



Dundee Harbour Order Confirmation Act 1975

CHAPTER xvii

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ELIZABETH II



1975 CHAPTER xvii

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to
Dundee Harbour. [1st August 1975]

WHEREAS 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 Dundee Harbour Order Short title.
Confirmation Act 1975.

SCHEDULE

DUNDEE HARBOUR

Provisional Order to make further provision as to the general duties and powers of the Dundee Harbour Trustees; to authorise the levying of certain charges at the harbour of Dundee; to increase the borrowing powers of the Trustees and to make provision for a reserve fund; and for other purposes.

Whereas by the Dundee Harbour Orders 1912 to 1969 the harbour of Dundee is vested in the Trustees of the harbour of Dundee, and the Trustees are responsible for the maintenance, improvement and regulation of the said harbour:

And whereas it is expedient that further provision should be made as to the duties and powers of the Trustees, the levying of certain charges, the borrowing powers of the Trustees and the creation of a reserve fund, and that the other provisions of 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 said Act of 1936, the Secretary of State orders as follows:—

Short and
collective
titles.

1.—(1) This Order may be cited as the Dundee Harbour Order 1975.

(2) The Dundee Harbour and Tay Ferries Order 1952 and the Dundee Harbour Revision Order 1969 may be cited together as the Dundee Harbour Orders 1952 and 1969 and with this Order they may be cited together as the Dundee Harbour Orders 1952 to 1975.

Interpretation.

2.—(1) In this Order—

“the Trustees” means the Trustees of the harbour of Dundee;

“the undertaking” means the undertaking of the Trustees as from time to time authorised;

“works” means works of any description, and includes the reclamation of land reasonably required for the purpose of executing works.

(2) In the Dundee Harbour Orders 1952 and 1969 and in this Order—

“harbour” means the area within the limits defined in article 4 (Amended definition of limits of harbour) of the Dundee Harbour Revision Order 1969 together with all docks, landing places and other works and land for the time being vested in, belonging to or administered by the Trustees;

“hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;

“ 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 as defined in section 4 of the Hovercraft Act 1968 and a hydrofoil vessel.

1968 c. 59.

3.—(1) It shall be the duty of the Trustees—

General duties
and powers.

(a) to provide, maintain, operate and improve such port and harbour services and facilities in and in the vicinity of the harbour as they consider necessary or desirable, and to take such action as they consider incidental to the provision of such services and facilities;

(b) to take such action as they consider necessary or desirable for or incidental to the improvement and conservancy of the harbour.

(2) The Trustees shall have power either themselves or by arrangement between themselves and another person to take such action as they consider necessary or desirable whether or not in, or in the vicinity of, the harbour—

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

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

(3) Particular powers conferred or particular duties laid upon the Trustees by the Dundee Harbour Orders 1952 and 1969 shall not be construed as derogating from each other or from the generality of subsections (1) and (2) of this section.

4.—(1) The Trustees may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig or other floating plant which is not a ship as defined by section 57 of the Harbours Act 1964 entering or leaving the harbour such charges as they think fit, and the provisions of sections 30, 31, 32 and 34 of that Act shall with any necessary modifications apply to the charges authorised by this section as they apply to ship, passenger and goods dues.

Powers to make
charges.

1964 c. 40.

(2) (a) The Trustees may demand, take and recover in respect of anything done or provided by them or on their behalf such reasonable charges as they may determine.

(b) In this subsection “ charges ” does not include ship, passenger or goods dues as defined by section 57 of the Harbours Act 1964 or charges authorised by subsection (1) of this section.

5.—(1) Subject to any order made under section 1 of the Borrowing (Control and Guarantees) Act 1946, the Trustees may from time to time borrow or raise by the mortgage of any land for the time being vested in them or upon the security of the revenues of the Trustees, or both, and by any method they see fit—

Borrowing
powers.

1946 c. 58.

(a) such sums of money as they think necessary not exceeding in the aggregate eight 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 Trustees 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 Trustees 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 five years immediately following the date of the borrowing on any sum of money borrowed by the Trustees 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.

