

Stornoway Harbour Order Confirmation Act 1976

CHAPTER xxi

ARRANGEMENT OF SECTIONS

Section

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

SCHEDULE STORNOWAY HARBOUR

PART I

PRELIMINARY

1. Short title.
2. Interpretation.
3. Incorporation of enactment.

PART II

INCORPORATION AND CONSTITUTION OF COMMISSION

4. Incorporation of Commission.
5. Constitution of Commission.
6. Elected Commissioners.
7. Duration of office of members.

PART III

GENERAL FUNCTIONS OF COMMISSION

Section

8. Jurisdiction of Commission.
9. General duties and powers.
10. Power to dredge.
11. Restriction of works and dredging.
12. Licensing of works.
13. Licence to dredge.
14. Appeals in respect of works or dredging licence.

PART IV

HARBOUR REGULATION

15. General directions to vessels.
16. Special directions to vessels.
17. Publication of designations and general directions.
18. Failure to comply with directions.
19. Enforcement of directions.
20. Master's responsibility in relation to directions.
21. General byelaws.
22. Confirmation of byelaws.

PART V

FINANCIAL

23. Extension of power to levy dues.
24. Exemptions, rebates, etc., in respect of dues.
25. General borrowing powers.
26. Temporary borrowings.
27. Protection of lenders from inquiry.
28. Reserve fund.
29. Exemption from dues for Crown, etc.

PART VI

NEW WORKS

30. Power to construct works.
31. Power to deviate.

PART VII

PILOTAGE

32. Pilotage.

PART VIII

MISCELLANEOUS

Section

33. Works deemed to be in Islands Area.
34. Provision against danger to navigation.
35. Abatement of works abandoned or decayed.
36. Powers with respect to disposal of wrecks.
37. Protection of Crown interests in wrecks.
38. Removal of obstructions other than vessels.
39. Tidal work not to be executed without approval of Secretary of State.
40. Lights on tidal works during construction.
41. Survey of tidal works.
42. Permanent lights on tidal works.
43. Saving for marine works.
44. Saving for town and country planning.
45. Saving for Coast Protection Act.
46. Saving for Dumping at Sea Act.
47. Crown rights.
48. Repeals and amendment.
49. Costs of Order.

SCHEDULES:

Schedule 1—Administrative and other provisions affecting the Commission.

Schedule 2—

Part I—Enactments repealed (except the provisions set out in Part II).

Part II—Enactments saved from repeal.

ELIZABETH II



1976 CHAPTER xxi

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Stornoway Harbour. [29th July 1976]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said 1936 c. 52. Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.
2. This Act may be cited as the Stornoway Harbour Order Confirmation Act 1976. Short title.

SCHEDULE

STORNOWAY HARBOUR

Provisional Order to consolidate with amendments the Stornoway Harbour Orders 1926 to 1948; to amend the constitution of the Stornoway Pier and Harbour Commission; to extend the limits of the harbour under the control of the Commission; to make provision for the control of development within the harbour; to authorise the construction of works; to provide for the control of pilotage at the said harbour; and for other purposes.

Whereas—

(1) The harbour at Stornoway in the Western Isles Islands Area is, by virtue of the Stornoway Harbour Orders 1926 to 1948, under the superintendence and control of the Stornoway Pier and Harbour Commission as harbour authority for the said harbour:

(2) It is expedient that the said Orders be consolidated with amendments as hereinafter provided:

(3) The said Commission has since 1926 comprised various persons who, by appointment ex officio, by nomination and by election, have close affiliation with the inhabitants and affairs of Stornoway, and having regard to the reorganisation effected by the Local Government (Scotland) Act 1973 it is expedient that the constitution of the Commission be amended in certain respects so as to maintain that affiliation so far as is practicable:

1973 c. 65.

(4) Having regard, in particular, to recent and anticipated developments in connection with oil discoveries in the seas adjacent to northern Scotland it is expedient that the Commission should be empowered to exercise a limited degree of control over developments within the harbour:

(5) It is expedient that the limits of the said harbour be extended as in this Order provided, and that provision be made for the control of pilotage in relation to the harbour:

(6) In order to accommodate the increasing numbers of vessels requiring deep-water berths in the harbour it is expedient that the pier known as No. 2 Pier be extended by means of the works which the Commission is by this Order authorised to construct:

(7) Plans and sections showing the lines or situations and levels of the works to be constructed under the powers of this Order were duly deposited in March 1975 in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the sheriff clerk of the county of Ross and Cromarty and with the sheriff clerk depute at Stornoway:

(8) The purposes aforesaid 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 last-mentioned Act, the Secretary of State orders as follows:—

