



Lochmaddy and East Loch Tarbert (Improvement of Piers &c.) Order Confirmation Act 1984

CHAPTER xxx

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in Schedule.
2. Short title.

SCHEDULE

LOCHMADDY AND EAST LOCH TARBERT (IMPROVEMENT OF PIERS &c.)

PART I

PRELIMINARY

1. Short title.
2. Interpretation.
3. Incorporation of Lands Clauses Acts.

c. xxx *Lochmaddy and East Loch Tarbert*
(Improvement of Piers &c.) Order Confirmation Act 1984

Section

PART II

HARBOUR REGULATION

4. Harbour limits at Lochmaddy.
5. Harbour limits at East Loch Tarbert.
6. Byelaws.
7. Power to detain vessels, etc., in certain circumstances.
8. Repair of piers, landing places, etc.

PART III

WORKS

9. Power of Council to construct works.
10. Power of Group to construct works.
11. Power to renew, etc., works.
12. For protection of British Telecommunications, etc.
13. Power to acquire lands.
14. Period of compulsory purchase.
15. Private rights of way over lands taken compulsorily.
16. Powers of entry.
17. Power to acquire servitudes or rights.
18. Power to deviate.
19. Subsidiary works.
20. Correction of errors in deposited plans and book of reference.
21. Works deemed to be within Western Isles Islands Area.

PART IV

MISCELLANEOUS

22. Tidal works not to be executed without approval of Secretary of State.
23. Lights on tidal works during construction.
24. Permanent lights on tidal works.
25. Survey of tidal works.
26. Provision against danger to navigation.
27. Abatement of works abandoned or decayed.
28. Saving for marine works.
29. Saving for certain enactments, etc.
30. Saving for Coast Protection Act 1949.
31. Saving for town and country planning.
32. For protection of North of Scotland Hydro-Electric Board.
33. Repeal.
34. Crown rights.

ELIZABETH II



1984 CHAPTER XXX

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Lochmaddy and East Loch Tarbert (Improvement of Piers &c.).
[20th December 1984]

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 Order 1936 c. 52. 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 Lochmaddy and East Loch Tarbert (Improvement of Piers &c.) Order Confirmation Act 1984.

Short title.

SCHEDULE

Lochmaddy and East Loch Tarbert (Improvement of Piers &c.)

Provisional Order to empower the Western Isles Islands Council to construct harbour works at Lochmaddy in North Uist, and to empower the said Council and the Scottish Transport Group to construct harbour works at East Loch Tarbert in Harris, in the Western Isles Islands Area; and for other purposes.

WHEREAS—

1973 c. 65.

(1) Under the Local Government (Scotland) Act 1973 the Western Isles Islands Council (hereinafter referred to as “the Council”) are the local authority vested with the functions of an islands council in respect of the Western Isles Islands Area which Area includes the islands of North Uist and Harris:

(2) The Council are the body responsible for co-ordinating facilities for passenger transport services within their area:

(3) The Council own the pier and harbour facilities at Lochmaddy on the island of North Uist which are used in connection with the important route between Uig on the island of Skye, Lochmaddy and Tarbert on the island of Harris:

1968 c. 73.

(4) The Scottish Transport Group (hereinafter referred to as “the Group”) were constituted by the Transport Act 1968 with power (inter alia) to operate ferries and harbours:

(5) The Group, through their wholly-owned subsidiary Caledonian MacBrayne Limited, own the existing pier at East Loch Tarbert and are the ferry operators for the said route between Lochmaddy, Tarbert, and Uig:

(6) The vessels which presently ply the said route are equipped only with a hoist for side loading and unloading, which limits the size and weight of vehicles that can be carried and results in lengthy loading and unloading operations:

(7) It is expedient that the piers and facilities at Lochmaddy and East Loch Tarbert should be improved, in order that vessels equipped with a roll-on/roll-off facility may be accommodated and that the Council and the Group should be empowered to construct the works authorised by this Order:

(8) It is further expedient that the limits of harbour jurisdiction at Lochmaddy and East Loch Tarbert should be extended and that the other provisions of this Order should be enacted:

(9) Plans and sections showing the lines or situations and levels of the works proposed to be authorised by this Order, such plans showing also the lands which may be compulsorily acquired or used under the powers of this Order and for the purposes thereof, together with a book of reference to the said plans containing the names of the owners or reputed owners, lessees or reputed lessees and occupiers of all such lands and describing the lands, have been deposited with the sheriff clerk of the sheriff court district of Lochmaddy at Lochmaddy and with the sheriff clerk of the sheriff court district of Stornoway at Stornoway:

(10) The purposes of this Order 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. This Order may be cited as the Lochmaddy and East Loch Tarbert (*Improvement of Piers &c.*) Order 1984.

