



### CHAPTER cxiii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Lerwick Harbour. A.D. 1927.

[22nd December 1927.]

**W**HEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by one of His Majesty's Principal Secretaries of State under the provisions of the Private Legislation Procedure (Scotland) Act 1899 as read with the Secretaries of State Act 1926 and it is requisite that the said Order should be confirmed by Parliament :

62 & 63  
Vict. c. 47.  
16 & 17  
Geo. 5. c. 18.

Be it therefore enacted by the King'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 shall be and the same is hereby confirmed.

Confirma-  
tion of  
Order in  
schedule.

2. This Act may be cited as the Lerwick Harbour Order Confirmation Act 1927.

Short title.

A.D. 1927.

SCHEDULE.

LERWICK HARBOUR.

*Provisional Order to authorise the Trustees of the port and harbour of Lerwick to construct a harbour work to borrow money and for other purposes.*

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 incorporated and were authorised to construct the harbour and other works therein described and to borrow money for those purposes :

And whereas by the Act of 1877 the Trustees were authorised to administer the port and harbour of Lerwick (hereinafter referred to as "the harbour") and to demand and take the rates and charges specified in and authorised by that Act :

And whereas by the Lerwick Harbour Order 1911 (hereinafter referred to as "the Order of 1911") the Trustees were authorised to construct additional works and to borrow additional money for those purposes :

And whereas in order to afford the necessary facilities for vessels engaged in the fishing industry at the harbour and to improve the quay accommodation and to effect improvements for the benefit of the trade and shipping at the harbour it is expedient to authorise the Trustees to construct and maintain the work hereinafter in this Order described and to borrow money as hereinafter in this Order provided :

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

And whereas plans and sections showing the lines situation and levels of the work authorised by this Order were duly deposited with the sheriff clerk of the county of Zetland at Lerwick which plans and sections are hereinafter referred to as the deposited plans and sections :

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

A.D. 1927.

Now therefore in pursuance of the powers contained in the last mentioned Act as read with the Secretaries of State Act 1926 the Secretary of State orders as follows :—

1. This Order may be cited as the Lerwick Harbour Order 1927 and this Order and the Lerwick Harbour Acts 1877 to 1911 may be cited as the Lerwick Harbour Acts 1877 to 1927.

Short title.

2. This Order shall commence and have effect on and from the date of the passing of the Act confirming the same.

Commence-  
ment of  
Order.

3. In this Order unless there be something in the subject or context inconsistent with or repugnant to such construction :—

Interpreta-  
tion.

(a) The several words and expressions to which meanings are assigned by the Harbour Acts or by the Acts wholly or partially incorporated herewith shall subject to the provisions of this Order have the same respective meanings; and

(b) The following words and expressions shall have the meanings assigned to them in this section (that is to say) :—

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

“ The Order of 1903 ” means the Lerwick Harbour Order 1903 ;

“ The Order of 1911 ” means the Lerwick Harbour Order 1911 ;

“ The Harbour Acts ” means the Act of 1877 the Order of 1903 and the Order of 1911 ;

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

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“The Trustees” means the Trustees of the harbour for the time being acting under the Harbour Acts and this Order;

“The work” means the Work No. 2 authorised by this Order or as the case may require any part thereof.

Incorporation of Acts.

4.—(1) The following Acts and parts of Acts so far as the same respectively are applicable for the purposes and are not inconsistent with or varied by the provisions of this Order are hereby incorporated with and form part of this Order (that is to say):—

The following sections of the Commissioners Clauses Act 1847 56 to 65 both inclusive 67 to 74 both inclusive 89 90 91 96 to 102 both inclusive 104 105 and 108 to 111 both inclusive and the word “Commissioners” in the said sections shall mean the Trustees.

The Lands Clauses Acts (except so much thereof as relates to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking).

The Harbours Docks and Piers Clauses Act 1847 with the exception of sections 16 to 19 (unless the Trustees are required by the Board of Trade to provide and maintain a lifeboat a tide gauge or a barometer) and except sections 77 78 84 and 85 of that Act:

Provided that the following expressions used in the Harbours Docks and Piers Clauses Act 1847 shall have the following respective meanings (that is to say):—

The expressions “packet boat or Post Office packet” and “Post Office bag of letters” shall mean respectively a vessel employed by or under the Post Office or the Admiralty for the conveyance under contract of postal packets as defined by the Post Office Act 1908 and a mail-bag as defined by the same Act Provided that nothing in the Harbours Docks and Piers Clauses Act 1847 or in this Order shall exempt from rates duties regulation or control any such vessel as aforesaid if she also conveys passengers or goods for hire.

(2) For the purposes of the incorporation of the said Acts the expression "the special Act" in those Acts shall mean this Order. A.D. 1927.

5. Subject to the provisions of this Order the Trustees may by agreement purchase and use such of the lands shown on the deposited plans for the purposes of this Order as may be requisite for the purposes of the work and they may further by agreement purchase and hold for the purposes of this Order any additional lands not exceeding in the whole ten acres but nothing in this Order shall exempt the Trustees from any interdict or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any additional lands so purchased. Power to take lands by agreement.