PART I

PRELIMINARY

1. This Order may be cited as the Stornoway Harbour Order 1976. Short title.
- 2.—(1) In this Order, except where the context otherwise requires— Interpretation.
 - “ the appointed day ” means the 1st May, 1977;
 - “ the burgh ” means the area comprising the electoral divisions of Newton, Goathill, Bayhead and Manor Park (or any electoral divisions replacing those divisions) in the Western Isles Islands Area;
 - “ the Commission ” means the Stornoway Pier and Harbour Commission;
 - “ the Council ” means the Western Isles Islands Council;
 - “ the deposited plans ” and “ the deposited sections ” mean respectively the plans and sections deposited in Parliament and elsewhere in connection with the application for this Order;
 - “ dredging licence ” means a licence granted under section 13 (Licence to dredge) of this Order;
 - “ dues ” means dues, charges, rates and tolls of every description for the time being payable under any enactment to the Commission;
 - “ enactment ” means any Act, any order (including this Order), scheme, byelaw or other instrument made under an Act, and any provision in an Act or in such order, scheme, byelaw or instrument;
 - “ general direction ” means a direction given under section 15 (General directions to vessels) of this Order;
 - “ the harbour ” means the area specified in subsection (1) (a) of section 8 (Jurisdiction of Commission) of this Order;
 - “ the harbourmaster ” means the harbourmaster appointed by the Commission and includes his authorised deputies and assistants and any person authorised by the Commission to act in that capacity;
 - “ the harbour premises ” means the docks, piers, wharves, quays, berths, roads, railways, bridges, sheds and other works and conveniences, and the lands, buildings and property of whatever nature adjacent to, or in the vicinity of, but not included in, the harbour, which are for the time being vested in or occupied or administered by the Commission and used for the purposes of the undertaking;
 - “ hovercraft ” has the same meaning as in the Hovercraft Act 1968 c. 59. 1968;
 - “ hydrofoil vessel ” means a vessel, however propelled, designed to be supported on foils;
 - “ the level of high water ” means the level of mean high-water springs;

PART I
—cont.

- “master” in relation to a vessel, means any person having or taking the command, charge or management of a vessel for the time being;
- “the secretary” means the secretary appointed by the Commission, and includes his authorised assistant;
- “the sheriff” means the sheriff principal of the sheriffdom of Grampian, Highland and Islands, and includes the sheriffs of that sheriffdom;
- “special direction” means a direction given under section 16 (Special directions to vessels) of this Order;
- “the Stornoway Trust” means the trustees incorporated under the Stornoway Trust Order 1975;
- “tidal work” means so much of any work for the time being belonging to the Commission as is on, under or over tidal waters or tidal lands below the level of high water;
- “the undertaking” means the undertaking of the Commission as for the time being authorised;
- “vessel” means every description of vessel however propelled or moved, and includes anything constructed or used to carry persons or goods by water, and a seaplane on or in the water, a hovercraft and a hydrofoil vessel;
- “works licence” means a licence granted under section 12 (Licensing of works) of this Order.

(2) Except where the context otherwise requires, any reference in this Order to an enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by any subsequent enactment including this Order.

Incorporation of
enactment.
1847 c. 27.

3.—(1) The provisions of the Harbours, Docks and Piers Clauses Act 1847 (except sections 6 to 13, 16 to 19, 25, 26, 28, 49 to 53, 77, 83 to 90, 95 to 101) are, so far as they are applicable for the purposes of and are not inconsistent with or varied by this Order, hereby incorporated with and form part of this Order.

(2) In construing the provisions as so incorporated—

- (i) the expression “the special Act” shall mean this Order, the expressions “the Promoters of the undertaking” and “the undertakers” shall mean the Commission and the expression “the harbour dock or pier” shall mean the harbour;
- (ii) the meaning of the word “vessel” as defined in section 2 (Interpretation) of this Order shall be substituted for the meaning assigned to that word by section 3 of that Act;
- (iii) section 15 shall be read and have effect as if for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding one hundred pounds”;
- (iv) section 23 shall be read and have effect as if for the words “provided that no such lease be granted for a longer term than three years” there were substituted the words “Provided that it shall be a condition of any such lease that in respect of

the subjects thereby leased, the persons taking the same shall be subject to the like responsibilities, liabilities, obligations and duties as the Commission was subject to immediately before the granting of the lease ”;

PART I
—cont.

- (v) section 63 shall be read and have effect as if for the words from “ penalty ” to the end of the section there were substituted the words “ penalty not exceeding one hundred pounds ”;
- (vi) section 69 shall be read and have effect as if for the words from “ sum ” to the end of the section there were substituted the words “ sum not exceeding fifty pounds ”.

PART II

INCORPORATION AND CONSTITUTION OF COMMISSION

4.—(1) Notwithstanding the repeal of enactments by this Order, and subject to the provisions of section 5 (Constitution of Commission) of this Order the Commission shall continue to be a body corporate with a common seal and with power to purchase, take, hold, lease, excamb, sell or dispose of lands and other property. Incorporation of Commission.

(2) Notwithstanding the repeal of enactments by this Order, the lands, rights, property, estate and securities belonging to or held by the Commission or the Commissioners under or by virtue of those enactments shall by virtue of this section remain vested in the Commission.

(3) A deed to which the Commission is a party shall be held to be validly executed on behalf of the Commission if it is sealed with the common seal of the Commission and subscribed for it and on its behalf by any two members of the Commission and the secretary to the Commission for the time being, whether attested by witnesses or not.

