.

PART II  
—cont.

### PART III

#### HARBOUR LIMITS

8.—(1) As from the coming into operation of this Order the limits of the port and harbour of Lerwick and of the area within which the Trustees shall have authority to exercise powers by virtue of any jurisdiction or function conferred or imposed on or transferred to them by the Lerwick Harbour Acts 1877 to 1973 or by any other enactment (hereinafter referred to as “the harbour limits”) shall be extended to include the areas described as “Added Area North” and “Added Area South” in Part I of the Schedule to this Order (in this Order referred to as “the added areas”) and thereafter the harbour shall comprise the area described in Part II of the said Schedule in lieu of the area described in section 19 of the Lerwick Harbour Order 1952 (in this section referred to as “the existing area”).

Alteration of  
limits of port  
and harbour  
of Lerwick.

(2) Subject as hereinafter provided, all enactments conferring rights, powers, privileges and immunities or imposing duties, obligations and liabilities upon the Trustees and all byelaws and regulations made by the Trustees which relate to or are in force in the existing area shall relate to and have effect in the harbour limits:

Provided that nothing in this Order shall operate to affect prejudicially any rights of udal tenure over the added areas or any parts thereof which attached thereto immediately before the commencement of this Order.

(3) Nothing in this Order shall affect the operation within the harbour limits of such of the provisions of the Harbours, Docks and Piers Clauses Act 1847 as immediately before the coming into operation of this Order were operative within the existing area and, subject as hereinafter provided, the said provisions shall extend and apply to the added areas.

1847 c. 27.

(4) A map showing the harbour limits bounded on the north by a straight red line drawn from the north-east extremity of Green Head on the mainland of Zetland across the Sound of Bressay to the north-west extremity at Turra Taign on the Island of Bressay marked “northern limit of harbour” and bounded on the south by a straight red line drawn from the southern extremity of the Ness of Sound on the mainland of Zetland across the Sound of Bressay to the north-west extremity

**PART III**  
—*cont.*

1936 c. 52.

of Whinna Skerry marked “southern limit of harbour” of which four copies have been signed by Robert Reid, Q.C., Senior Counsel to the Secretary of State under the Private Legislation Procedure (Scotland) Act 1936 shall within one month after the commencement of this Order be deposited as follows, that is to say, one copy at the Department of Trade, one copy with the sheriff clerk of the county of Zetland at his office and one copy with the town clerk of the burgh of Lerwick and one copy with the county clerk of the county of Zetland.

**PART IV****POWERS OF TRUSTEES**Power to  
dredge.

1882 c. 56.

9.—(1) In this section unless the subject or context otherwise requires—

“apparatus” means electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the board;

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

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

“land” includes any pier or pipeline;

“plan” includes a section and description;

“position” includes depth.

(2) The Trustees may deepen, widen, dredge, scour, cut and improve the sea bed of the harbour and the seaward approaches thereto, and for such purpose may blast any rock therein.

1894 c. 60.

(3) Any materials other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894 taken up or collected in the exercise of the powers of this section shall become the property of the Trustees and may be used, sold, deposited or otherwise disposed of as the Trustees think fit.

(4) The Trustees may dispose of any materials taken up or collected in the exercise of the powers of this section or obtained during the construction of the works by depositing them on the areas of the foreshore and seabed to be reclaimed under the powers of this Order.

(5) Save as aforesaid no such materials shall be deposited below the level of high water except in such position as the Secretary of State may approve and subject to such conditions and restrictions as he may impose.

