



Macduff Harbour Order Confirmation Act 1964

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ELIZABETH II



1964 CHAPTER v

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to
Macduff Harbour. [10th June 1964]

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 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 Macduff Harbour Order
Confirmation Act 1964. Short title

SCHEDULE

MACDUFF HARBOUR

Provisional Order to authorise the provost, magistrates and councillors of the burgh of Macduff to carry out works for the improvement of the harbour of Macduff and to borrow money and for other purposes.

Whereas in pursuance of the power conferred on the provost, magistrates and Town Council of the burgh of Macduff (hereinafter referred to as "the Town Council") by the Macduff Harbour Order, 1898, the Town Council in the year 1898 purchased the harbour of Macduff in the county of Banff:

And whereas it is expedient that the Town Council should be authorised to carry out the works hereinafter described for the improvement of the said harbour and to borrow money for the purposes of the said works and of their harbour undertaking:

And whereas it is expedient that the further powers mentioned in this Order should be conferred on the Town Council:

And whereas estimates have been prepared by the Town Council in relation to the following purposes in respect of which they are to be authorised to borrow money and such estimates are as follows:—

Construction of new quays and works in connection therewith	£58,900
Dredging	£86,600
Construction of a new fishmarket building	£9,500

And whereas plans and sections showing the lines, situations and levels of the works to be constructed under the powers of this Order were duly deposited with the sheriff clerk of the county of Banff and such plans and sections are respectively called the deposited plans and the deposited 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, 1936:

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

PART I

PRELIMINARY

1.—(1) This Order may be cited as the Macduff Harbour Order 1964.

(2) The Macduff Harbour Acts, 1847 to 1932, and this Order may be cited together as the Macduff Harbour Acts, 1847 to 1964.

Short and
collective
title.

2.—(1) In this Order unless there is something in the subject or context repugnant to such construction the following words and expressions have the meanings hereby assigned to them, that is to say:—

PART I
—cont.

Interpretation.

“ Act of 1847 ” means the Harbours, Docks and Piers Clauses Act, 1847;

“ Act of 1937 ” means the Harbours, Piers and Ferries (Scotland) Act, 1937;

“ burgh ” means the burgh of Macduff;

“ daily fine ” means a fine for every day on which any offence is continued after conviction therefor;

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

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

“ existing ” means existing at the date of commencement;

“ existing harbour ” means and includes the harbour of Macduff as defined by the Macduff Harbour Improvement Act, 1847, and the existing works in connection therewith;

“ harbour ” means and includes the existing harbour and the works;

“ harbour master ” means the harbour master for the harbour or other officer deputed by him;

“ harbour undertaking ” means and includes the harbour and the conveniences connected therewith and the right to levy rates, tolls and all other rights vested in the Town Council by the Macduff Harbour Acts, 1847 to 1932, and this Order and the entire undertaking of the Town Council in connection with the harbour;

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

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

“ Minister ” means the Minister of Transport;

“ Town Council ” means the Town Council of the burgh;

“ the works ” means the works authorised by this Order or, as the case may require, any part thereof.

(2) Any reference in this Order to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment.

3. Part III of the Act of 1937 so far as applicable and not inconsistent with or varied by the provisions of this Order is hereby incorporated with and forms part of this Order and for the purposes of such incorporation the works shall be deemed to be a marine work to which the said Part III shall apply.

Incorporation
of Act of 1937.

4.—(1) Notwithstanding anything contained in section 10 of the Act of 1937, or in the Macduff Harbour Acts, 1847 to 1932, sections 22, 24, 25, 26, 79, 80, 86 to 90, 94 to 98, and 101 of the Act of 1847 shall not apply to the works.

Application
of Act of 1847

PART I
—cont.

(2) In the application to this Order of the Act of 1847 the expression “the special Act” shall mean this Order and the word “vessel” shall include a seaplane on the surface of the water:

Provided that nothing in the Act of 1847 or this Order shall in any circumstances require or authorise the harbour master or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

(3) Section 28 of the Act of 1847 (which section exempts certain vessels from the provisions of the Act) in its application to this Order shall have effect as if in the said section for the words from “or any packet boat” to “any such packet boat or packet” there were substituted the words “or any vessel employed by or under the authority of the Postmaster General for the conveyance under contract of postal packets as defined by the Post Office Act, 1953, not being a vessel also conveying passengers or goods for hire or reward, or any mail bag as so defined conveyed by any such vessel”.