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

“the appropriate authority” means—

(a) in relation to works of the Council, the Council;

(b) in relation to works of the Group, the Group;

“the authorised works” means the works (or any of them) described in, and authorised by, section 9 (Power of Council to construct works) and section 10 (Power of Group to construct works) of this Order, and includes such works as renewed, replaced or altered under section 11 (Power to renew, etc., works) of this Order, and any works constructed, executed or placed under section 19 (Subsidiary works) of this Order;

“the Council” means the Western Isles Islands Council;

“the deposited plans”, “the deposited sections” and “the deposited book of reference” mean respectively the plans, sections and book of reference deposited on or before 20th November 1983 in Parliament, with the proper officer of the Council and with the respective sheriff clerks of the sheriff court districts of Lochmaddy and Stornoway in connection with the application for this Order;

“the Group” means the Scottish Transport Group;

c. xxx *Lochmaddy and East Loch Tarbert
(Improvement of Piers &c.) Order Confirmation Act 1984*

PART I
—cont.

“the harbour authority” means, in relation to the area the limits of which are defined in section 4 (1) of this Order and the harbour premises therein mentioned, the Council and in relation to the area the limits of which are defined in section 5 (1) of this Order and the harbour premises therein mentioned, the Group;

“harbour premises” means the quays, piers, landing places and all other works, land and buildings for the time being vested in or occupied or administered by the harbour authority at Lochmaddy or East Loch Tarbert (as the case may be) for the purposes of the undertaking;

“land” includes land covered by water, and any interest in land or any servitude or right in, to or over land;

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

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

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

1873 c. lxiii.

“the Order of 1873” means the East Loch Tarbert Pier Order 1873;

1878 c. cxv.

“the Order of 1878” means the Lochmaddy Pier and Harbour Order 1878;

S.I. 1949/1516.

“the Order of 1949” means the Lochmaddy Pier Order 1949;

“the sheriff” means any of the sheriffs appointed for the sheriffdom of Grampian, Highland and Islands;

1982 c. 48.

“the statutory maximum” has the meaning assigned to it in section 74 (2) of the Criminal Justice Act 1982;

“tidal work” means so much of any work as is on, under or over tidal waters or tidal lands below the level of high water;

“the undertaking” means in relation to Lochmaddy the harbour undertaking for the time being of the Council at Lochmaddy; and in relation to East Loch Tarbert the harbour undertaking for the time being of the Group at East Loch Tarbert;

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

(2) Except in relation to section 18 (Power to deviate) of this Order, all dimensions stated in any description of works or lands in this Order shall be construed as if the words “or thereabouts” were inserted after each such dimension.

(3) Any reference in this Order to a work identified by the number of that work shall be construed as a reference to the work of that number authorised by this Order.

Incorporation of
Lands Clauses
Acts.
1845 c. 19.

3. The Lands Clauses Acts, except sections 120 to 124 and 127 of the Lands Clauses Consolidation (Scotland) Act 1845, are hereby incorporated with this Order:

Provided that in construing the provisions so incorporated the expression "the special Act" shall mean this Order.

PART I
—cont.

PART II
HARBOUR REGULATION

4.—(1) The area within which the Council shall, subject to Harbour limits subsection (4) below, exercise jurisdiction as a harbour authority at Lochmaddy within the meaning of section 57 of the Harbours Act 1964 shall 1964 c. 40. comprise the area bounded as follows:—

(a) Commencing at a point (latitude 57°36.050'N, longitude 7°09.372'W) on the western shore of Lochmaddy on the level of low water at the southernmost extremity of Rubha nam Baraillean;

thence in a generally easterly direction in a straight line for a distance of 48 metres to a point (latitude 57°36.066'N, longitude 7°09.326'W) on low water at the westernmost extremity of Eilean Phail;

thence in a generally easterly direction by the level of low water on the southern shore of Eilean Phail to its easternmost extremity at low water (latitude 57°36.046'N, longitude 7°08.940'W);

thence in a generally easterly direction in a straight line for a distance of 890 metres to a point (latitude 57°36.129'N, longitude 7°08.062'W) on low water at the southernmost extremity of Hamersay;

thence in a generally north-easterly direction by the level of low water to a point (latitude 57°36.177'N, longitude 7°07.924'W) at the easternmost extremity of Hamersay at low water;

thence in a north-easterly direction in a straight line for a distance of 915 metres to the southernmost extremity of the island of Flodday at low water (latitude 57°36.445'N, longitude 7°07.152'W);