(6) (a) Before exercising the powers of subsection (2) of this section within 50 yards of an electric line, main, pipe, tunnel, apparatus, building, structure or other work of whatever nature vested in the board the Trustees shall give to the board not less than twenty-eight days’ notice in writing of their intention so to do, stating the position and depth of the proposed dredging:

Provided that this subsection shall not apply in relation to any electric line, main or pipe unless the board have supplied the Trustees with a plan showing the position in which the electric line, main or pipe is laid in or under the harbour;

(b) If the board shall within fourteen days of receipt by them of such notice as is provided for by the preceding paragraph notify the Trustees in writing of the need to take measures of which the board shall be sole judge to protect apparatus of the board from possible harm caused by the dredging proposed by the Trustees the Trustees shall not proceed with such dredging until the board have taken such measures as aforesaid provided that the board shall not unreasonably delay in so doing and provided further that the Trustees shall indemnify the board against the cost of carrying out the said protective measures and against any cost, loss or damage to the apparatus of the board resulting from dredging by the Trustees whether or not in pursuance of the provisions of this and the preceding paragraph.

(7) As early as possible, and in any event not less than twenty-eight days before any exercise of the powers contained in this section or in any licence granted pursuant to section 11 (Power to license dredging) of this Order within a distance of 50 yards or in the case of blasting operations 150 yards of any sub-aqueous cable belonging to or used by the Post Office, the Trustees or as the case may be the person to whom such licence was granted shall give notice in writing of such intended exercise.

(8) (a) No material taken up and collected in the exercise of the said powers shall, without the consent of the board, be deposited so as to obstruct or impede any work of, or connected with, the inspection or repair of any such electric line, main or pipe or so as to affect the efficient operation thereof;

(b) No materials shall be laid down or deposited in any place or manner in the exercise of the powers contained in this section or in any licence granted pursuant to section 11 of this Order so as to cover any sub-aqueous cable belonging to or used by the Post Office or to impede in any way the inspection, maintenance or renewal of any such cable.

(9) In the event of a dispute or difference between the Trustees and the board or the Post Office under this section the matter shall be referred to arbitration.

10.—(1) The Trustees may upon such terms and conditions as they think fit grant to any person a licence to construct, place, maintain, alter, renew or extend any works on, under or over tidal waters or tidal lands below the level of high water within the limits of the harbour notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, placed, maintained, altered, renewed or extended. Licensing of works.

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

(a) be accompanied by plans, sections and particulars of the works to which the application relates;

PART IV  
—cont.

- (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
- (c) be accompanied by a copy of a notice published in the Shetland Times newspaper or some other newspaper circulating in the county, stating that application is being made to the Trustees for the grant of a licence, containing a general description of the nature of the works for which application is being made and of the land upon which the works are proposed to be constructed, placed, altered, renewed or extended, naming a place where a copy of the plans, sections and particulars of the proposed works may be seen at any reasonable hours and stating that any person who desires to object to the Trustees to the granting of the application should do so in writing stating the grounds of his objection before the expiration of a period of twenty-eight days from the date of the newspaper advertisement.

(3) In deciding whether or not to grant a licence or as to the terms and conditions to be included in the licence the Trustees shall take into consideration any objection in writing made to them by any person within the time specified in the newspaper notice (hereinafter in this section and in section 12 (Appeals in respect of works or dredging licence) referred to as a valid objection) and in granting a licence the Trustees may require modifications in the plans, sections and particulars submitted to them by the applicant.

(4) (a) If the Trustees decide to grant a works licence they shall, in addition to the applicant, give notice of their decision to any person who has made a valid objection and has not withdrawn it.

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

(5) In the exercise of the powers of a works licence the licensee shall not damage or injuriously affect any submarine cable maintained by the North of Scotland Hydro-Electric Board or, without the consent of that board, interfere with or adversely affect the operation of any such cable.

1878 c. 76.

(6) For the purposes of section 7 of the Telegraph Act 1878 any works 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 the undertaking authorised by an Act of Parliament.

Power to  
license  
dredging.

11.—(1) The Trustees 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 within the harbour limits.

(2) Application for a dredging licence shall be made in writing to the Trustees 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 Trustees may require modifications in the plans, sections and particulars so submitted.

PART IV  
—cont.