PART II

WORKS

Power to carry
out works.

5. Subject to the provisions of this Order, the Town Council may, in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plans and sections, carry out the following works in the burgh and in the parish of Gamrie in the county of Banff and on the foreshore and in the sea adjacent thereto:—

Work No. 1 The deepening of the entrance channel to the existing harbour over a width of seventy feet to a depth of ten feet below low-water mark commencing at the outer end of the existing Lighthouse Pier and extending in a south-easterly direction for a distance of two hundred and forty feet or thereby to the point of termination, and extending to an area of 0.386 acres together with the underpinning in connection therewith of the south-western face of the said pier.

Work No. 2 The demolition of the existing south corner of the root of the existing Lighthouse Pier and the reconstruction of the south corner of the said pier as a solid structure curved in plan to a radius of twenty feet.

Work No. 3 The deepening of the existing West Harbour to a depth of ten feet below low-water mark, commencing at a point three hundred and sixty-two feet or thereby in a south-westerly direction from the south corner of the existing Fish Jetty and extending in a north-easterly direction for a distance of three hundred and six feet or thereby, thence in a north-north-easterly direction for a distance of seventy-two feet or thereby to a line joining the north corner of the existing

Fish Jetty with the existing north-east corner of the root of the existing Lighthouse Pier and there terminating and extending to an area of 0.889 acres together with the underpinning in connection therewith of the existing quay walls.

Work No. 4 The decking over by means of a new quay of open-work construction of so much of the existing Outer Basin as lies to the north-east of a line drawn at right angles to Shore Street Quay commencing at a point on Shore Street Quay ninety feet or thereby from the north-eastern corner of the existing Outer Basin and terminating at a point where the said line meets the inner or south-east face of the existing Middle Jetty.

Work No. 5 The construction of a new spur jetty as a solid structure commencing at the termination of Work No. 4 and extending over the existing Middle Jetty and continuing in a north-westerly direction for a distance of one hundred and twenty-five feet or thereby into the existing North Basin and there terminating and the construction over part thereof and over part of Work No. 4 of a new fishmarket building.

Work No. 6 The construction of an approach way twenty feet or thereby in width over part of Shore Street Quay commencing at the north-eastern end of the said quay and extending in a south-westerly direction for a distance of one hundred and fifty-three feet or thereby and there terminating.

Work No. 7 The demolition of the portion of the existing Middle Jetty lying to the south-west of the termination of Work No. 4 shown on the deposited plans and the deepening to a depth of ten feet below low-water mark of the site thereof and of so much of the existing Outer Basin as does not form part of the site of the said Work No. 4 together with the underpinning in connection therewith of the existing quay walls.

Work No. 8 The deepening of the existing North Basin to a depth of ten feet below low-water mark commencing at the north-west face of the existing Middle Jetty and extending in a north-westerly direction for a distance of one hundred and eighty feet or thereby and terminating at the refaced wall (Work No. 9) of the existing North Breakwater and extending to an area of 0.743 acres.

Work No. 9 The refacing as a solid structure of the inner wall of the existing North Breakwater commencing at the junction of the said inner wall with the existing spur jetty and extending in a north-westerly direction for a distance of one hundred and sixty-five feet or thereby, thence in a northerly direction for a distance of one hundred and ten feet or thereby and thence in a north-easterly direction for a distance of fifty feet or thereby to meet the inner wall of the existing New Breakwater and there terminating.

Work No. 10 A new quay of solid construction twenty feet or thereby in width commencing at a point on the existing quay

PART II
—cont.

wall on the south side of the Princess Royal Basin thirty feet or thereby from the east end of the said basin and extending in a northerly direction for a distance of forty-eight feet or thereby to meet the south face of the existing slipway jetty and there terminating.

Work No. 11 The construction of a face wall of solid construction along the south face of the existing slipway jetty commencing at the point where the new quay (Work No. 10) meets the said south face and extending in a north-westerly direction for a distance of two hundred and seven feet or thereby to the end of the said slipway jetty and there terminating.