thence in an easterly direction in a straight line for a distance of 1190 metres to low water at Weavers Point on the northern shore of Lochmaddy (latitude 57°36.480'N, longitude 7°05.970'W);

thence in a southerly direction for a distance of 1535 metres to low water at Leac nam Madadh on Aird nam Madadh on the southern shore of Lochmaddy (latitude 57°35.655'N, longitude 7°06.000'W);

thence in a generally westerly direction by the level of low water to Rubha Mor (latitude 57°35.504'N, longitude 7°08.548'W);

thence in a westerly direction in a straight line for a distance of 610 metres to a point (latitude 57°35.477'N, longitude 7°09.150'W) on low water at the easternmost extremity of Vallaquie Island;

PART II
 —cont.

thence in a generally north-westerly direction by the level of low water to a point on the northern shore of the said island (latitude 57°35.553'N, longitude 7°09.346'W);

thence in a straight line due north for a distance of 50 metres to a point (latitude 57°35.578'N, longitude 7°09.346'W) at low water on the southern shore of Cam-ard-Mor;

thence in a generally easterly, then northerly direction by the level of low water to a point (latitude 57°35.635'N, longitude 7°09.206'W) on the eastern shore of Cam-ard-Mor;

thence in a straight line due west to the level of high water at a point (latitude 57°35.635'N, longitude 7°09.242'W);

thence in a generally north-westerly then westerly direction by the level of high water to a point (latitude 57°35.683'N, longitude 7°09.450'W) on the northern shore of Cam-ard-Mor;

thence in a straight line due north to the level of low water at a point (latitude 57°35.709'N, longitude 7°09.450'W);

thence in a generally westerly direction by the line of low water to a point (latitude 57°35.684'N, longitude 7°09.818'W) on the northern shore of Cam-ard-Mor;

thence in a straight line due north for a distance of 10 metres to a point at low water on the southern shore of Eilean Leiravay (latitude 57°35.690'N, longitude 7°09.818'W);

thence in a generally easterly, northerly and then north-westerly direction by the level of low water to a point on the northern shore of Eilean Leiravay (latitude 57°35.799'N, longitude 7°10.010'W);

thence in a straight line due north for a distance of 12 metres across Strom Ban to a point on low water on the southern shore of Scaalan (latitude 57°35.813'N, longitude 7°10.010'W);

thence in a generally south-easterly, then easterly, then north-westerly, then easterly and then northerly direction by the level of low water to a point on the eastern shore of Scaalan (latitude 57°35.865'N, longitude 7°09.782'W);

thence in an easterly direction for a distance of 45 metres across Strom Dearg to a point on low water (latitude 57°35.865'N, longitude 7°09.738'W);

thence in a generally south-easterly, northerly and then easterly direction by the level of low water to a point 110 metres west of the easternmost extremity of Lochmaddy Pier;

thence in a straight line due north to the level of high water at a point (latitude 57°35.822'N, longitude 7°09.416'W);

thence in a generally south-easterly and then north-easterly direction by the level of high water to a point (latitude 57°35.854'N, longitude 7°09.250'W);

thence in a straight line due east at a point (latitude 57°35.854'N, longitude 7°09.231'W) on low water;

thence in a generally northerly direction by the level of low water to the point of commencement; and

(b) the harbour premises at Lochmaddy.

(2) A plan showing the area the limits whereof are defined in subsection (1)(a) above and signed by Peter Vandore, Q.C., 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 office of the Secretary of State in Edinburgh, one at the Department of Transport, one with the sheriff clerk of the sheriff court district of Lochmaddy and one at the office of the chief executive of the Council. 1936 c. 52.

(3) The limits within which the provisions of the Order of 1878 and the Order of 1949 shall apply shall comprise the area defined in subsection (1) above, and section 2 (Limits of harbour) of the Order of 1878 is hereby repealed.

(4) Notwithstanding the repeal of section 2 (Limits of harbour) of the Order of 1878, section 28 (Vessels not to anchor within certain limits) of that Order shall have effect only within the limits specified in the former section, those limits being as follows:—

Commencing at a point (latitude 57°35.800'N, longitude 7°09.366'W) on the level of high water 27.3 metres to the west of the existing pier;

thence in a south-westerly direction in a straight line for a distance of 239.3 metres to a point (latitude 57°35.683'N, longitude 7°09.450'W) on the northern shoreline of Cam-ard-Mor;

thence in a generally east-south-easterly direction by the line of high water to a point (latitude 57°35.633'N, longitude 7°09.250'W) on the eastern tip of Cam-ard-Mor;

thence in a straight line due east for a distance of 91 metres to a point (latitude 57°35.633'N, longitude 7°09.133'W);

thence in a straight line due north to a point (latitude 57°35.833'N, longitude 7°09.133'W);

thence in a straight line due west to a point (latitude 57°35.833'N, longitude 7°09.250'W) on the eastern tip of Aird a'Bhaile;

thence in a generally south-westerly direction by the line of high water to the point of commencement.