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

(4) Any materials other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894 taken up or collected by means of dredging in pursuance of the 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: 1894 c. 60.

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 Trustees and subject to such terms and conditions as may be imposed by the Trustees;
- (ii) no materials shall be laid down or deposited in any place or manner in the exercise of the powers contained in this section so as to cover any sub-aqueous cable belonging to or used by the Post Office or to impede in any way the inspection, maintenance or renewal of any such cable;
- (iii) if it appears to the holder of the dredging licence that the Trustees have unreasonably withheld their approval under paragraph (i) of this proviso or that any condition imposed by the Trustees under that paragraph is unreasonable, he may appeal to the Secretary of State, whose decision shall be binding upon the parties.

(5) As early as possible, and in any event not less than twenty-eight days, before any exercise of the powers contained in this section within a distance of 50 yards or in the case of blasting operations 150 yards of any sub-aqueous cable belonging to or used by the Post Office, the Trustees or as the case may be the person to whom such licence was granted shall give notice in writing to the Post Office of such intended exercise.

12.—(1) (a) A person who has made a valid objection and has not withdrawn his objection and who is aggrieved by the decision of the Trustees to grant a works licence and an applicant for a works licence or for a dredging licence who is aggrieved by— Appeals in respect of works or dredging licence.

- (i) the refusal of the Trustees to grant the licence;
- (ii) any terms or conditions subject to which the licence is granted;  
or
- (iii) any modifications required by the Trustees in the plans, sections and particulars submitted by the applicant;

**PART IV**  
—*cont.*

may within twenty-eight days from the date on which the Trustees give notice of their decision or the date on which the Trustees are under subsection (4) (b) of section 10 (Licensing of works) or of subsection (3) of section 11 (Power to license dredging) of this Order deemed to have refused the application, as the case may be, appeal to the Secretary of State.

(b) An appeal shall be made by notice in writing stating the grounds of the appeal.

(2) A person who appeals to the Secretary of State under this section shall at the same time send a copy of his statement of appeal to the Trustees and the Trustees shall as soon as practicable thereafter furnish the Secretary of State with all relevant documents including a copy of any valid objection made to the original application which has not been withdrawn.

(3) The Trustees may within twenty-eight days from the receipt of the statement of appeal furnish the Secretary of State with their observations on the appeal.

(4) On an appeal under this section the Secretary of State may confirm, vary or revoke the decision appealed against and may require any consequential amendments to be made, including amendment of the terms and conditions or modification of the plans, sections and particulars.

(5) The Trustees shall give effect to any requirement made by the Secretary of State under subsection (4) of this section.

**Restriction of  
works and  
dredging.**

13.—(1) No person other than the Trustees shall—

(a) construct, alter, renew or extend any works on, under or over tidal waters or tidal lands below the level of high water within the harbour limits unless he is licensed so to do by a works licence and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 10 (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 conditions (if any) upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 11 (Power to license dredging) of this Order:

Provided that this subsection shall not apply to the construction, alteration, renewal or extension of any such works or to the carrying out of dredging in the port and harbour specifically authorised under any enactment.

(2) Any person who offends against the provisions of this section or who contravenes or fails to comply with any term or condition of a works licence or dredging licence issued to him shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and to a daily fine not exceeding ten pounds.

(3) Nothing in this section shall affect the powers of the Post Office under the Telegraph Acts 1863 to 1916.

14.—(1) The Trustees may use for such time as they may think fit lands belonging to them as a terminal for helicopters and may provide and maintain at such terminal such roads, approaches, landing strips, buildings, plant and appliances as may be requisite and may make reasonable charges for the use of such facilities.

PART IV  
—cont.

Power to  
establish  
terminal for  
helicopters.

(2) Any terminal established for helicopters under this section shall be subject to the like control of the President of the Board of Trade as if it were an aerodrome established and maintained by a local authority under the provisions of the Civil Aviation Act 1949.