Work No. 12 The deepening to a depth of eight feet below low-water mark of part of the Princess Royal Basin situated between Work No. 11 and the existing quay wall on the south side of the said basin commencing on the west side of the new quay (Work No. 10) and extending westwards for a distance of one hundred and five feet or thereby and there terminating, together with the underpinning in connection therewith of the existing quay walls.

Power to deviate.

6. Subject to the provisions of this Order, in carrying out the works the Town Council may deviate laterally from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of deviation shown on the said plans and may deviate vertically from the levels of the works as shown on the deposited sections to any extent not exceeding ten feet:

Provided that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Minister.

Temporary closure of harbour.

7.—(1) For the purpose of carrying out Works Nos. 3, 7, 8 and 12 referred to in section 5 (Power to carry out works) of this Order, the Town Council may notwithstanding anything in any enactment—

- (a) temporarily close the existing harbour to vessels; and
- (b) dry out the harbour by pumping or otherwise.

(2) Notwithstanding anything contained in this Order, the existing harbour shall not be closed to vessels for a longer period than two years.

Removal of vessels from harbour.

8.—(1) Before exercising the power conferred on them by section 7 (Temporary closure of harbour) of this Order temporarily to close the existing harbour to vessels the Town Council shall—

- (a) publish a notice of their intention to do so in Lloyd's List and once in each of two successive weeks in a local newspaper circulating in the burgh, with an interval between the dates of publication of not less than six clear days;
- (b) display a notice thereof in a conspicuous position in the harbour; and
- (c) give notice thereof in writing to the Minister.

(2) Each of the notices shall—

PART II
—cont.

(a) state that the Town Council intend temporarily to close the existing harbour to vessels; and

(b) specify a date, which shall be a date not earlier than one month after the date of the later of the two publications, by which all vessels must be removed from the existing harbour.

(3) If—

(a) the master of any vessel within the existing harbour does not remove the same before the date referred to in paragraph (b) of subsection (2) of this section; or

(b) any vessel remaining within the existing harbour after that date has been laid by or neglected or abandoned or has become unserviceable;

the harbour master may cause every such vessel to be removed from the existing harbour and moored or laid in any other place where it may without injury be moored or laid and the Town Council shall not be liable for any loss or injury caused to any person by reason of the exercise of the powers conferred by this subsection.

(4) The Town Council may recover from the owner of any vessel removed as aforesaid all expenses incurred by them in respect of its removal.

(5) The powers conferred on the Town Council and the harbour master by this section shall be in addition to and without prejudice to the powers as to the removal of vessels conferred upon them by sections 64 and 65 of the Act of 1847.

9. If any vessel enters the existing harbour after the date referred to in paragraph (b) of subsection (2) of section 8 (Removal of vessels from harbour) of this Order, the harbour master may direct the master of such vessel forthwith to remove the vessel from the existing harbour, and if the master of such vessel does not forthwith comply with such directions the provisions of subsections (3) to (5) inclusive of the said section 8 shall apply to and in respect of such vessel as if such vessel had been within the existing harbour before the said date. As to vessels entering harbour after date of closure.

10. Subject to the provisions of this Order, the Town Council may from time to time erect, construct and maintain, whether temporarily or permanently, all such necessary works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance and use of the works. Powers as to subsidiary works.

11.—(1) Subject to the provisions of this Order, the Town Council may rebuild, maintain, repair, renew, widen, alter, improve, restore, reconstruct and extend the harbour undertaking and any works thereof, and in connection therewith may from time to time construct, erect, maintain, alter and improve all necessary ancillary works, buildings, apparatus and conveniences, and may also from time to time lay down and maintain rails, tramways and turntables. Power to maintain and improve harbour undertaking.

PART II
—*cont.*

(2) A line of rails or tramway constructed under the powers of this Order shall not be used for the public conveyance of passengers unless it has been certified by the Minister to be fit for that purpose.

(3) Any electric light and power or other apparatus constructed and maintained under this Order shall be so constructed, used and maintained as to prevent any interference with any telegraphic line (as defined by the Telegraph Act, 1878) belonging to or used by the Postmaster General or with telegraphic communication by means of any such line.

Penalty for
obstructing
works.