(4) A document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be a document so executed.

(5) The administrative and other provisions of Schedule 1 to this Order shall have effect in relation to the Commission.

5.—(1) On and after the appointed day the Commission shall consist of ten persons, being— Constitution of Commission.

- (a) a trustee or the factor of the Stornoway Trust who shall be nominated by that Trust;
- (b) three members of the Council who shall be nominated by the Council in the month of April in the year 1977 and in each third year thereafter, being members elected to represent the electoral divisions included in the burgh and so far as possible ratepayers in respect of property within the burgh;
- (c) two persons resident in, and being ratepayers in respect of property within the burgh (as evidenced by the Valuation Roll for the time being), who shall be nominated by the Stornoway Trust in the month of April in the year 1977 and in each third year thereafter;

PART II
—cont.

- (d) one person who shall be nominated by the sheriff in the month of April in the year 1977 and in each third year thereafter;
- (e) three persons resident in, and being ratepayers in respect of property within, the burgh, who shall be elected in the month of April in the year 1977 and in each third year thereafter in the manner set out in section 6 (Elected Commissioners) of this Order.

(2) A member of the Commission nominated by the Council who ceases to be a member of the Council shall thereupon cease to be a member of the Commission.

(3) If at any time a casual vacancy occurs in the office of a member of the Commission—

- (a) if the member is a nominated member the person or body, as the case may be, by whom that member was nominated shall as soon as practicable nominate another person to be a member in his place;
- (b) if the member is an elected member the Commission shall as soon as practicable appoint another person to fill the vacancy; and the person so nominated or appointed shall hold office during the same period as the person in whose place he has been nominated or appointed would have held office if the vacancy had not arisen:

Provided that in the event of a failure to nominate, pursuant to paragraph (a) of this subsection, within one month of the occurrence of the vacancy in question, the Commission may appoint to fill the vacancy a person who would have been qualified for such nomination.

(4) If the Secretary of State is satisfied that a member of the Commission—

- (a) has been absent from meetings of the Commission for six consecutive months without the leave of the Commission; or
- (b) has become notour bankrupt or has granted a trust deed for behoof of his creditors; or
- (c) is incapacitated by physical or mental illness from discharging the functions of such member; or
- (d) is otherwise unable or unfit to discharge the functions of such member;

the Secretary of State may declare his office as a member of the Commission to be vacant, and thereupon the office shall become vacant.

(5) A member of the Commission may resign his membership by notice in writing to the secretary.

Elected
Commissioners.

6.—(1) The secretary shall not later than 15th March in the year 1977 and in each third year thereafter by public notice call for nominations from dues payers of persons to hold office as elected Commissioners from the 1st May next following.

(2) Each nomination shall be delivered to the secretary not later than the 31st March following the notice referred to in subsection (1) of this section, and shall—

- (a) specify not more than three names for election, with sufficient identification;

(b) be signed by not less than three dues payers.

PART II
—cont.

(3) If not more than three persons are nominated for election as aforesaid the secretary shall by public notice declare them duly elected.

(4) If more than three persons are so nominated the secretary shall give public notice of the date, time and place of an election to be held during the month of April in the same year, such notice being given not less than fourteen days before the date of the election.

(5) At the time appointed for the election, and immediately before it, the persons assembled shall elect from among their number a preses.

(6) Each dues payer at such election shall be entitled to one vote for each of the three offices of Commissioner, and in case of an equality of votes the preses shall exercise a casting vote in addition to any deliberative vote exercised by him.

(7) Any dispute arising at an election as to whether a person is entitled to vote at the election shall be determined by the secretary or other officer of the Commission appointed for the purpose.

(8) At the conclusion of the election of Commissioners the secretary shall forthwith give public notice of the result thereof.

(9) In this section—

“ dues payer ” means any person who, in respect of the financial year of the Commission last ended has paid charges amounting in the aggregate to not less than £5;

“ public notice ” means a notice published once in a newspaper circulating in the burgh or by means of notices posted in conspicuous places throughout the burgh.

(10) Any corporate or other body entitled to vote under this section may by written mandate appoint one of its members, partners or officers to vote on its behalf.

7. Each member of the Commission nominated or elected under the provisions of this Order (other than a person nominated to fill a casual vacancy) shall, unless he shall previously die, resign or become disqualified for office, hold office as such for the period of three years from the 1st May following his nomination or election, but without prejudice to his again being nominated or elected.

Duration of
office of
members.

PART III

GENERAL FUNCTIONS OF COMMISSION

8.—(1) The area within which the Commission shall exercise jurisdiction and within which the powers of the harbourmaster shall be exercised shall comprise—

Jurisdiction of
Commission.