Protection of
lenders from
inquiry.

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

Reserve fund.

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

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

- (a) making good deficiencies at any time arising in the income of the Trustees from the undertaking; or
(b) meeting extraordinary claims or demands at any time arising against the Trustees in respect of the undertaking; or
(c) defraying any expenditure in connection with the undertaking for which capital is properly applicable or to providing money for repayment of loans; or
(d) defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing buildings, works, plant, vessels, equipment or articles forming part of the undertaking; or
(e) any other purpose which in the opinion of the Trustees is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea.

8. Section 5 of the Dundee Harbour and Tay Ferries Order 1952 is amended by substituting for the words " clause 57 thereof ", inserted in that section by the provisions of Schedule 3 to the Dundee Harbour Revision Order 1969, the words " clauses 57 and 75 thereof ". Mortgages, etc.
1952 c. xx.

9.—(1) For the purposes of improving, maintaining or managing the harbour the Trustees may from time to time execute, lay down, maintain and operate in and over the area of the harbour as that area is defined in article 4 of the Dundee Harbour Revision Order 1969 such works and equipment as they deem necessary. Works in
harbour.

(2) The Trustees may from time to time maintain, renew, enlarge and alter temporarily or permanently all works now or hereafter executed or acquired by them:

Provided that nothing in this subsection shall—

- (i) authorise the Trustees to deviate laterally or vertically beyond the limits of deviation prescribed by any enactment authorising the execution of those works; or
- (ii) relieve the Trustees from the obligation to obtain the consent of any other authority, body or person to the execution of works which consent they would, apart from this subsection, have been required to obtain.

(3) Nothing in this section shall be deemed to affect the operation of the Dumping at Sea Act 1974. 1974 c. 20.

10. 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 c. 40.

11. Nothing in this Order shall exempt the Trustees or any other person from the provisions of Part I of the Coast Protection Act 1949 nor affect the application to any operation of sections 34 to 36 of that Act, which require the consent of the Board of Trade or the Secretary of State to certain operations and contain other provisions for the safety of navigation. Saving for
Coast
Protection
Act.
1949 c. 74.

12. The enactments referred to in the first, second and third columns of the Schedule to this Order (in so far as they are not already repealed) are hereby repealed to the extent specified in the fourth column of that Schedule. Repeals.

13. 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 Trustees. Costs of
Order.

Section 12.

SCHEDULE

REPEALS

Act or Order (1)	Section, article, Part or schedule (2)	Marginal note or heading (3)	Extent of repeal (4)
1912 c. xxvi. The Dundee Harbour and Tay Ferries Order Confirmation Act 1912	—	—	The Act and the Order scheduled thereto.
1939 c. xxxiii. Dundee Harbour and Tay Ferries (Superannuation) Order Confirmation Act 1939	—	—	The Act and the Order scheduled thereto.
1950 c. iv. Dundee Harbour and Tay Ferries Order Confirmation Act 1950	—	—	The Act and the Order scheduled thereto.
1952 c. xx. Dundee Harbour and Tay Ferries Order 1952	6	Interpretation of terms	The definitions of— “ authorised rates ”, “ the commission ”, “ the ferry harbours ”, “ the Harbour Acts ”, “ the Tay Ferries ” and “ vessel ”.
	43	Powers as to purchase of lands and as to authorised works to continue in force	Subsection (2).
	Part XIV 132	Harbour Rates, Etc. Power to borrow money	The Part. The section.
	133	Trustees may borrow on credit of cash account	The section.
	169	Fees	The section.
	176	Reserve fund	The section.
	178	Protection of lenders from inquiry	The section.
	Part XVI 218	Tay Ferries Revision of rates	The Part. The section.
	237	Fees for licences, etc.	The section.
	Schedules E and F	—	Both schedules.
S.I. 1969/1488. Dundee Harbour Revision Order 1969	12	Additional powers of borrowing	The article.
	13	Form of mortgage	The article.
	Schedule 2	Form of mortgage	The schedule.

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