12. Any person who wilfully obstructs any person acting under the authority of the Town Council in setting out the lines of the works, or who pulls up or removes any poles or stakes driven into the ground for the purpose of such setting out, shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding five pounds and shall in addition be liable to repay to the Town Council any expenses incurred by them in making good such damage.

Powers to
cease in
certain events.

13.—(1) If the works are not substantially commenced within five years from the date of commencement, or such extended time as the Secretary of State may in the circumstances by order direct, the powers granted to the Town Council by this Order for the construction of the works shall cease.

(2) If the execution of the works after having been substantially commenced is virtually suspended for twelve consecutive months, the said powers shall cease except as to so much of the works as is then completed unless the Secretary of State by order directs that the said powers shall continue and remain in force but, subject to the foregoing provision as to completion, the said powers shall cease in any event within eight years from the date of commencement.

(3) A certificate of the Secretary of State to the effect that the works have not been substantially commenced or that they have been virtually suspended for twelve consecutive months shall, for the purposes of this section, be conclusive evidence of the facts stated in such certificate.

Works to be
deemed
part of
harbour
undertaking
and in burgh.

14.—(1) The works shall be deemed for all purposes to be part of the harbour undertaking and all byelaws, rules and regulations of the Town Council for the time being in force relating to the harbour undertaking shall be applicable and shall apply to the works and may be enforced by the Town Council accordingly.

(2) The works shall be deemed for all purposes to be within the burgh and within the parish of Gamrie.

Works below
high-water
mark to be
subject to
approval of
Minister.

15.—(1) Subject to the provisions of this Order any work authorised by this Order shall, so far as the same shall be on, in, under or over tidal waters or tidal lands below high-water mark, be constructed

only in accordance with plans and sections approved by the Minister and subject to such conditions and restrictions as he may prescribe before such work is begun.

PART II
—cont.

(2) Any alteration or extension of any such work shall be subject to the like approval.

(3) If any such work be commenced or completed contrary to the provisions of this section, the Minister may abate and remove the same and restore the site thereof to its former condition at the cost of the Town Council, and the amount of such cost shall be a debt due from the Town Council to the Crown and shall be recoverable accordingly.

16. If at any time the Minister deems it expedient to order a survey and examination of any work carried out by the Town Council under the powers of this Order on, in, under or over tidal waters or tidal lands below high-water mark or of the site upon which it is proposed to construct any such work, the Town Council shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Town Council to the Crown and shall be recoverable accordingly.

Survey of
works by
Minister.

17.—(1) Where any work carried out by the Town Council under the powers of this Order wholly or partially on, in, under or over tidal waters or tidal lands below high-water mark is abandoned or suffered to fall into decay, the Minister may, by notice in writing, either require the Town Council at their own expense to repair and restore such part of such work as is situated below high-water mark or any portion thereof or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Minister may think proper.

Abatement
of work
abandoned or
decayed.

(2) Where any part of such work which has been abandoned or suffered to fall into decay is situated above high-water mark and is in such condition as to interfere or to cause reasonable apprehension that the same may interfere with the right of navigation or the exercise of other public rights over the foreshore, the Minister may include any such part of such work or any portion thereof in any notice under this section.

(3) If the Town Council fail to comply with any notice under this section within thirty days from the date when the notice is served upon them, the Minister may execute the works specified in the notice at the expense of the Town Council and the amount of such expense shall be a debt due from the Town Council to the Crown and shall be recoverable accordingly.

18.—(1) The Town Council shall, at or near such part of any work authorised by this Order as shall be below high-water mark, during the whole time of the construction, renewal, extension or alteration thereof, exhibit and keep burning every night from sunset to sunrise

Lights on
works during
construction.

PART II
—*cont.*

such lights (if any) and take such other steps for the prevention of danger to navigation as the Minister shall from time to time require or approve.

(2) If the Town Council fail to comply in any respect with the provisions of this section they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding twenty pounds and to a daily fine not exceeding two pounds.

Permanent
lights on
works.

19.—(1) After the completion of any work authorised by this Order the Town Council shall at the outer extremity of such work below high-water mark exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Town Council fail to comply in any respect with the provisions of this section they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding twenty pounds and to a daily fine not exceeding two pounds.