(a) that part of the Bay of Stornoway (excluding Holm Island) within the boundary—

Commencing at the southernmost point of Holm Island at latitude 58° 11' 11" N, longitude 6° 20' 19" W;

PART III
—cont.

thence following the level of high water to the easternmost point of Holm Island;

thence in a straight line to the westernmost point of Mol Shillinish;

thence following the level of high water in a generally westerly direction to Holm Point;

thence following the level of high water in a generally northerly direction to the point at which the southern face of the embankment linking Eilean na Gothail with Inaclete Point coincides with the level of high water;

thence in a straight line to the point at which the northern face of the said embankment coincides with the level of high water;

thence in a generally north-easterly and northerly direction along the seaward face of the sea wall to its junction (at latitude 58° 12' 50" N, longitude 6° 23' 12" W) with the retaining wall situated to the south of the footpath leading from Bayhead Street to the Lews Castle Policies;

thence in a westerly direction along the south face of that wall and range thereof to the sea wall on the west side of Bayhead;

thence following the level of high water in a generally southerly direction to the southernmost point of Rudh a' Bhaigh Uaine at latitude 58° 10' 27" N, longitude 6° 22' 33" W;

thence by a straight line to the point of commencement;
and

(b) the harbour premises.

1936 c. 52.

(2) A map showing the area the limits whereof are defined in subsection (1) (a) of this section and signed by Gavin Douglas, Q.C., Senior Counsel to the Secretary of State under the Private Legislation Procedure (Scotland) Act 1936 shall, within one month after the commencement of this Order, be deposited as follows, that is to say, one copy at the office of the Secretary of State in Edinburgh, one at the Department of Trade, one with the sheriff clerk of the sheriffdom of Grampian, Highland and Islands, one with the chief executive of the Western Isles Islands Area and one at the head office of the Commission for inspection by the public at all reasonable hours free of charge.

1947 c. i.

(3) Notwithstanding the foregoing provisions of this section, dues shall not be levied within the gifted properties referred to in section 22 (now repealed) of the Stornoway Harbour Order 1947.

General duties
and powers.

9.—(1) It shall be the duty of the Commission, subject to the provisions of this Order, to take such steps from time to time as it may consider necessary or expedient for the conservancy, protection, regulation, maintenance and improvement of the harbour and the navigation thereof, and for those purposes, and without prejudice to the generality of the foregoing, the Commission may—

(a) manage, regulate, improve and maintain the harbour;

(b) do all other things which in its opinion are expedient to facilitate the proper carrying on or development of the harbour;

(c) turn its resources to account so far as not required for the purposes of the undertaking.

PART III
—cont.

(2) Particular powers conferred or particular duties laid upon the Commission by this Order shall not be construed as derogating from each other or from the generality of subsection (1) of this section.

(3) In this section “harbour” shall include harbour premises.

10.—(1) The Commission may from time to time deepen, dredge, scour, cleanse, widen, alter and improve the harbour for the purpose of making, maintaining and using any works constructed or to be constructed in the harbour or of facilitating access to any part of the harbour, and for any such purpose may blast any rock within the harbour. Power to dredge.

(2) Any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) taken up or collected in the exercise of the powers of this section (in so far as they are not the property of the Commission before being taken up or collected) shall become the property of the Commission and may be used, sold, deposited or otherwise disposed of as the Commission thinks fit: 1894 c. 60.

Provided that no such materials shall be deposited below the level of high water except in such position as the Secretary of State may approve and subject to such conditions or restrictions as he may impose.

11.—(1) No person other than the Commission shall—

Restriction of works and dredging.

(a) construct, place, alter, renew or extend any works within the harbour on, under or over tidal waters or tidal land below the level of high water unless he is licensed so to do by a works licence and except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 12 (Licensing of works) of this Order; or

(b) dredge in the harbour unless he is licensed so to do by a dredging licence and except upon the terms and conditions if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 13 (Licence to dredge) of this Order.

(2) Any person who offends against the provisions of this section or who contravenes or fails to comply with any term or condition of a works licence or dredging licence granted to him shall be guilty of an offence and liable to a fine not exceeding £1,000 and to a daily fine not exceeding £100.

(3) Nothing in this section shall affect the powers of the Post Office under the Telegraph Acts 1863 to 1916.

(4) In this section “daily fine” means a fine for each day on which an offence is continued after conviction.

12.—(1) The Commission may upon such terms and conditions as it thinks fit grant to any person a licence to construct, place, maintain, alter, renew or extend any works within the harbour on, under or over tidal waters or tidal land below the level of high water notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, placed, maintained, altered, renewed or extended. Licensing of works.

PART III
—cont.

(2) Application for a works licence shall be made in writing to the Commission and shall—

- (a) be accompanied by plans, sections and particulars of the works to which the application relates;
- (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted.

(3) The Commission may require modifications in the plans, sections and particulars submitted to it by the applicant.

(4) If within three months from the date of the making of an application under subsection (2) of this section the Commission does not grant a works licence, it shall be deemed to have refused the application.

1878 c. 76.

(5) For the purpose of section 7 of the Telegraph Act 1878 any work proposed to be carried out under a works licence granted in accordance with subsection (1) of this section shall be deemed to be work proposed to be done in the execution of an undertaking authorised by an Act of Parliament.

Licence to dredge.

13.—(1) The Commission may upon such terms and conditions as it thinks fit grant to any person a licence to dredge in any part of the harbour.

