



Aberdeen Corporation (Fish Market) Order Confirmation Act 1969

CHAPTER xix

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ELIZABETH II



1969 CHAPTER XIX

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to
the Aberdeen Corporation (Fish Market).

[25th June 1969]

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:

1936 c. 52.

Be it therefore enacted by the Queen's most Excellent Majesty,
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 Aberdeen Corporation (Fish Short
title.
arket) Order Confirmation Act 1969.

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

- "board" means the Aberdeen Harbour Board,
- "city" means the city and royal burgh of Aberdeen,
- "Corporation" means the lord provost, magistrates and town council of the city,
- "existing" means existing immediately before the commencement of this Order,
- "fish market" means the existing fish market at the Corporation at Commercial Quay, Palmerston Quay and Albert Quay within the harbour and the buildings within the fish market used by the Corporation or their tenant for the purposes thereof immediately before the commencement of this Order,
- "harbour" and "harbour undertaking" have the same respective meanings as in the Order of 1960,
- "Order of 1960" means the Aberdeen Harbour Order, 1960,
- "repealed Acts" means those provisions of Acts and Orders which are repealed by this Order,
- "sheriff" means the sheriff of Aberdeen, Kincardine and Banff and includes his substitutes.

(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 including this Order.

PART II

TRANSFER OF FISH MARKET

3.—(1) The fish market as it exists and as it is used and enjoyed by and vested in the Corporation immediately before the commencement of this Order shall by virtue of this Order be transferred to and shall vest in the board and that without the necessity of any disposition, assignment, transfer, conveyance, notice of title or other instrument and shall form part of the harbour undertaking of the board.

(2) To enable the board to complete a title if thought fit to any property transferred to and vested in them by virtue of this Order by notice of title or otherwise this Order shall be deemed to be and may be used as a general disposition or assignment as the case may be of such property in favour of the board.

(3) For the removal of doubt it is hereby declared that nothing in this Order shall be construed as transferring to the board any sums shown as standing to the credit of the fish market renewal reserve account in the accounts of the Corporation at the commencement of this Order, and all such sums shall remain the property of the Corporation as fully and effectually as if the Act confirming this Order had not been passed.

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PART II
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Consideration for transfer of fish market

4. (1) In consideration of the transfer to and vesting in the Corporation of the fish market the board shall, within fourteen days from the commencement of this Order, pay to the Corporation the sum of thirty-seven thousand five hundred pounds, which sum, on payment, shall form part of the common good fund of the city.

(2) It is hereby provided and declared that the payment to be made in pursuance of the foregoing subsection shall in addition be accepted by the Corporation as being in full satisfaction and settlement of all claims whatsoever competent to them in respect of the resumption or surrender to the board before the 1st June, 1967, of any area which, prior to such resumption or surrender, had formed part of the fish market.

Board to continue to provide facilities at fish market for sale of fish by auction.

5. It shall be the duty of the board to continue to provide facilities at the fish market or at such other premises as they may hereafter provide for the purpose such facilities for the sale of fish by public auction may be adequate and suitable having regard to the needs of the city for the time being.

Saving for existing contracts, agreements, etc

6. (1) Subject to the provisions of subsection (2) hereof and notwithstanding from the commencement of this Order all leases, securities, contracts, agreements and obligations granted, made or entered into, in favour of or by the Corporation in relation to the fish market, shall, subject to the provisions of this Order, remain in full force and effect and shall be available to or against the board in the same manner as the same or might have been available to or against the Corporation immediately before the commencement of this Order.

(2) No agreement entered into or liability incurred by the Corporation (other than an agreement or a liability necessary for and incurred in the ordinary course of carrying on the fish market) after the 1st June, 1967, shall impose any liability on the Corporation unless such agreement has been entered into or such liability has been incurred with the approval of the board.

Recovery and apportionment of sums due to or by Corporation.