Provision
against danger
to navigation.

20.—(1) In the case of injury to or destruction or decay of any work authorised by this Order or any part thereof, so far as the same shall be constructed on, in, under or over any tidal waters or tidal lands below high-water mark, the Town Council shall lay down such buoys, exhibit such lights or take such other means for preventing, so far as may be, danger to navigation as shall from time to time be directed by the Commissioners of Northern Lighthouses, and shall apply to those commissioners for directions as to the means to be taken.

(2) If the Town Council fail to comply in any respect with the provisions of this section they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding ten pounds and to a daily fine not exceeding one pound.

PART III

BORROWING

Power to
borrow
money for
purposes of
works, etc.

21. The power to borrow money conferred on county and town councils by section 21 of the Act of 1937 shall extend and apply with respect to the works, and with regard to the exercise by the Town Council of the powers conferred on them by this Order, in the same way as if the works were works authorised by a provisional order made under section 4 of the Act of 1937, and as if the exercise of the powers conferred on the Town Council by this Order were purposes of the Act of 1937.

Further
borrowing
powers.

22. The Town Council in addition to any other powers of borrowing which they now have may, with the sanction of the Secretary of State, borrow such sums of money as may be necessary for—

- (a) the general purposes of the harbour undertaking;
- (b) the payment of the costs, charges and expenses of, and incidental to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto:

Provided that money so borrowed for purpose (a) shall be repaid within thirty years from the date or dates of borrowing and that money so borrowed for purpose (b) shall be repaid within five years from the date of commencement.

PART III
—cont.

23. All moneys borrowed by the Town Council under this Order shall be applied only to the purposes for which such sums are authorised to be borrowed and to which capital is properly applicable.

Application
of moneys
borrowed.

24. It shall not be lawful to exercise the powers of borrowing conferred by this Order, other than the power of borrowing to pay the costs, charges and expenses of this Order, except in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act, 1946, or of section 259 of the Local Government (Scotland) Act, 1947.

Saving for
control on
borrowing.

PART IV

MISCELLANEOUS

25.—(1) In their application to the Town Council sections 530 and 532 of the Merchant Shipping Act, 1894 (which confer powers on the Town Council with respect to and with respect to anything in or on any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto) shall have effect—

Powers with
respect to
disposal of
wrecks.

(a) subject to the provisions of the next following section; and

(b) in relation to a vessel sunk, stranded or abandoned before as well as after the date of commencement.

(2) Subject to the provisions of subsection (3) of this section and to any enactment for the time being in force limiting his liability the Town Council may recover from the owner of any vessel in relation to which they have exercised their powers under the said section 530 or the said section 532 any expenses reasonably incurred by them under those sections in relation to that vessel which are not reimbursed out of the proceeds of sale (if any) within the meaning of those sections.

(3) Except in a case which is in the opinion of the Town Council a case of emergency subsection (2) of this section shall not apply in relation to any vessel unless before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoys the Town Council have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under paragraph (b) of subsection (2) of the next following section, he shall be at liberty to do so and the Town Council shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and

PART IV
—cont.

in compliance with any directions for the prevention of interference with navigation which may be given to him by a duly authorised officer of the Town Council.

(4) Notice under the last foregoing subsection to the owner of any vessel may be served by the Town Council either by delivering it to him or by sending it to him by post in a letter sent by the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom or, if the owner or any such place of business or abode is not known to the Town Council, by displaying the notice at the harbour office for the period of its duration.

(5) In this section the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof.

Protection of
Crown
interests in
wrecks.

26.—(1) Without prejudice to section 741 of the Merchant Shipping Act, 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act, 1906, the powers conferred on the Town Council by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

(a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;

(b) except with the consent of the Secretary of State for Defence which may be given with or without such a direction as is referred to in paragraph (b) of the next following subsection in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which at the time when the vessel was sunk, stranded or abandoned—

(i) had been required to be placed at the disposal of Her Majesty or of a government department; and

(ii) was appropriated to the service under the direction and control of the Secretary of State for Defence of Her Majesty's ships of war.