(2) Application for a dredging licence shall be made in writing to the Commission and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers sought in the application.

(3) The Commission may require modifications in the plans, sections and particulars submitted to it by the applicant.

(4) If within three months from the date of making an application under subsection (2) of this section the Commission does not grant a dredging licence, it shall be deemed to have refused the application.

1894 c. 60.

(5) Unless otherwise agreed between the Commission and the licensee any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894), taken up or collected by means of dredging in pursuance of a dredging licence shall (in so far as they are not the property of the Commission before being taken up or collected) become the property of the Commission and the provisions of section 10 (Power to dredge) of this Order as to the use and appropriation of materials shall apply to such materials which are or become the property of the Commission.

Appeals in respect of works or dredging licence.

14.—(1) (a) An applicant for a works licence or for a dredging licence who is aggrieved by—

- (i) the refusal of the Commission to grant the licence;
- (ii) any terms or conditions subject to which the licence is granted; or
- (iii) any modifications required by the Commission in the plans, sections and particulars submitted by the applicant;

may within twenty-eight days from the date on which the Commission gives notice of its decision or the date on which the Commission is under subsection (4) of section 12 (Licensing of works) or of section 13 (Licence to dredge) of this Order deemed to have refused the application, as the case may be, appeal to the Secretary of State.

PART III
—cont.

(b) An appeal shall be made by notice in writing stating the grounds of the appeal.

(2) A person who appeals to the Secretary of State under this section shall at the same time send a copy of his statement of appeal to the Commission and the Commission shall within twenty-eight days from the receipt of the statement of appeal furnish the Secretary of State with its observations on the appeal.

(3) On an appeal under this section the Secretary of State may confirm, vary or revoke the decision appealed against and may require any consequential amendments to be made, including amendment of the terms and conditions or modification of the plans, sections and particulars.

(4) The Commission shall give effect to any requirements made by the Secretary of State under subsection (3) of this section.

PART IV

HARBOUR REGULATION

15.—(1) The Commission may, after consultation in each case with the General Council of British Shipping, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the harbour, and without prejudice to the generality of the foregoing, for any of the following purposes:—

General
directions to
vessels.

- (a) for designating areas, routes or channels within the harbour which vessels are to use or refrain from using for movement, anchoring or mooring;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) for requiring the master of a vessel to give to the harbour-master information relating to the vessel reasonably required by the harbourmaster for the purposes of this subsection.

(2) A general direction may apply—

- (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction; and
- (b) to the whole of the harbour or to a part designated, or the designation of which is provided for, in the direction (but subject always to the limitations contained in subsection (1) (a) of this section); and
- (c) at all times or at times designated, or the designation of which is provided for, in the direction;

and every direction given under this section shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c) of this subsection.

PART IV
—cont.

(3) The Commission may by general direction revoke or amend a general direction.

Special
directions
to vessels.

16.—(1) The harbourmaster may give a direction under this section to a vessel anywhere in the harbour for any of the following purposes:—

- (a) requiring a vessel to comply with a requirement made in or under a general direction;
- (b) regulating or requiring the movement, berthing, mooring or unmooring of a vessel;
- (c) regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores and the despatch of its business at the harbour premises;
- (d) prescribing the precautions to be taken in respect of apparatus, machinery and equipment;
- (e) regulating the use of its motive powers;
- (f) prohibiting or restricting the use of fires or lights;
- (g) regulating the loading, discharging and methods of storing and safe-guarding of cargo, fuel, water or ship's stores;
- (h) regulating the use of ballast;
- (i) requiring the removal from harbour premises or from the harbour of a vessel if—
 - (i) it is on fire;
 - (ii) it is in a condition where it is liable to become immobilised or waterlogged, or to sink;
 - (iii) it is making an unlawful or improper use of harbour premises;
 - (iv) it is interfering with the use of harbour premises by other vessels, or is otherwise interfering with the proper use of harbour premises or the despatch of business thereat; or
 - (v) its removal is necessary to enable maintenance or repair work to be carried out to harbour premises or to premises adjacent thereto.

(2) A direction under this section may be given in any manner considered by the harbourmaster to be appropriate.

Publication of
designations
and general
directions.

17.—(1) Except in an emergency, notice of the giving of a general direction shall, so soon as practicable after it is given, be published by the Commission once in Lloyd's List or some other newspaper specialising in shipping news, and shall state a place at which copies of the direction may be inspected and bought and the price thereof.

(2) In an emergency, notice of a general direction may be given in any manner considered by the harbourmaster to be appropriate.

Failure to
comply with
directions.

18.—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(2) It shall be a defence to the master of a vessel charged with an offence under this section that he had reasonable ground for supposing that compliance with the direction in question would be likely to imperil his vessel or that in the circumstances compliance was not reasonably practicable.

PART IV
—cont.

19.—(1) Without prejudice to any other remedy available to the Commission, if a special direction is not complied with within a reasonable time, the harbourmaster may put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction. Enforcement of directions.