1949 c. 67.

(3) The Trustees may in respect of the terminal make byelaws for regulating the use and operation of the terminal and the conduct of all persons while within the area of the terminal and in particular byelaws—

- (a) for securing the safety of vehicles and persons using facilities afforded by the Trustees in connection with the terminal and preventing danger to the public arising from the use of the area of the terminal;
- (b) for preventing obstruction within the area of the terminal;
- (c) for regulating vehicular traffic anywhere within the area of the terminal except on roads therein to which the road traffic enactments apply, and in particular (with that exception) for imposing speed limits on vehicles therein and for restricting or regulating the parking of vehicles or their use for any purpose or in any manner specified in the byelaws;
- (d) for prohibiting waiting by hackney carriages except at standings appointed by the Trustees;
- (e) for prohibiting or restricting access to any part of the terminal;
- (f) for preserving order within the area of the terminal and preventing damage to property therein.

(4) Any person contravening any byelaws made under this section shall be liable on summary conviction to a fine not exceeding such amount as may be specified by the byelaws in relation to the contravention, but no amount so specified shall exceed twenty-five pounds.

## PART V

### BORROWING

15.—(1) The Trustees may in addition to the sums already borrowed or authorised to be borrowed by them from time to time borrow—

Power to  
borrow.

- (a) for the purposes of the undertaking and this Order such sum or sums of money as may be required for those purposes not exceeding in the whole two million pounds;
- (b) with the sanction of the Secretary of State such further sum or sums as may from time to time be required for the purposes of the undertaking; and
- (c) for paying the costs, charges and expenses of this Order, the sum requisite for that purpose.

PART V  
—*cont.*  
1947 c. 43.

(2) The Secretary of State shall have and may exercise in relation to any such sanction as aforesaid all the powers of section 355 of the Local Government (Scotland) Act 1947, and such sanction shall be subject to such conditions (if any) as the Secretary of State may consider proper.

(3) A person lending money to the Trustees on any form of security or taking or holding any such security shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money raised was properly applied and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money.

Further  
incorporation  
of provisions  
of Order of  
1971.

16. The following provisions of the Order of 1971 are hereby incorporated with and form part of this Part of this Order:—

Section 15 (Periods for repayment of borrowed money);

Section 16 (Application of moneys borrowed);

Section 17 (Mode of repayment of moneys borrowed on mortgage);

Section 18 (Sinking fund);

Section 19 (Investment of sinking fund);

Section 20 (Return to Secretary of State);

Section 21 (Saving for powers of Treasury).

Power to  
borrow on  
cash credit.

17. The Trustees may accept and take from any bank or banking company credit on a cash account to be opened and kept with such bank or banking company in the name of the Trustees, according to the usage of bankers in Scotland, to the extent of the sums which the Trustees are by this Order authorised to borrow, or any part thereof:

Provided that the whole principal sums due and owing by the Trustees on such cash account, and for money borrowed by them on standard security, shall not when taken together exceed the amount which the Trustees are authorised to borrow under this Order; and all drafts or orders on the cash account shall be signed by any two of the Trustees, and countersigned by the clerk:

Provided further, that no Trustee shall by his subscription of any draft or order, or of any security as aforesaid, be held to have rendered himself personally liable for the payment of any money so borrowed or drawn, or any interest thereon.

## PART VI

### MISCELLANEOUS

For protection  
of North of  
Scotland  
Hydro-Electric  
Board.

18. The provisions of the sections of the Order of 1973 the marginal notes of which are "For protection of North of Scotland Hydro-Electric Board" and "For further protection of North of Scotland Hydro-Electric Board" so far as relating to Work No. 4 authorised by that Order and any agreement or undertaking made or given with respect thereto shall apply and have effect as if Work No. 1 authorised by this Order had been included in the Order of 1973 in lieu of the said Work No. 4.