7. Notwithstanding anything in this Order -

(a) all sums which immediately before the commencement of this Order were due and payable to or by the Corporation in respect of the fish market may be levied, collected, and recovered by, or, as the case may be, from the Corporation in the same manner as they might have been levied, collected, sued for and recovered by or from them if this Order confirming this Order had not been passed;

(b) all sums accruing as due and payable to or by the Corporation in respect of the fish market after the commencement of this Order under any contract or arrangement entered into by the Corporation in respect of a period beginning before the commencement of this Order and ending after that date

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be apportioned between the Corporation and the board as at that date in such manner, having regard to all the circumstances of the case, as may be agreed between them

PART II
CONT.

8. All books and documents which, if the Act confirming this Order had not been passed, would have been evidence in respect of any matter for or against the Corporation in relation to the fish market shall, on and after the commencement of this Order, be admitted in evidence in respect of the same or like matter for or against the board.

Books, etc., to be admitted in evidence

PART III

POWERS OF BOARD WITH RESPECT TO FISH MARKET

9. For the purposes of this Part of the Order the expression "fish market" includes the existing fish market and such other premises as the board may hereafter provide in pursuance of section 2 of this Order.

Definition of fish market

10. (1) Subject to the provisions of this Order, the board shall have power to demand, take and recover in respect of the fish market such tolls, dues, stallage, rates and rents, all of which are hereinafter together referred to as "fish market tolls," as they think fit.

Authority to demand, take and recover tolls, etc.

(2) The provisions of sections 26, 30, 31, 33, 34, 47, 48, 50 and 51 of the Harbours Act 1964 (which relate to the availability for inspection and sale of lists of certain charges, to objections to and revision of certain dues and to ancillary matters) shall apply and have effect in relation to fish market tolls (whether or not they are ship, passenger and goods dues within the meaning of that Act) as they apply and have effect in relation to ship, passenger and goods dues, with the substitution—

reference to

(a) for any reference to ship, passenger and goods dues, of a reference to fish market tolls;

(b) for any reference to ships, passengers or goods, of a reference to any matter or thing in respect of which fish market tolls are being charged;

(c) for any reference to the National Ports Council or a Minister, of a reference to the Secretary of State; and

(d) for any reference to a marine work, of a reference to the harbour.

(3) Save as applied by this section the provisions of the Harbours Act 1964 shall not apply to fish market tolls.

(4) The fish market tolls payable under the repealed Acts shall remain in force and payable to the board until the same are altered or revised in accordance with the provisions of the Harbours Act 1964 applied by this section.

11. (1) No person shall sell or expose for sale any fish otherwise than by retail in any public place within the city except in the fish market.

Penalty for sales elsewhere than in fish market

(2) Any person who acts in contravention of the provisions of this section shall be guilty of an offence and shall be liable on conviction

PART III
- cont.

by a court of summary jurisdiction to a fine not exceeding fifty pounds or in the case of a second or subsequent conviction to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in that capacity, he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against accordingly.

(4) In the foregoing subsection, "director" in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body.

(5) Nothing in this section shall extend or apply to salmon, herring or to fish sold or exposed for sale in private premises.

Recovery of
tolls, etc

12. If any person liable for the payment of any tolls, dues, stallages, rates or rents payable to the board in respect of the fish market fails to pay the same when demanded the board or any person authorized by them to collect the same may seize any fish or article in the market belonging to the person liable to pay the same or in respect of which charge and if the tolls, dues, stallages, rates or rents and the reasonable expenses of such seizure are not forthwith paid the board may sell the fish or article seized and out of the money arising therefrom may retain such tolls, dues, stallages, rates or rents and expenses and the surplus proceeds (if any) of such sale to the owner of the article seized or such tolls, dues, stallages, rates or rents and expenses may be recovered in any court of competent jurisdiction.