(2) If there is no one on board a vessel to attend to a special direction, the harbourmaster may proceed as if the direction had been given and not complied with:

Provided that the powers of this subsection shall not be exercised—

- (a) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or
- (b) in relation to a lighter unless it is obstructing or interfering with navigation.

(3) Expenses incurred by the Commission in the exercise of the powers of subsection (1) of this section shall be recoverable by it as if they were dues levied by the Commission in respect of the vessel.

20. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property. Master's responsibility in relation to directions.

21.—(1) The Commission may from time to time by byelaws confirmed in accordance with this Order make provision for any matter falling within its duties under section 9 (General duties and powers) of this Order and in particular, but without prejudice to the generality of the foregoing, for any of the following purposes:— General byelaws.

- (a) to secure the conservation and improvement of the harbour and the harbour premises and to promote the ease, convenience or safety of navigation;
- (b) for the regulation of vessels in the harbour and their entry into, departure from and movement within the harbour and, without prejudice to the generality of the foregoing, to prescribe rules for navigation and the lights or signals to be exhibited or made by or for the benefit of vessels navigating in the harbour;
- (c) to prescribe parts of the harbour—
 - (i) where vessels or a specified class of vessel may not moor, berth, anchor or be otherwise secured;
 - (ii) which vessels of a specified class may not enter;
- (d) to regulate the use and to prevent the misuse of services and facilities provided by the Commission in or beside the harbour and the harbour premises;

PART IV
—cont.

- (e) to promote the safety of persons and vessels in the harbour and the harbour premises;
- (f) to regulate the conduct of persons using the harbour or its banks or shores or the harbour premises, whether for business, recreation, training or any other purposes;
- (g) for the prevention of pollution or nuisance in or beside the harbour or the harbour premises.

(2) Different byelaws may be made under this section in relation to different classes of vessels.

(3) Byelaws made under this section may provide for imposing upon persons offending against them fines not exceeding in any one case £100.

Confirmation
of byelaws.

22.—(1) Byelaws made by the Commission under this Order shall not come into operation until they have been confirmed by the Secretary of State.

(2) At least one month before an application for confirmation of byelaws is made by the Commission to the Secretary of State, notice of the intention to apply for confirmation and of the place at which, and the times during which, a copy of the byelaws shall be open to inspection shall be published as follows:—

- (a) once in the *Edinburgh Gazette*; and
- (b) once in each of two successive weeks in some one and the same newspaper circulating in the area of the Council.

(3) Not later than the first date on which the notice under subsection (2) of this section is published the Commission shall send a copy of the notice to the clerk of the Council.

(4) During a period of at least one month before application is made for confirmation of the byelaws a copy of the byelaws shall be kept at the head office of the Commission and shall at all reasonable hours be open to public inspection without payment.

(5) The Commission shall supply a copy of the byelaws or a part of the byelaws to a person who shall apply for it on payment of a reasonable charge.

(6) During the period of one month after completion of the publication of any notice required by subsection (2) of this section any person may in writing to the Secretary of State make objections to or a representation respecting the byelaws to which the notice relates.

(7) The Secretary of State may confirm the byelaws in the form submitted to him with such modifications as he thinks fit, or may refuse to confirm them:

Provided that where the Secretary of State proposes to make a modification which appears to him to be substantial, he shall inform the Commission and require it to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Commission and by other persons who have been informed of it.

(8) When confirmed the byelaws shall be published by the Commission.

PART V

FINANCIAL

23. In addition to its power to levy ship, passenger and goods dues pursuant to section 26 of the Harbours Act 1964, the Commission may demand, take and recover—

Extension of power to levy dues.
1964 c. 40.

- (a) in respect of any dracone or floating dock, crane, rig or plant (not being a ship as defined in section 57 of that Act) entering or leaving the harbour such dues as it thinks fit, and sections 30 to 34 of that Act shall with any necessary modifications apply to such dues as they apply to ship, passenger and goods dues; and
- (b) such reasonable dues for services and facilities provided by it or on its behalf as it may from time to time determine.

24.—(1) The commission may confer exemptions from, allow rebates or compound with any person with respect to dues, and may vary or extinguish exemptions or rebates so conferred or allowed.

Exemptions, rebates, etc., in respect of dues.

(2) Nothing in section 30 of the Harbours Act 1964 shall require the Commission to include in the list of ship, passenger and goods dues kept at the harbour office, as required by subsection (1) of that section, dues subject to a compounding arrangement in respect of, or reduced by a rebate allowed on, a due included in the said list.

25.—(1) The Commission may from time to time borrow upon the security of the assets for the time being or of the revenues of the Commission, or both, and by any methods it sees fit—

General borrowing powers.

- (a) such sums of money as it thinks necessary not exceeding in the aggregate outstanding at any time the sum of £3,000,000; and
- (b) with the consent of the Secretary of State such further sums of money as it may require:

Provided that in calculating for the purpose of paragraph (a) of this subsection the aggregate sum outstanding there shall be excluded any sums borrowed for use within twelve months of the date of borrowing for repayment of any sum for the time being outstanding by way of principal on any amount previously borrowed.