(5) This Order shall not extend to subject any person to liability for charges in respect of vessels which merely pass through the area defined in subsection (1)(a) above without making use of any facilities provided by the Council.

c. xxx *Lochmaddy and East Loch Tarbert*
(*Improvement of Piers &c.*) *Order Confirmation Act 1984*

PART II

—cont.

Harbour limits
at East Loch
Tarbert.

1964 c. 40.

5.—(1) The area within which the Group shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Harbours Act 1964 shall comprise the area bounded as follows:—

(a) Commencing at a point (latitude 57°53.866'N, longitude 6°47.983'W) on the northern shore of East Loch Tarbert 100 metres west of the existing pier;

thence in a generally easterly direction by the line of high water to the southern extremity of Rubha na Tuatha (latitude 57°53.816'N, longitude 6°46.750'W);

thence in a straight line for a distance of 1040 metres in a generally south-south-westerly direction to a point (latitude 57°53.350'N, longitude 6°47.333'W) in the vicinity of Diraclett on the southern shore of East Loch Tarbert;

thence in a generally north-westerly direction by the line of high water to a point (latitude 57°53.783'N, longitude 6°46.966'W) on the same shore;

thence in a straight line for a distance of 160 metres in a generally northerly direction to the point of commencement; and

(b) the harbour premises at East Loch Tarbert.

1936 c. 52.

(2) A plan showing the area the limits whereof are defined in subsection (1) (a) above and signed by Peter Vandore, Q.C., 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 office of the Secretary of State in Edinburgh, one at the Department of Transport, one with the sheriff clerk of the sheriff court district of Stornoway and one at the head office of the Group.

(3) The limits within which the provisions of the Order of 1873 shall apply shall comprise the area defined in subsection (1) above, and section 2 (Limits) of that Order is hereby repealed.

Byelaws.

1847 c. 27.

6. In addition to the byelaws which may be made by the harbour authority under section 83 of the Harbours, Docks, and Piers Clauses Act 1847 and otherwise, the harbour authority may, in relation to the harbour premises, from time to time make such byelaws as they think fit with reference to all or any of the following matters:—

(a) for regulating the types of vehicles which may enter or be on harbour premises and the use, placing, loading or unloading, and driving of such vehicles, and giving powers to officers or servants of the harbour authority in relation to such regulation;

(b) the management, control and regulation of the harbour premises and of goods, wares and merchandise using or passing over the harbour premises;

(c) safety precautions to be observed by persons using or being on harbour premises.

Power to detain
vessels, etc., in
certain
circumstances.

7. If any person contravenes any of the provisions of the Orders of 1873, 1878, 1949 or this Order or of any byelaw made thereunder by the harbour authority and any damage is occasioned thereby to the

property of the harbour authority, they may, in addition to any right they have to recover from any such person the cost of repairing or making good any such damage, detain any vessel or other property belonging to or in charge of such person or belonging to his employers until the cost has been paid or until reasonable security therefor has been given to the harbour authority.

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

- (a) dangerous to persons or vessels using the harbour; or
- (b) a hindrance to the navigation of the harbour;

to remedy its condition to the satisfaction of the harbour 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 on summary conviction to a fine not exceeding level 2 on the standard scale as defined by section 289 G of the Criminal Procedure (Scotland) Act 1975; and

1975 c. 21.

- (b) the harbour authority may carry out the works they consider necessary to remedy the condition of the pier, landing place or embankment in question, and may recover the expenses of so doing from the person on whom the notice was served.

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

(4) A person aggrieved by a notice served by the harbour authority under subsection (1) above may appeal to the sheriff who may confirm, vary or quash the notice as he thinks just, and make such order in the matter as he considers equitable, and the determination of the sheriff on any such appeal shall be binding on all parties, and shall be final.

(5) In this section “harbour” means the area the limits of which are defined in section 4 (1) of this Order, or the area the limits of which are defined in section 5 (1) of this Order, as the case may be.

