



Lerwick Harbour (Miscellaneous Provisions) Order Confirmation Act 1975

CHAPTER xxv

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ELIZABETH II



1975 CHAPTER xxv

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Lerwick Harbour (Miscellaneous Provisions).

[7th 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 Lerwick Harbour (Miscellaneous Provisions) Order Confirmation Act 1975. Short title.

SCHEDULE

LERWICK HARBOUR (MISCELLANEOUS PROVISIONS)

Provisional Order to amend certain provisions of the Lerwick Harbour Act 1877 and the Lerwick Harbour Order 1973; to make provision with respect to the application to the Trustees of the Port and Harbour of Lerwick of certain provisions of the Local Government (Scotland) Act 1973; to extend the limits of the harbour 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 certain provisions of the Act of 1877 and the Lerwick Harbour Order 1973 with regard to the election of Trustees and the execution and discharge of documents should be amended:

1973 c. 65.

And whereas it is expedient that consequential upon the enactment of the Local Government (Scotland) Act 1973 further provision should be made with respect to the election of Trustees:

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 the further provisions contained in this Order should be enacted:

1936 c. 52.

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:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

Short title.

1.—(1) This Order may be cited as the Lerwick Harbour (Miscellaneous Provisions) Order 1975.

(2) This Order and the Lerwick Harbour Acts 1877 to 1974 may be cited together as the Lerwick Harbour Acts 1877 to 1975 (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:—

“ Act of 1877 ” means the Lerwick Harbour Improvements Act 1877;

1877 c. cxciv.

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

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

“ Dales Voe ” means the area situate to the west and south-west of an imaginary straight line drawn between Kebister Ness and Hawks Ness;

“ existing area ” means the area of the limits of the harbour as described in Part II of the Schedule to the Order of 1974;

“ General Manager ” means the general manager and clerk to the Trustees;

“ harbour ” means the port and harbour of Lerwick as defined by the Harbour Acts and as extended by this Order;

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

“ Order of 1974 ” means the Lerwick Harbour Order 1974;

“ Trustees ” means the Trustees of the harbour for the time being acting under the Harbour Acts.

(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.

3.—(1) After section 7 of the Act of 1877 there shall be inserted the following section:—

Amendments of
Act of 1877
and Order of
1973.

“ 7A. Where a shipowner within the meaning of the previous section is an incorporated company or a firm such company or firm may not less than twenty-eight days preceding an election of trustees by the shipowners intimate in writing to the Trustees the name or names of any two of their members or partners whom they desire to be an elector or electors, as the case may be, and each such member or partner so named shall qualify to be an elector and trustee.”

(2) Sections 50, 52 and 54 of the Act of 1877 shall have effect subject to the following amendments, that is to say:—

In section 50 (Form of securities) for the words “ at least two of the trustees and by the clerk ” there shall be substituted the words “ the General Manager and such other person as may be duly authorised by the trustees ”:

In section 52 (Power to borrow on cash credit) for the words “ any two of the trustees and countersigned by the clerk ” there shall be substituted the words “ the General Manager and such other person as may be duly authorised by the trustees ”:

In section 54 (Trustees may fund debt and issue certificates of funded debt) for the words "two of the trustees and the clerk" there shall be substituted the words "the General Manager and such other person as may be duly authorised by the trustees".

(3) Section 22 (Power to borrow on cash credit) of the Lerwick Harbour Order 1973 shall have effect as if for the words "any two of the trustees and countersigned by the clerk" there were substituted the words "the General Manager and such other person as may be duly authorised by the trustees".

Saving for
section 546 of
Merchant
Shipping Act
1894.

1894 c. 60.

4. For the avoidance of doubt it is hereby expressly declared that the provisions of section 39 (Removal of sunk, stranded or abandoned vessels) of the Lerwick Harbour Order 1952 shall not affect the right of the Trustees to be paid salvage under the provisions of section 546 of the Merchant Shipping Act 1894 or otherwise.

Appointment
of trustees by
Shetland
Islands
Council.

5.—(1) As from the commencement of this Order the Shetland Islands Council shall in every year at its meeting in the month of October and if the Council shall not meet in the month of October then at its first meeting thereafter appoint from among their own number six members to be trustees of the Port and Harbour of Lerwick provided that three of such members shall be members who represent any three of the six electoral divisions of Lerwick.

(2) Upon the appointment of trustees of the port and harbour of Lerwick under subsection (1) of this section the trustees formally elected by the corporation and commissioners of supply under the Act of 1877 shall cease to hold office.