(2) Moneys borrowed by the Commission under this section shall be applied only to purposes to which capital money is properly applicable.

(3) For the purposes of the last foregoing subsection, but without prejudice to the generality thereof, purposes to which capital money is properly applicable shall be deemed to include—

- (a) the payment of any interest falling due within the five years immediately following the date of the borrowing of any sum of money borrowed by the Commission under this section; and
- (b) the repayment within twelve months from the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

PART V
—cont.
Temporary borrowings.

26.—(1) The Commission may, for the purposes of meeting its obligations in carrying out its functions, raise money (whether on the security of the undertaking or without security) by means of overdraft from a bank or other temporary loan.

(2) The total amount of moneys raised by the Commission under this section and outstanding at any one time shall not exceed £500,000 or such larger amount as the Secretary of State may sanction.

(3) The power conferred by this section shall be in addition to any other borrowing power for the time being exercisable by the Commission.

Protection of lenders from inquiry.

27. A person lending money to the Commission shall not be bound to enquire whether the borrowing of the money raised was properly applied and shall not be prejudiced by any illegality or irregularity, or by the misapplication or non-application of any of that money.

Reserve fund.

28.—(1) The Commission may if it thinks fit carry to a reserve fund such part of its receipts as shall be available for the purpose until the fund amounts to £100,000, and if it at any time falls below that amount the Commission may carry to the fund so much of any such receipts as is required to restore the fund to that amount.

(2) The reserve fund so formed or continued under this section shall from time to time be applied by the Commission in its discretion—

- (a) in or towards meeting any deficiency on revenue account in any year;
- (b) to meet any extraordinary claim or demand in respect of the undertaking of the Commission;
- (c) in or towards payment of the cost of renewing, improving, extending or replacing any part of the undertaking of the Commission;
- (d) for improving the navigation of the harbour;
- (e) for any other lawful purpose duly sanctioned by the Commission.

(3) The sums paid into the reserve fund shall be invested in any manner in which trustees in Scotland are for the time being authorised by law to invest trust moneys.

Exemption from dues for Crown, etc.

29.—(1) Except insofar as may be agreed between the Commission and the government department or person concerned or as may be specifically laid down by statute nothing in any enactment authorising the Commission to levy dues shall extend to authorise them to levy dues on—

- (a) a vessel—
 - (i) belonging to or in the service of Her Majesty or any member of the Royal Family; or
 - (ii) in the service of the Commissioners of Customs and Excise and not carrying goods for reward; or

- (iii) in the service of the Commissioners of Northern Lighthouses and not carrying goods for reward;
- (b) the Commissioners of Customs and Excise in respect of a vessel or goods under custom seizure;
- (c) troops landed at the harbour premises or a person employed by the Secretary of State for Defence while in the execution of his duty;
- (d) goods or stores belonging to the Secretary of State for Defence.

PART V
—cont.

(2) Officers of the Department of Trade in the execution of their duty shall at all times have free ingress, passage and egress on, into, from, over, along, through and out of the harbour and any works of the Commission by land, and with their vessels and otherwise.

PART VI NEW WORKS

30. Subject to the provisions of this Order the Commission may make and maintain, in the lines and according to the levels shown on the deposited plans and the deposited sections, with all proper works and conveniences connected therewith, an extension of the existing No. 2 Pier as an open structure having a width of 22 metres or thereabouts commencing at the southern end of the said pier and extending in a south-south-easterly direction for a length of 135 metres or thereabouts. Power to construct works.

31. Subject to the provisions of this Order, in constructing the works the Commission may deviate laterally from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation shown on the deposited plans and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient: Power to deviate.

Provided that any lateral deviation shall not without the written consent of the Secretary of State, exceed 40 metres.

PART VII PILOTAGE

32.—(1) The harbour shall on the expiry of two months from the date on which this Order comes into operation become a pilotage district for the purposes of the Pilotage Act 1913, which shall be known as the Stornoway Pilotage District, and the Commission shall be the pilotage authority for that district. Pilotage. 1913 c. 31.

(2) Pilotage shall not be compulsory within the pilotage district.

(3) (a) The Commission may establish a Pilotage Committee (hereinafter referred to as "the Committee") of the Commission consisting of not less than five and not more than seven members.

PART VII
—cont.

(b) The members of the Committee shall be appointed or elected as follows:—

- (i) five persons (whether or not members of the Commission) shall be appointed by the Commission of whom one shall be nominated by the Commission as chairman;
- (ii) if at any time a majority of the pilots licensed under section 16 of the said Act of 1913 for the pilotage district (hereinafter referred to as “licensed pilots”) desire direct representation on the Committee they shall signify the fact in writing to the Commission and the Commission shall, if there are not less than, and may, if there are less than, six licensed pilots appoint as a member of the Committee a person who is or has been a licensed pilot who shall be elected in such manner as may be agreed among the licensed pilots or in default of agreement as may be decided by the Secretary of State:

Provided that if licensed pilots are given representation on the Committee a further member appointed by the Commission shall be added to the Committee being a person who in the opinion of the Commission is representative of shipowners using the harbour.