PART III

WORKS

9. Subject to the provisions of this Order, the Council may, in the Power of lines and situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, construct, execute and maintain the works hereinafter

Council to
construct works.

c. xxx *Lochmaddy and East Loch Tarbert
(Improvement of Piers &c.) Order Confirmation Act 1984*

PART III
—cont.

described, with all necessary works and conveniences connected therewith—

(a) in the Lochmaddy Electoral Division, parish of North Uist;
and

(b) in the Tarbert Electoral Division, parish of Harris;
in the Western Isles Islands Area—

Works at Lochmaddy

Work No. 1

A vehicle assembly area of predominantly rectangular shape having a width of 28 metres commencing at a point 17 metres east-south-east of the easternmost extremity of H.M. Coastguard Station adjacent to the A865 road and extending in a south-westerly direction for a distance of 52 metres and there terminating;

Work No. 2

An approach ramp of solid construction commencing at the termination of Work No. 1 turning through an arc from a south-westerly to an east-south-easterly direction and extending in all for a distance of 51 metres and there terminating, the width of the ramp being 28 metres at its commencement and 6 metres at its termination;

Work No. 3

An adjustable steel link bridge commencing at the termination of Work No. 2 by a hinged connection and extending in a generally east-south-easterly direction for a distance of 36 metres and there terminating, to form a link between any vessel and Work No. 2 and including machinery for lifting and lowering the end adjoining the vessel, the width of the bridge being 6 metres at its commencement and 9 metres at its termination;

Work No. 4

Two fixed structures of solid construction for guiding the adjustable end of the steel link bridge (Work No. 3), and supporting the cables for lifting and lowering the said bridge, the centre of the northern structure being situated at a point 10 metres west of the southernmost extremity of the office of Caledonian MacBrayne Limited, the structure having a width of 3.25 metres and a length of 5 metres and being recessed 2 metres into the southern face of the existing pier, the centre of the southern structure being situated at a point 13 metres south-south-west of the centre of the northern structure, the structure having a width of 3.25 metres and a length of 5.25 metres;

Work No. 5

An extension of the existing pier of open construction 9.9 metres wide and extending in a generally east-south-easterly direction for a distance of 45.5 metres and there terminating;

Work No. 6

Rock and soft dredging in two areas of irregular shape shown hatched black on the deposited plans one area being situated to the south of the said existing pier and having an area of 1,250 square metres, the other area being situated to the north of the existing pier and of Work No. 5, and having an area of 1,640 square metres;

Works at East Loch Tarbert

Work No. 7

An access road of solid construction to the vehicle assembly area (Work No. 9) connecting with the A868 Tarbert road near to its junction with the A859 Stornoway-Rodel road, with an additional access to the said A868 road, commencing at a point 13 metres north-east of the northernmost extremity of the Masonic Hall and extending in an east-north-easterly direction turning through an arc to a generally south-easterly direction then turning through an arc to a generally easterly direction and extending in all for a distance of 307 metres and there terminating.

10.—(1) Subject to the provisions of this Order, the Group may, in the lines and situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, construct, execute and maintain the works hereinafter described, with all necessary works and conveniences connected therewith, in the Tarbert Electoral Division, parish of Harris in the Western Isles Islands Area—

Power of Group
to construct
works.

Work No. 8

The reconstruction and extension in solid construction of the existing slipway which adjoins the eastern side of the existing stone jetty on the southern shore of East Loch Tarbert, having a width of 7 metres and extending overall in a generally easterly direction for a distance of 43 metres and there terminating;

Work No. 9

A vehicle assembly area of irregular shape adjoining Work No. 7 on its eastern extremity, having a maximum width of 25 metres and extending for a maximum distance of 87 metres;

Work No. 10

An access road of solid construction 4.5 metres wide connecting the vehicle assembly area (Work No. 9) to the existing pier access road, commencing at a point 68 metres north-north-west of the south-western extremity of the existing pier and extending in a generally south-easterly direction for a distance of 68 metres and there terminating;

Work No. 11

An approach ramp of open construction 7 metres wide commencing at a point 30 metres west of the commencement of Work No. 10 and extending in a southerly direction then turning

PART III
—cont.

through an arc to a generally south-easterly direction and extending in all for a distance of 40 metres and there terminating;

Work No. 12

An adjustable steel link bridge commencing at the termination of Work No. 11 by a hinged connection and extending in a generally south-easterly direction for a distance of 36 metres and there terminating, to form a link between any vessel and Work No. 11 and including machinery for lifting and lowering the end adjoining the vessel, the width of the bridge being 6 metres at its commencement and 9 metres at its termination;

Work No. 13

Two fixed structures of solid construction for guiding the adjustable end of the steel link bridge (Work No. 12), and supporting cables for lifting and lowering the said bridge, the centre of the northern structure being situated at a point 31 metres east-south-east of the termination of Work No. 11, the centre of the southern structure being situated 15.75 metres south-west of the centre of the northern structure, both structures having a width of 3.3 metres and a length of 6 metres;

Work No. 14

A berthing dolphin of circular shape of solid construction with its centre located at a point 14 metres east-south-east of the south-east corner of the existing pier and having an area of 27 square metres, with a connecting walkway to the existing pier.