19. For the protection of the North of Scotland Hydro-Electric Board (hereinafter referred to as "the board") the following provisions shall, unless otherwise agreed in writing between the Trustees and the board, apply and have effect:—

PART VI  
—cont.

For further  
protection of  
North of  
Scotland  
Hydro-Electric  
Board.

(1) (a) Before granting to any person a works licence or a dredging licence to carry out works or dredging at, over, under or near to the board's submarine link with Bressay and the board's inlet to their Gremista Power Station at Holmsgarth (each of which is in this section referred to as a "protected work"), the Trustees shall submit to the board particulars of the proposed works or dredging, as the case may be, and furnish the board with such particulars with respect thereto as the board may reasonably require; and, in any case in which the board so require, such licence shall only be granted subject to such conditions as may be reasonably necessary to safeguard the protected work including, without prejudice to the foregoing generality, conditions empowering the board from time to time to inspect the works or dredging to which the licence relates and to take any steps necessary to prevent damage to the protected work and to recover from the holder of the licence the reasonable cost of any works carried out by the board for that purpose;

(b) If the board do not signify their requirements with respect to the proposed works or dredging within twenty-eight days after the submission of the particulars thereof they shall be deemed to have approved the same;

(c) Upon the grant of a licence in respect of which notice of the application is required to be given under subsection (1) of this section, the Trustees shall supply to the board a copy of the licence and any conditions subject to which it is granted:

(2) In the event of a dispute or difference between the Trustees and the board under this section the matter shall be referred to arbitration.

20. Nothing in this Order shall affect the restrictions imposed by the Dumping at Sea Act 1974.

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

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

Saving for  
Harbours Act  
1964.  
1964 c. 40.

22.—(1) Nothing in this Order shall affect the operation of the Harbours, Piers and Ferries (Scotland) Act 1937 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  
marine works.  
1937 c. 28.

(2) The Trustees shall not exercise the powers conferred upon them by section 9 (Power to dredge), section 10 (Licensing of works) and section 11 (Power to license dredging) of this Order in such a way as to affect or prejudice the rights of any person in respect of a marine work without the consent in writing of the Secretary of State.

PART VI  
—cont.  
Crown rights.

23. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained shall authorise the Trustees or any licensee of the Trustees to take, use or in any way interfere with any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary or any land, heritages, subjects or rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners on behalf of Her Majesty first had and obtained for that purpose; or
- (b) belonging to a Government department or held in trust for Her Majesty for the purposes of a Government department without the consent in writing of that Government department.

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

24.—(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 Parliament held during the regnal years 10 and 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.

(2) In their application to development authorised by 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 this Order were limited to development begun within five years after the passing of the Act confirming this Order.

(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.

Costs of Order.

25. All costs, charges and expenses of and incidental to the preparing and obtaining of this Order and otherwise incurred in reference thereto shall be paid by the Trustees.

## SCHEDULE

### PART I

#### ADDED AREA NORTH

An area bounded by an imaginary line commencing at the easternmost extremity of the level of high water of the Point of Scotland in the mainland of Zetland thence proceeding in a northerly direction along the line of high water to the north-east extremity of the level of high water of Green Head; thence in a straight line in a south-easterly direction (on a true bearing of 115 degrees for a distance of 343 yards) across Sound of Bressay or Lerwick Harbour or the sea and the foreshores of the same to the north-west extremity of the level of high water at Turra Taing in the Island of Bressay; thence southward along the line of high water on the west coast of the Island of Bressay to the south-west extremity of the level of high water of the Point of Hogan (or Heogan) in the Island of Bressay; thence proceeding in a straight line in a westerly direction across Sound of Bressay or Lerwick Harbour or the sea and the foreshores of the same to the easternmost extremity of the level of high water of the Point of Scotland in the mainland of Zetland the point of commencement.