Byelaws as to
fish market

13. (1) In addition to and without derogation from the power conferred on the board under section 91 (Power to make general byelaws) of the Order of 1960 the board may, subject to the provisions of this section, make byelaws for all or any of the following purposes:-

- (a) for fixing and regulating the hours during which the fish market or any part thereof shall be open;
- (b) for regulating the use of the fish market and the stalls and offices therein;
- (c) for regulating the conduct of persons working in the fish market or resorting thereto;
- (d) for fixing the time for and manner of collecting tolls, dues, stallages, rates and rents payable to the board in respect of the fish market and the stalls and offices therein; and
- (e) with respect to the cleansing of boxes used or intended to be used as containers for fish to be sold in the fish market.

(2) The confirming authority for the purpose of byelaws made under this section shall be the Minister of Transport.

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(3) The provisions of section 94 (General provisions as to bylaws) and section 95 (Evidence of bylaws) of and the Seventh Schedule to the Order of 1960 shall apply and have effect with respect to bylaws made by the board under this section as if this section were included in the Order of 1960;

Provided that for the purposes of such application as if read the said section 94 shall be read and have effect as if in place of the words "on summary conviction" there were inserted the words "on conviction by a court of summary jurisdiction";

14. Notwithstanding the provisions of the last preceding section and the provisions of section 19 (Repeal of this Order, bylaws made by the Corporation under the repealed Acts for any purpose mentioned in the last preceding section and in force immediately before the commencement of this Order shall remain in force until such time as bylaws for such purpose have been made by the board and confirmed in accordance with the provisions of this Order and the provisions of section 94 and section 95 of the Order of 1960 shall apply and have effect in relation to the said bylaws in all respects as if they had been made by the board under the Order of 1960;

Provided that in the application to the said bylaws of the Order of 1960—

(i) section 94 thereof shall be read and have effect as if in place of the words "on summary conviction" there were inserted the words "on conviction by a court of summary jurisdiction"; and

(ii) section 95 thereof shall be read and have effect as if references therein to the Commissioners were references to the Corporation and as if references to the repealed Acts were references to the repealed Acts as defined in this Order.

PART IV

OFFICERS AND SERVANTS

15. As from the commencement of this Order the board shall take over and employ every officer or servant who immediately before the commencement of this Order was employed whole-time by the Corporation in connection with the fish market in so far as such persons are willing to enter the service of the board on terms and conditions which, so far as practicable, are not less favourable than those on which they were employed immediately before the commencement of this Order;

Provided that any increase made by the Corporation after the 1st June, 1969, of the remuneration, salaries, wages or other emoluments of any of the officers or servants employed whole-time in connection with the fish market shall not impose any liability on the board unless the board have either before or after the making of such increase signified their approval thereof or unless such increase was made in accordance with any contract of service or scale of remuneration or at the instance of any wage-negotiating body

Transfer of
officers and
servants

PART IV
—cont.
Compensation
for loss of
office, etc
1964 c. 40.

16. (1) Any officer or servant of the Corporation who suffers loss of employment or loss or diminution of emoluments in consequence of any of the provisions of this Order shall be entitled to compensation payable by the board and determined in accordance with regulations for the time being in force made by the Minister of Transport under section 19 of the Harbours Act 1964.

(2) The amount of any compensation which would, apart from this subsection, become due to any officer or servant of the Corporation under the provisions of the foregoing subsection in respect of such loss as is therein mentioned shall be reduced by the amount of any sum paid or payable to him under any other enactment in respect of that loss, not being a sum which has been deducted in calculating the amount of such compensation.

(3) The board shall indemnify the Corporation in respect of any liability which they may incur under any other enactment in respect of payment to any such officer or servant as aforesaid in respect of loss of employment or loss or diminution of emoluments in consequence of the provisions of this Order.

Super-
annuation.

17. (1) Notwithstanding anything in this Order and subject to the provisions of this section, the provisions of the Local Government Superannuation (Scotland) Acts, 1937 to 1953, and any regulations made thereunder by the Corporation and in force at the commencement of this Order shall continue to apply to the transferred officers of the Corporation in respect of the transferred officers as if the confirming this Order had not been passed.