(2) The Town Council shall give notice in writing to the Secretary of State for Defence and to the Minister of any decision of the Town Council to exercise in relation to any vessel referred to in paragraph (b) of subsection (1) of this section any of the powers aforesaid other than the power of lighting and buoying, and, except in a case which is in the opinion of the Town Council a case of emergency, shall not proceed with the exercise thereof—

(a) except with the consent of the Secretary of State for Defence and the Minister before the expiration of a period of fourteen days from the giving of the notice; or

(b) if before the expiration of the said period there is served on the Town Council a direction by the Secretary of State for Defence or the Minister that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where in any such case as aforesaid the Town Council proceed to exercise those powers without the consent and before the expiration

of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid they shall not in the exercise of those powers use any explosives and if before the expiration of the period aforesaid such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of the last foregoing section:

PART IV
—cont.

Provided that—

- (i) the Town Council shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of the foregoing subsection but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the last foregoing section to have been duly served under paragraph (b) of this subsection;
- (ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Minister for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Town Council by the said section 530 the Town Council shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised, removed or recovered under that section and any surplus proceeds of sale within the meaning of that section in accordance with such directions, if any, as may be given to them by the receiver of wreck and on exercising the said power of sale in the case of any property the Town Council shall discharge any sums payable in respect of that property by way of duties of customs or excise, purchase tax or surcharge in respect of sugar or molasses and any sums so discharged shall be deemed to be expenses incurred by the Town Council under that section.

(4) Any limitation on the powers of the Town Council in relation to any vessel arising by virtue of subsection (1) or subsection (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Commissioners of Northern Lighthouses by virtue of any enactment.

27. For the protection of the North of Scotland Hydro-Electric Board (in this section referred to as "the Board") the following provisions shall, unless otherwise agreed in writing between the Town Council and the Board, apply and have effect:—

For protection
of North of
Scotland
Hydro-Electric
Board.

- (1) Not less than twenty-one days before the Town Council pursuant to section 5 (Power to carry out works) of this Order proceed to carry out any excavations or demolitions or to erect any structures or carry out any other works of whatsoever nature over or within three feet of any electric lines, cables or other apparatus or electrical plant of the Board, they shall give notice in writing to the Board and if the carrying out of any such work makes it reasonably

PART IV
—cont.

necessary to protect or alter the position of any such electric lines, cables, apparatus or electrical plant, the Board may, and if reasonably so required by the Town Council shall, alter the position of such lines, cables, apparatus or electrical plant to such other position as may be reasonable and the Town Council shall repay to the Board the reasonable expenses incurred by the Board in connection with the alteration of the position of their said electric lines, cables, apparatus or electrical plant:

- (2) Any difference which may arise between the Town Council and the Board under this section shall be referred to an arbiter to be mutually chosen or, failing agreement, to be appointed by the sheriff of Banff on the application of either party and the decision of the arbiter shall be final.

Recovery of penalties.

28. Proceedings for any offence against this Order or for the recovery of any fine or penalty thereunder may be brought in any court of summary jurisdiction.

Crown rights.

29. 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 shall authorise the Town Council 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 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.

Saving for town and country planning.

30. The provisions of the Town and Country Planning (Scotland) Acts, 1947 to 1963, 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.

Costs of Order.

31. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order, or otherwise in relation thereto, shall be paid by the Town Council out of money to be borrowed by them under the powers of this Order for that purpose or in whole or in part out of the revenues of the harbour undertaking.

Table of Statutes referred to in this Act

Short title	Session and chapter
Harbours, Docks and Piers Clauses Act 1847	10 & 11 Vict. c. 27.
Macduff Harbour Improvement Act 1847 ...	10 & 11 Vict. c. cxxvii.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Merchant Shipping Act 1894	57 & 58 Vict. c. 60.
Merchant Shipping Act 1906	6 Edw. 7 c. 48.
Private Legislation Procedure (Scotland) Act 1936	26 Geo. 5 & 1 Edw. 8 c. 52.
Harbours, Piers and Ferries (Scotland) Act 1937	1 Edw. 8 & 1 Geo. 6 c. 28.
Borrowing (Control and Guarantees) Act 1946	9 & 10 Geo. 6 c. 58.
Local Government (Scotland) Act 1947 ...	10 & 11 Geo. 6 c. 43.
Post Office Act 1953	1 & 2 Eliz. 2 c. 36.

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