Power to renew,
etc., works.

11. Subject to the provisions of this Order the appropriate authority may, within the limits of deviation, renew, replace, or otherwise alter temporarily or permanently the authorised works.

For protection
of British
Telecommuni-
cations, etc.

12. As early as possible, and in any event not less than 28 days before any of the authorised works are started, the appropriate authority shall give notice in writing to British Telecommunications or the successor company to British Telecommunications of the intended works.

Power to
acquire lands.

13. Subject to the provisions of this Order the appropriate authority may enter upon, take and use all or any of the lands delineated on the deposited plans and described in the deposited book of reference which they may require.

Period of
compulsory
purchase.

14. The powers of the appropriate authority for the compulsory purchase of lands under section 13 (Power to acquire lands) above shall cease on 31st December 1994.

Private rights
of way over
lands taken
compulsorily.

15. 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:

Provided that the appropriate authority shall make compensation to all parties interested in respect of any such rights and such compensation shall be settled, failing agreement, in the manner

provided by the Land Compensation (Scotland) Act 1963 for settling disputed compensation for lands authorised to be acquired compulsorily.

PART III
—cont.
1963 c. 51.

16. At any time after notice to treat has been served for any land which the appropriate authority are authorised by this Order to purchase compulsorily the appropriate authority may, after giving to the owner and occupier of the land not less than 28 days' notice, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections 83 to 89 of the Lands Clauses Consolidation (Scotland) Act 1845 but subject to the payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with. Powers of entry. 1845 c. 19.

17.—(1) In lieu of acquiring any land that may be acquired compulsorily under this Order the appropriate authority may acquire compulsorily such servitudes and rights in or over that land as they may require for the purposes of this Order. Power to acquire servitudes or rights.

(2) Accordingly the appropriate authority may give notice to treat in respect of any such servitude or right describing the nature thereof, and the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such servitudes and rights as if they were lands within the meaning of those Acts.

(3) Where the appropriate authority have acquired a servitude or right in or over any land under this section—

- (a) they shall not be required or (except by agreement) entitled to fence off or sever that land from the adjoining land; and
- (b) the owner or occupier of the land for the time being shall subject to the servitude or right have the same right to use and cultivate the land as if this Order had not been made.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for a servitude or right is given under this section requires the appropriate authority to acquire the land, the appropriate authority shall not be entitled to acquire the servitude or right unless the Lands Tribunal for Scotland determines that the servitude or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house:

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

18. Subject to the provisions of this Order, in the construction or execution of the authorised works the appropriate authority may deviate laterally from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation, and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres. Power to deviate.

c. xxx *Lochmaddy and East Loch Tarbert
(Improvement of Piers &c.) Order Confirmation Act 1984*

PART III
—cont.
Subsidiary
works.

19. Subject to the provisions of this Order the appropriate authority, for the purposes of or in connection with Works Nos. 1 to 14, may within the limits of deviation construct, execute, place and maintain all such subsidiary works and conveniences as they may find necessary or expedient for or in connection with those works.

Correction of
errors in
deposited plans
and book of
reference.

20.—(1) If the deposited plans 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 appropriate authority, after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question, may apply to the sheriff for the correction thereof.

(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.

1973 c. 65.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments and a copy thereof respectively in the Private Bill Office, House of Commons, and with the sheriff clerk and with the proper officer of the Council within the meaning of section 235 of the Local Government (Scotland) Act 1973, and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the appropriate authority to take the land or a servitude therein (as the case may be) and execute the works in accordance with the certificate.

(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.

(5) In this section "the sheriff clerk" means, in relation to works and lands at Lochmaddy, the sheriff clerk of the sheriff court district of Lochmaddy and, in relation to works and lands at East Loch Tarbert, the sheriff clerk of the sheriff court district of Stornoway.

Works deemed
to be within
Western Isles
Islands Area.

21. So much of any work constructed or placed pursuant to this Order as is not within the Western Isles Islands Area shall be deemed for all purposes to be within that Area.

PART IV

MISCELLANEOUS

Tidal works not
to be executed
without
approval of
Secretary of
State.

22.—(1) A tidal work shall not be constructed, executed, renewed, replaced or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, executed, renewed, replaced or altered in contravention of this section—

(a) the Secretary of State may by notice in writing require the appropriate authority at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the appropriate authority, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the appropriate authority.