(2) For the purposes of recovering contributions to be made by transferred officers to the superannuation fund maintained by the Corporation under the said Acts the board shall in respect of transferred officers have the powers of an employing authority under the said Acts.

(3) The board shall periodically, on such dates as may be agreed between the Corporation and the board—

- (a) pay to the Corporation all such contributions received from them from the transferred officers in pursuance of the foregoing subsection; and
- (b) repay to the Corporation all payments made after the commencement of this Order by the Corporation to the superannuation fund in respect of the transferred officers in pursuance of the said Acts and resolutions and in pursuance of any enactment making provision with respect to contributions or supplements in respect of pensions.

(4) For the purposes of this section "transferred officer" means an officer or servant employed by the Corporation who, by virtue of this Order, becomes an officer or servant of the board and who, immediately before the commencement of this Order, was—

- (a) a contributor to the said superannuation fund maintained by the Corporation; or

(b) a whole-time servant of the Corporation who had not completed eighteen months' continuous service after appointment in a temporary capacity and who, by virtue of any such resolution as aforesaid, would, on completion of that period of service with the Corporation, have become a contributor to the said superannuation fund.

PART IV
cont.

(5) The transferred officers to whom this section applies shall not while in the employment of the board, be subject to the provisions of the board's superannuation scheme as contained in Part XI of the Order of 1969 and the Ninth Schedule annexed thereto.

PART V

MISCELLANEOUS AND GENERAL

18. Any question or difference between the Corporation and the board arising under this Order shall, at the instance of either party, be referred to and determined by an arbitrator to be appointed, failing agreement, by the sheriff. Arbitration

19. Subject to the provisions of this Order, as from the commencement of this Order the enactments specified in the Schedule to this Order are, so far as the same are not already repealed, hereby repealed to the extent mentioned in the third column of the said schedule. Repeals

20. Subject to the provisions of this Order, and notwithstanding the repeal of the repealed Acts, all existing orders, licences, registrations, permits, sanctions and approvals and things done in execution of or in relation to or granted in pursuance of any of the repealed Acts shall continue in force until repealed, altered or revoked under the provisions of this Order or otherwise or until their expiration and may be enforced in like manner and with the same penalties as if made for like purposes respectively under the provisions of this Order. General saving from effect of repeal

21. The costs, charges and expenses of and incidental to the preparation for, obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Corporation. Costs of Order