#### ADDED AREA SOUTH

An area bounded by an imaginary line commencing at the southern extremity of the level of high water of Nabb Point in the mainland of Zetland thence proceeding northward, then westward, then southward along the line of high water of Breiwick Bay passing the Sletts, North Taing, Skeo Taing, Munger Skerries to the southern extremity of the level of high water of the Ness of Sound in the mainland of Zetland; thence proceeding in a straight line in an easterly direction across Sound of Bressay or Lerwick Harbour or the sea and the foreshores of the same to the westmost extremity of the level of high water of Whinna Skerry thence proceeding on the same line through Whinna Skerry across the sea to the level of high water on the west coast of the Island of Bressay; thence proceeding in a northerly direction along the line of high water of the west coast of the Island of Bressay to the north-west extremity of the level of high water of the Head or Taing of Ham; thence proceeding in a straight line across Sound of Bressay or Lerwick Harbour or the sea and the foreshores of the same to the southern extremity of the level of high water of Nabb Point in the mainland of Zetland the point of commencement.

### PART II

#### LIMITS OF PORT AND HARBOUR OF LERWICK

An area bounded by an imaginary line commencing at the level of high water on the south-east corner of the breakwater which point is 50 feet or thereby east of the south-east corner of the Old Tolbooth thence proceeding southward along the level of high water passing along the east shore of the South Ness to the southern extremity of the level of high water of Nabb Point in the mainland of Zetland; thence proceeding northward, then westward, then southward along the line

*Lerwick Harbour Order  
Confirmation Act 1974*

of high water of Breiwick Bay passing the Sletts, North Taing, Skeo Taing, Munger Skerries to the southern extremity of the level of high water of the Ness of Sound in the Mainland of Zetland; thence proceeding in a straight line in an easterly direction across Sound of Bressay or Lerwick Harbour or the sea and the foreshores of the same to the westmost extremity of the level of high water of Whinna Skerry; thence proceeding on the same line through Whinna Skerry across the sea to the level of high water on the west coast of the Island of Bressay; thence proceeding in a northerly direction along the line of high water of the west coast of the Island of Bressay to the north-west extremity of the level of high water of the Head or Taing of Ham; thence northward along the level of high water on the west coast of the Island of Bressay to the east side of the entrance to Leiraness Voe; thence in a straight line across the said entrance to the southern extremity at the level of high water of Leira Ness in the said Island of Bressay; thence following the level of high water northward passing Gardie and Cruster to the south-west extremity of the level of high water of the Point of Hogan (or Heogan) in the said Island of Bressay; thence proceeding in a northerly direction along the line of high water to the north-west extremity of the level of high water at Turra Taing on the west coast of the said Island of Bressay; thence proceeding in a straight line in a north-westerly direction (on a true bearing of 295 degrees for a distance of 343 yards) across Sound of Bressay or Lerwick Harbour or the sea and the foreshores of the same to the north-east extremity of the level of high water of Green Head in the mainland of Zetland; thence southward to the eastmost extremity of the level of high water of the Point of Scotland; thence southward along the level of high water on the east side of the mainland of Zetland passing Gremista and Holmsgarth thence proceeding southward and eastward along the level of high water passing the piers and docks at Garthspool and the docks and piers at Freefield near the Northness belonging to Messrs. Hay & Company (Lerwick) Limited and passing the Northness to the north-east extremity of the property of North Eastern Farmers Limited; thence westward along the northern boundary of the said property to the road to Northness; thence southward along the building line on the east side of the said road and Commercial Road to the wall on the east side of Commercial Road opposite Fort Charlotte; thence along the said wall to the northern boundary of the property belonging to Messrs. J. & J. Tod & Sons Limited thence eastward along the said property belonging to Messrs. J. & J. Tod & Sons Limited and thereafter southward following the building line on the west side of the North Esplanade and including the property belonging to the representatives of James Stout; thence continuing southward passing along the west side of the Harbour Trust Offices and the building line on the west side of the South Esplanade to the point of commencement.

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