23.—(1) The appropriate authority shall at or near a tidal work during the whole time of the construction, execution, renewal, replacement or alteration thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation, as the Secretary of State shall from time to time direct. Lights on tidal works during construction.

(2) If the appropriate 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 the statutory maximum and on conviction on indictment to a fine.

24.—(1) After the completion of a tidal work the appropriate 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. Permanent lights on tidal works.

(2) If the appropriate 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 the statutory maximum and on conviction on indictment to a fine.

25. 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 it is proposed to construct and execute the work and any expenditure incurred by him in such survey and examination shall be recoverable from the appropriate authority. Survey of tidal works.

26.—(1) In the case of injury to or destruction or decay of a tidal work or any part thereof the appropriate 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.

c. xxx *Lochmaddy and East Loch Tarbert
(Improvement of Piers &c.) Order Confirmation Act 1984*

PART IV
—cont.

(2) If the appropriate authority fail to notify the Commissioners of Northern Lighthouses as required by this section or 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 the statutory maximum and on conviction on indictment to a fine.

Abatement of
works
abandoned or
decayed.

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

(2) Where a work consisting partly of a tidal work and partly of works 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 30 days from the date when a notice under this section is served upon the appropriate authority, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the appropriate authority.

Saving for
marine works.
1937 c. 28.

28. 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
certain
enactments, etc.
1971 c. 60.
1974 c. 20.
1974 c. 40.
1975 c. 8.
1974 c. 37.

29.—(1) Nothing in this Order affects the operation of—

- (a) the Prevention of Oil Pollution Act 1971;
- (b) the Dumping at Sea Act 1974;
- (c) the Control of Pollution Act 1974;
- (d) the Offshore Petroleum Development (Scotland) Act 1975;
- (e) any of the relevant statutory provisions as defined in section 53 of the Health and Safety at Work etc. Act 1974.

Saving for Coast
Protection Act
1949.
1949 c. 74.

(2) Nothing in this Order shall affect the jurisdiction or authority of the Commissioners of Northern Lighthouses.

30. Nothing in this Order shall exempt the appropriate authority from the provisions of Part I of the Coast Protection Act 1949.

Saving for town
and country
planning.
1972 c. 52.

31. In relation to the works authorised by section 10 (Power of Group to construct works) above—

- (a) the provisions of the Town and Country Planning (Scotland) Act 1972 and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be

exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Order;

PART IV
—cont.

- (b) development authorised by this Order shall not be deemed to be development permitted by virtue of Class VII or XV B in Schedule 1 to the Town and Country Planning (General Development) (Scotland) Order 1981 or of the corresponding provision of any general order superseding that order made under section 21 of the Town and Country Planning (Scotland) Act 1972.

S.I. 1981/830.

1972 c. 52.

32. For the protection of the North of Scotland Hydro-Electric Board (in this section referred to as “the board”) the provisions of this section shall, unless otherwise agreed in writing between the appropriate authority and the board, apply and have effect—

For protection
of North of
Scotland Hydro-
Electric Board.

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

“adequate alternative apparatus” means alternative apparatus adequate to enable the board to fulfil their statutory functions in a manner not less efficient than previously;

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

1882 c. 56.

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

“plan” includes a section and description;

“situation” includes depth;

“specified work” means any work or thing done under the powers of this Order (not being a work or thing to which section 26 of the Public Utilities Street Works Act 1950 applies).

1950 c. 39.

- (2) Notwithstanding anything in this Order or shown on the deposited plans the appropriate authority shall not, under the powers of this Order, acquire any apparatus otherwise than by agreement.

- (3) If the appropriate authority in the exercise of the powers conferred upon them by this Order acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed nor shall any right of the board to use, maintain, repair, renew, extend or inspect any apparatus in that land be extinguished until adequate alternative apparatus has been laid or constructed and is in operation.

- (4) (a) If the appropriate authority for the purpose of the execution of any specified work, require the alteration, protection or removal of any apparatus, they shall give to the board written notice of such requirement with a plan of the proposed work and, if it is agreed between the appropriate authority and the board, or in default of agreement determined by arbitration, that the removal of the apparatus is reasonably required and that it should be removed, the following provisions of this paragraph shall have effect;

PART IV
—cont.