SCHEDULE

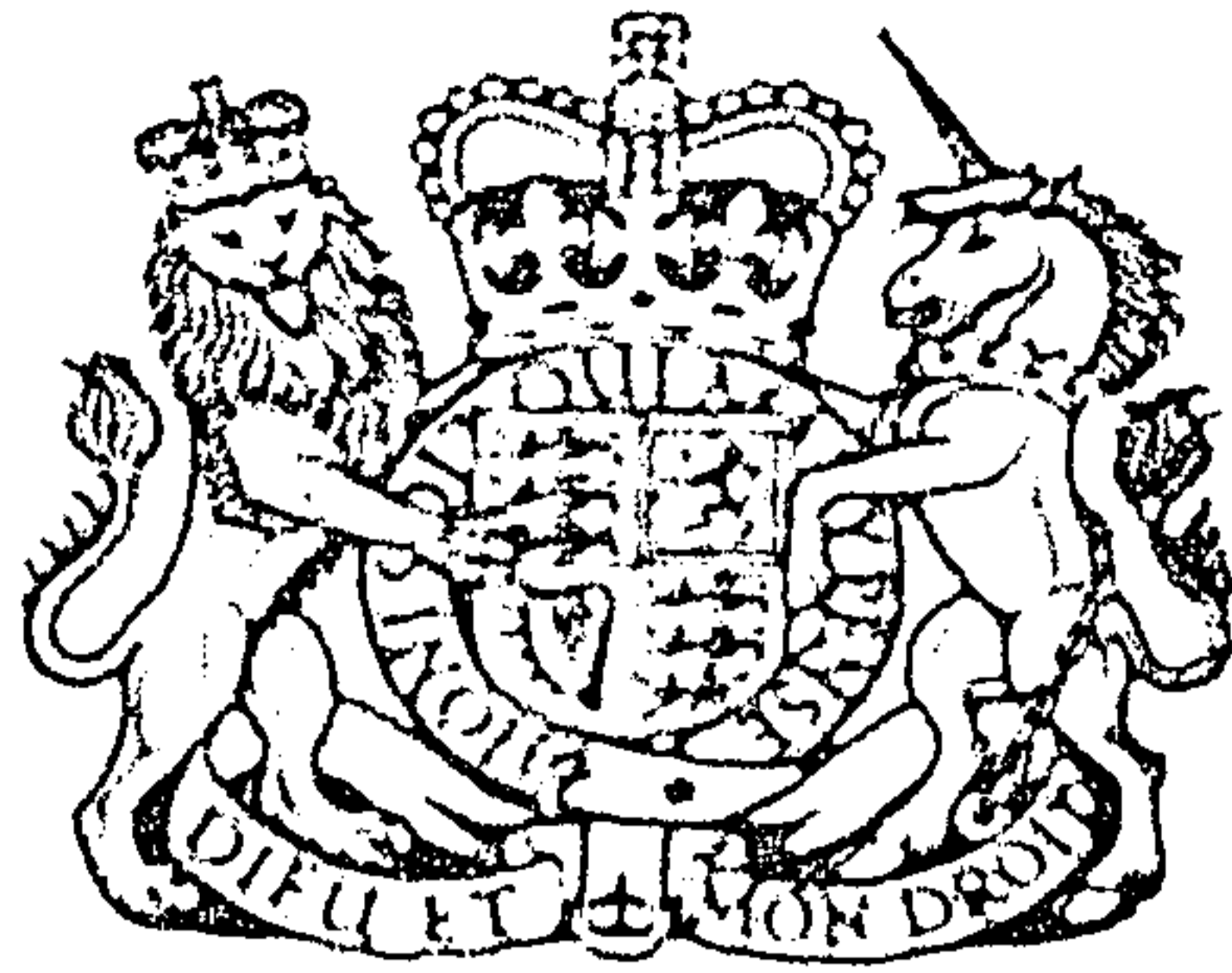
ENACTMENTS REPEALED

Session and Chapter	Enactment repealed	Extent of repeal
2 & 3 Geo. 6 c. iii	Aberdeen Corporation (General Powers) Order Confirmation Act, 1938	The following provisions of Order scheduled thereto: In section 19 (1) the words "and boxes tanning fish for sale;" in the fifth main sections 102 to 107 clause, section 107 (ii) (ii) and (iii), and section 107 (1) the words "and for regulating the conduct of persons working therein or re- siding thereon"; Schedule 2
5 & 6 Geo. 6 c. 1	Aberdeen Corporation (Fish Market Rates) Order Confirmation Act, 1942	The whole of the Act and Order scheduled thereto
4 Eliz. 2 c. iii	Aberdeen Corporation Order Confirmation Act, 1955	In section 69 of the Order scheduled thereto the "and as if the words for regulating the conduct persons working there residing thereon" were at the end of paragraph thereof
9 Eliz. 2 c. 1	Aberdeen Harbour Order Confirmation Act, 1960	In Part II of the Fourth to the Order scheduled the references to section to 105 of the Aberdeen Corporation (General Order, 1938, and the the reference to the Corporation (Fish Rates) Order, 1942

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Barclays Bank Act 1969

CHAPTER VIII

ARRANGEMENT OF SECTIONS

Section

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