6. Subject to the provisions of this Order the Trustees may make and maintain in the lines and according to the levels shown on the deposited plans and sections the work hereinafter described or some part or parts thereof together with all necessary works and conveniences connected therewith (that is to say):— Construction of work.

Work No. 2 A solid wall or breastwork commencing at a point on the sea bed one foot six inches or thereabouts due east of the southern extremity of Alexandra Wharf and extending thence parallel to the face of Alexandra Wharf in a north-north-westerly direction for a distance of two hundred and forty-three feet or thereabouts thence in a north-east by easterly direction for a distance of eleven feet or thereabouts thence in a north-north-westerly direction for a distance of two hundred and forty-three feet or thereabouts thence in a north-westerly direction for a distance of one hundred and seventy-seven feet or thereabouts and terminating at a point on the sea bed six hundred and seventy-four feet or thereabouts from the point of commencement.

Which work is in the burgh and parish of Lerwick and county of Zetland and in the bed of the sea ex adverso of the said burgh and parish.

7. In the execution of the work the Trustees may deviate laterally from the lines of the work within the limits of lateral deviation shown on the deposited Powers of deviation.

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A.D. 1927. — plans and may deviate vertically from the levels of the said work as shown on the deposited sections to any extent not exceeding ten feet upwards and to any extent downwards Provided that no deviation either lateral or vertical below high water mark shall be made without the consent in writing of the Board of Trade.

Power to borrow money.

8. The Trustees may borrow on the security of the rates authorised to be levied by the Harbour Acts and of their revenues and undertaking for the purpose of Work No. 2 and for the other purposes of this Order to which capital is properly applicable any sum not exceeding twenty thousand pounds in addition to the sum of twenty thousand pounds which they were authorised to borrow by the Act of 1877 and the sum of fifteen thousand pounds which they were authorised to borrow by the Order of 1911 and all the provisions of the Act of 1877 relative to borrowing powers shall apply to any moneys borrowed under this Order.

Application of harbour revenue.

9. Section 68 (Application of revenues) of the Act of 1877 and section 5 (Application of rates) of the Order of 1903 shall be and are hereby repealed and the following provisions shall apply and have effect in lieu thereof:—

The revenue received from rates or otherwise under the Harbour Acts shall be applicable for the purposes and in the order following and not otherwise:—

(1) In payment of the costs charges and expenses of and incident to the preparing for obtaining and confirming this Order;

(2) In payment of the expense properly chargeable to revenue of the maintenance repair and management of the harbour and all other works belonging to the Trustees and all conveniences connected therewith;

(3) In payment year by year of the interest accruing on money borrowed under the Harbour Acts and this Order;

(4) In payment of the instalments as they become due in discharge of any money so borrowed and repayable by instalments and in forming a sinking fund in accordance

with the Harbour Acts and this Order for re- A.D. 1927.  
payment of principal moneys borrowed under  
the said Acts and this Order in so far as  
such money may be borrowed to be repaid  
otherwise than by instalments:

The surplus (if any) after providing for the purposes  
aforesaid shall be applied by the Trustees in  
the general improvement of the harbour and  
other works belonging to the Trustees.

10. The following provisions of the Order of 1911 Application  
shall extend and apply to the exercise of the powers of pro-  
of this Order as if the same were with all necessary visions of  
modifications expressly re-enacted in this Order Order of  
(namely) :— 1911.

Section 18 (Works below high-water mark not to  
be commenced without consent of  
Board of Trade);

Section 19 (Lights on works during construction);

Section 20 (Permanent lights on works);

Section 21 (Survey of works by Board of Trade);

Section 22 (Abatement of work abandoned or  
decayed);

Section 23 (Exemption of lifeboat crew);

Section 25 (Life-saving apparatus may be at-  
tached to works);

Section 26 (Lifebuoys to be kept).

11. Section 27 (Annual account to be sent to Board Annual  
of Trade) of the Order of 1911 shall be and is hereby account to  
repealed and the following provisions shall apply and be sent to  
have effect in lieu thereof :— Ministry of  
Transport.

(1) The Trustees shall within two months after the  
date to which their annual accounts and balance  
sheet are made up send a copy of the same to  
the Minister of Transport :

(2) The Trustees shall as from the expiration of  
that period be liable to a penalty not exceeding  
twenty pounds for every week or part of a  
week during which they refuse or neglect to  
comply with the foregoing provisions :

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(3) The accounts of the Trustees referred to in this section and in section 50 of the Harbours Docks and Piers Clauses Act 1847 respectively shall be made up to the end of the thirty-first day of December in each year.

Byelaws.

12.—(1) The byelaws which may from time to time be made by the Trustees in exercise of the power in that behalf conferred on them by section 83 of the Harbours Docks and Piers Clauses Act 1847 may provide for imposing a penalty not exceeding forty shillings for the breach or non-observance of any of the byelaws.

(2) No byelaw (other than byelaws already made and duly confirmed) shall come into operation until it has received the allowance and confirmation of the Minister of Transport and that allowance and confirmation shall be sufficient for all purposes.

Crown rights.

13. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained shall authorise the Trustees to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land heritages subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or of the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Costs of Order.

14. All costs charges and expenses of and incident to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Trustees out of the rates authorised to be levied by the Harbour Acts.

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