(b) If it is so agreed or determined that any apparatus should be removed, or if in consequence of the execution of any specified work the board shall require to remove any apparatus, the appropriate authority shall, to the reasonable satisfaction of the board, afford to the board the necessary facilities and rights including rights of access for the laying or construction of adequate alternative apparatus in other lands of the appropriate authority and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that if the alternative apparatus or any part thereof is to be laid or constructed elsewhere than in other lands of the appropriate authority and the appropriate authority are unable to afford such facilities and rights as aforesaid the board shall forthwith make every reasonable effort to assist the appropriate authority to obtain the necessary facilities and rights.

(5) (a) Any alternative apparatus to be laid or constructed in lands of the appropriate authority in pursuance of paragraph (4) of this section shall be laid or constructed in such manner and in such line or situation as may be agreed between the board and the appropriate authority or, in default of agreement, settled by arbitration;

(b) The board shall, after the manner of laying or construction and the line and situation of any alternative apparatus have been agreed, or settled by arbitration as aforesaid, and after the grant to the board of any such facilities and rights as are referred to in paragraph (4) of this section, proceed with all reasonable dispatch to lay or construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required to be removed under the provisions of this section.

(6) Where in accordance with the provisions of this section the appropriate authority afford to the board facilities and rights for the laying or construction, maintenance, repair, renewal and inspection in lands of the appropriate authority of alternative apparatus in substitution for apparatus to be removed as aforesaid, such facilities and rights shall be granted upon such terms and conditions as may be agreed between the appropriate authority and the board or, in default of agreement, determined by arbitration:

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be laid or constructed across or through a specified work the arbiter shall—

(i) give effect to all reasonable requirements of the appropriate authority for ensuring the safety and efficient operation of the specified work and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such work and also to all reasonable requirements of the board for ensuring the safety and efficient operation of the alternative apparatus; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to any terms and conditions applicable to the apparatus laid

or constructed through the lands of the appropriate authority for which the alternative apparatus is to be substituted;

PART IV
—cont.

- (b) If the facilities and rights to be afforded by the appropriate authority in respect of any alternative apparatus, and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbiter, less favourable on the whole to the board than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbiter shall make such provision for payment of compensation by the appropriate authority to the board in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case.

(7) (a) Not less than 28 days before commencing to execute any specified work which is near to, or is likely to affect, any apparatus the alteration, protection or removal of which has not been required by the appropriate authority under paragraph (4) of this section or the maintenance of any such apparatus the appropriate authority shall submit to the board a plan of the work to be executed;

(b) Such work shall be executed only in accordance with the plan submitted as aforesaid and in accordance with such measures as may reasonably be required by the board for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the board shall be entitled by their officer to watch and inspect the execution of such work:

Provided that—

- (i) if the board, within 14 days after the submission to them of any such plan, shall, in consequence of the work proposed by the appropriate authority, reasonably require the alteration, protection or removal of any apparatus and give written notice to the appropriate authority of such requirement, the foregoing provisions of this section shall apply and have effect as if the alteration, protection and removal of such apparatus had been required under paragraph (4) thereof; and
- (ii) nothing in this sub-paragraph shall preclude the appropriate authority from submitting at any time, or from time to time, but in no case less than 28 days before commencing the execution of any such work, a new plan in lieu of the plan previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan;

(c) The appropriate authority shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but, in such a case, they shall give notice to the board forthwith and shall furnish the board with a plan of the work as soon as is reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as is reasonably practicable in the circumstances.

(8) If in consequence of the exercise of the powers of this Order the access to any apparatus is materially obstructed, the appropriate authority shall provide such alternative means of access to that

PART IV
 —cont.

apparatus as is required by the board for the effective discharge of their statutory functions.

(9) The appropriate authority shall repay to the board the costs, charges and expenses incurred by the board in or in connection with—

- (a) the removal and relaying or replacing, alteration or protection of apparatus or the provision and laying or construction of new apparatus under any of the provisions of this section;
- (b) the cutting off of apparatus from any other apparatus; and
- (c) any other work or thing reasonably necessary in consequence of any operation referred to in this paragraph.

(10) (a) Any difference which may arise between the appropriate authority and the board under this section shall be referred to and determined by an arbiter to be mutually agreed upon between the appropriate authority and the board, or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Electrical Engineers;

(b) In settling any difference under this section the arbiter shall have regard to the statutory duties or obligations of the board in respect of any apparatus and may require the appropriate authority to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

Repeal.

33. Section 27 (Undertakers to be pilotage Authority) of the Order of 1878 is hereby repealed.

Crown rights.

34.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing, nothing in this Order authorises the appropriate authority to take, use, enter upon or in any manner interfere with, any land or interests in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

- (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; 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.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
 FOR W. J. SHARP

Controller and Chief Executive of Her Majesty's Stationery Office and
 Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

£2.70 net

ISBN 0 10 513084 2