(3) The provisions of the Act of 1877 shall be amended or repealed as follows:—

Section 4 (Qualification of trustees) shall be read and have effect as if the words "He shall be a commissioner of supply of the County of Zetland; or He shall be a member of the corporation" were omitted and there were inserted the words "He shall be a member of the Shetland Islands Council":

The provisions of sections 8 and 15 so far as they relate to the election of trustees by the corporation and commissioners of supply are hereby repealed:

In section 16 after the word "trustees" there shall be inserted the words "elected by the shipowners and ratepayers":

In section 17 for the words "the corporation, commissioners of supply" there shall be substituted the words "Shetland Islands Council failing to appoint or".

Alteration of
limits of port
and harbour of
Lerwick.

6.—(1) As from the commencement 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 1974 or by any other enactment (hereinafter referred to as "the harbour limits") shall be extended to include

the area described in Part I of the Schedule to this Order (in this Order referred to as "the added area") and thereafter the harbour shall comprise the area described in Part II of the said Schedule in lieu of the existing area.

(2) Subject as hereinafter provided, all enactments conferring rights, powers, privileges and immunities or imposing duties, obligations and liabilities upon the Trustees including provisions for the protection of any person 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 and in all lands and heritable properties from time to time in the ownership or occupation of the Trustees.

(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 area. 1847 c. 27.

(4) A map showing the seaward limits of the harbour as described in Part II of the Schedule to this Order of which four copies have been signed by Gavin Douglas, 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 the Environment, one copy at the Department of Trade, one copy with the sheriff clerk of the sheriff court district of Lerwick and Kirkwall at Lerwick and one copy with the Chief Executive of the Shetland Islands Council. 1936 c. 52.

(5) Section 8 and the Schedule to the Order of 1974 are hereby repealed.

7. For the protection of the Shetland Islands Council (in this section referred to as "the Council") unless otherwise agreed in writing between the Trustees and the Council the Trustees shall not carry out any works and shall not exercise the powers conferred on them by section 9 (Power to dredge), section 10 (Licensing of works) and section 11 (Power to license dredging) of the Order of 1974 in tidal waters in Dales Voe without the approval of the Council and if such approval shall be refused or shall not be given within a period of two months after receipt by the Council of the application for approval the matter may be referred to the Secretary of State whose decision shall be binding on both parties. For protection of Shetland Islands Council.

8.—(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 the Order of 1974 in the harbour 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.

9. Nothing in this Order shall affect the operation of the Dumping at Sea Act 1974. Saving for Dumping at Sea Act 1974. 1974 c. 20.

Crown
rights.

10. 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 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
(Scotland)
Act 1972.
1972 c. 52.

11.—(1) The provisions of the Town and Country Planning (Scotland) Act 1972 and any restrictions or powers thereby imposed or conferred in relation to Dales Voe shall apply and may be exercised in relation to Dales Voe notwithstanding that the development thereof is or may be authorised or regulated by or under this Order.

(2) In its application to development within Dales Voe authorised by this Order article 3 of the Town and Country Planning (General Development) (Scotland) Order 1975 (which permits certain classes of development without the permission of the local planning authority or of the Secretary of State) shall not have effect.

(3) In this section the reference to article 3 of the Town and Country Planning (General Development) (Scotland) Order 1975 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 under any corresponding provision of an Act repealing that section.

Costs of Order.

12. 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

An area bounded by an imaginary line commencing at the north-east extremity of the level of high water of Green Head in the Mainland of Zetland (now incorporated and forming part of a new quay); thence proceeding westward, then northward along the line of high water to a point at the west extremity of the centre line of the foreshore between the mainland of Zetland and the tidal islet of Easter Rova Head; thence eastward along the said centre line of foreshore to a point where it joins with the islet of Easter Rova Head; thence along the line of high water around said islet in an anti-clockwise direction returning to the point of junction with the said centre line of foreshore; thence westward retracing the said centre line of foreshore to its point of departure from the mainland of Zetland; thence westward and southward, then northward, along the line of high water of Bight of Vatsland to the north extremity of the level of high water of Kebister Ness; thence south-westward, then north-eastward along the line of high water of Dales Voe passing Doos Cove, Kebister, Muckle Ayre, Dale Burn, South Califf, North Califf and Breiwick to the north extremity of the level of high water of Fora Ness; thence westward, then northward along the line of high water of Foraness Voe, Brim Ness, Bight of Brimness to the north-east extremity of the level of high water of Hawks Ness; thence in a straight line in an east-south-easterly direction across the sea and foreshores to the north extremity of the level of high water of the Island of Green Holm; thence in a straight line in a south-easterly direction across the sea and foreshores to the north extremity of the level of high water of the Island of Outer Score; thence south-westward, along the line of high water to the north-west extremity of the level of high water of the Island of Outer Score; thence in a straight line south-westward across the sea and foreshores to the north-east extremity of the level of high water of the Island of Inner Score; thence south-westward, then southward along the line of high water to the south extremity of the level of high water of the Island of Inner Score; thence westward in a straight line across the sea and foreshores to the north extremity of the level of high water of Aith Ness in the Island of Bressay; thence south-westward and southward, then generally westward along the line of high water of the north coast of the Island of Bressay passing Aith Voe, Sweyn Ness, Ness of Beosetter, Baa Berg, White Ayre, Scarfi Taing to the north-west extremity of the level of high water of Turra Taing in the Island of Bressay; thence in a straight line in a north-westerly direction (on a true bearing of 295 degrees for a distance of 313.64 metres) across the 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, 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

15.24 metres or thereby east of the south-east corner of the Old Tolbooth; thence proceeding northward passing along the building line on the west side of South Esplanade and the west side of the Harbour Trust Offices thereafter continuing northward following the building line on the west side of North Esplanade to the north-east extremity of the property belonging to Messrs. J. & J. Tod Limited; thence westward along the northern boundary of the said property to the wall on the east side of Commercial Road opposite Fort Charlotte; thence northward along the said wall to the building line on the east side of Commercial Road; thence northward along the said building line and the wall on the east side of the road leading to Northness to the south-west extremity of the property belonging to Malakoff Limited; thence eastward along the southern boundary of the said property to the level of high water of Lerwick Harbour; thence proceeding northward along the level of high water passing Northness, the docks and pier belonging to Hay and Co. (Lerwick) Limited and the piers and docks at Garthspool, taking in the piers and jetties constructed after the date of the passing of the Act of 1877; thence northward along the level of high water on the east side of the mainland of Zetland passing Holmsgarth and Gremista to the easternmost extremity of the level of high water of the Point of Scotland; thence in a northerly direction along the line of high water to the north-east extremity of the level of high water at Green Head (now incorporated and forming part of a new quay); thence westward, then northward along the line of high water to a point at the west extremity of the centre line of the foreshore between the mainland of Zetland and the tidal islet of Easter Rova Head; thence eastward along the said centre line of foreshore to a point where it joins with the islet of Easter Rova Head; thence along the line of high water around the said islet in an anti-clockwise direction returning to the point of junction with the said centre line of foreshore; thence westward retracing the said centre line of foreshore to its point of departure from the mainland of Zetland; thence westward, then southward, then northward, along the line of high water of Bight of Vatsland to the north extremity of the level of high water of Kebister Ness; thence south-westward, then north-eastward along the line of high water of Dales Voe passing Doos Cove, Kebister, Muckle Ayre, Dale Burn, South Califf, North Califf and Breiwick to the north extremity of the level of high water of Fora Ness; thence westward, then northward along the line of high water of Foraness Voe, Brim Ness, Bight of Brimness to the north-east extremity of the level of high water of Hawks Ness; thence in a straight line in an east-south-easterly direction across the sea and foreshores to the north extremity of the level of high water of the Island of Green Holm; thence in a straight line in a south-easterly direction across the sea and foreshores to the north extremity of the level of high water of the Island of Outer Score; thence south-westward, along the line of high water to the north-west extremity of the level of high water of the Island of Outer Score; thence in a straight line south-westward across the sea and foreshores to the north-east extremity of the level of high water of the Island of Inner Score; thence south-westward, then southward along the line of high water to the south extremity of the level of high water of the Island of Inner Score; thence westward in a straight line across the sea and foreshores to the north extremity of the level of high water of Aith Ness

in the Island of Bressay; thence south-westward and southward, then generally westward along the line of high water of the north coast of the Island of Bressay passing Aith Voe, Sweyn Ness, Ness of Beosetter, Baa Berg, White Ayre, Scarfi Taing to the north-west extremity of the level of high water of Turra Taing; 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); thence following the line of high water southward passing Cruster and Gardie to the southern extremity of the level of high water of Leira Ness taking in the piers and jetties constructed after the passing of the Act of 1877; thence in a straight line in a south-easterly direction across the sea and foreshores to the south extremity of the level of high water of Holm of Mel; thence in a straight line in a south-easterly direction across the sea and foreshores to the north-east extremity of Mel Pier; thence southward along the line of high water on 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 in a southerly direction along the line of high water to a point at which a continuation of a straight line drawn from the southern extremity of the level of high water of Ness of Sound in the mainland of Zetland to the western extremity of the level of high water of Whinna Skerry meets the level of high water on the west coast of the Island of Bressay; thence following the said line in a westerly direction across the sea, through Whinna Skerry and across the Sound of Bressay or Lerwick Harbour or the sea and foreshores of the same to the said southern extremity of the level of high water of Ness of Sound in the mainland of Zetland; thence proceeding northward, then eastward, then southward along the line of high water passing Munger Skerries, Skeo Taing, North Taing and the Sletts to the southern extremity of the level of high water of Nabb Point; thence in a northerly direction along the line of high water passing along the east shore of South Ness to a point at the level of high water on the south-east corner of the breakwater, the point of commencement.

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