(4) (a) The Commission may delegate to the Committee any of its powers or duties under the said Act of 1913. The decisions of the Committee on questions so delegated shall not require confirmation by the Commission but the Committee shall report their proceedings to the Commission.

(b) No act or proceeding of the Committee shall be invalid on account of any vacancy in their body or on account of the appointment or election of any member having been defective.

(5) (a) The members of the Committee shall hold office for a period of one year but a member may be re-appointed or re-elected at the expiration of his term of office.

(b) In the event of a vacancy arising among the Committee otherwise than by the effluxion of time it shall be filled as soon as may be thereafter in the manner prescribed in subsection (3) of this section but a member of the Committee so appointed or elected shall hold office only until the next annual appointment or election.

(6) Separate accounts shall be kept by the Commission of all moneys received and expended by it in its capacity as Pilotage Authority.

PART VIII

MISCELLANEOUS

Works deemed to be in Islands Area.

33. So much of any work now or hereafter constructed in the harbour as is not within the Western Isles Islands Area shall be deemed for all purposes to be within that area.

Provision against danger to navigation.

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

PART VIII
—cont.

(2) If the Commission fails to comply in any respect with a provision of this section it shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

35.—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Commission at its 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.

Abatement of works abandoned or decayed.

(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 thirty days from the date when a notice under this section is served upon the Commission, it has 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 a debt due from the Commission to the Crown and shall be recoverable accordingly.

36.—(1) In their application to the Commission sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the Commission 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.
1894 c. 60.

- (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 passing of this Order.

(2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting his liability, the Commission may recover from the owner of any vessel in relation to which it has exercised its powers under the said section 530 any expenses reasonably incurred by it under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the Commission 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 it by the said section 530, other than the power of lighting and buoying, the Commission has given to the

PART VIII
—cont.

owner of the vessel not less than forty-eight hours' notice of its intention to do so; and if before the notice expires it receives 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 Commission 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 in compliance with any directions for the prevention of interference with navigation which may be given to him by the Commission.

(4) Notice under the last foregoing subsection to the owner of any vessel may be served by the Commission by delivering it to him or by sending it to him by the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom, or, if such delivery is not practicable and such place of business or abode is not known to the Commission, by displaying the notice at the office of the Commission 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.
1894 c. 60.
1906 c. 48.

37.—(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 Commission 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 subsection (2) of this section, 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 Commission shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Trade of any decision of the Commission to exercise in relation to any vessel 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 Commission 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 Secretary of State for Trade 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 Commission a direction by the Secretary of State for Defence or the Secretary of State for Trade 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 Commission proceeds 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 it as aforesaid, it 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 it, 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:

Provided that—

- (i) the Commission shall not be required to give notice under this subsection in respect of any vessel in respect of which it has 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 Secretary of State for Trade for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Commission by the said section 530, the Commission 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 it by the receiver of wreck; and on exercising the said power of sale in the case of any property the Commission shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Commission under that section.

(4) Any limitation on the powers of the Commission in relation to any vessel arising by virtue of subsection (1) or (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 section 531 of the said Act of 1894.

PART VIII

—cont.

Removal of
obstructions
other than
vessels.

1894 c. 60.

38.—(1) The Commission may remove—

- (a) anything which is neither a vessel nor (within the meaning of Part IX of the Merchant Shipping Act 1894) wreck, causing or likely to become an obstruction or impediment in any part of the harbour;
- (b) anything causing or likely to become an obstruction or impediment to the proper use of the harbour premises.

(2) (a) If anything removed by the Commission under subsection (1) of this section is so marked as to be readily identifiable as the property of any person, the Commission shall within one month of its coming into its custody give notice, as required by subsection (5) of this section, to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period vest in the Commission.

(b) If anything removed by the Commission under subsection (1) of this section which is not so marked is not within three months of its coming into the custody of the Commission proved to the reasonable satisfaction of the Commission to belong to any person it shall thereupon vest in the Commission.

(3) The Commission may at such time and in such manner as it thinks fit dispose of anything referred to in subsection (2) (b) of this section which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Commission under this section, and if it is sold the proceeds of sale shall be applied by the Commission in payment of the expenses incurred by it under this section in relation to the thing, and any surplus—

- (a) shall be paid to any person who within the period of three months from the time when the thing came into the custody of the Commission proves to its reasonable satisfaction that he was the owner thereof at that time; or
- (b) if within the said period no person proves ownership at the said time, shall vest in the Commission.

(4) If anything removed under this section—

- (a) is sold by the Commission and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred in the exercise of its powers of removal; or
- (b) is unsaleable;

the Commission may recover the deficiency or the whole of the expenses as the case may be, from the person who was the owner when the thing removed came into the custody of the Commission or who was the owner at the time of its abandonment or loss.

(5) A notice given under subsection (2) (a) of this section shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Commission possession may be retaken at a place named in the notice within the time specified therein, being not less than fourteen days after the date when the notice is served.

(6) The Commission shall not under the powers of this section remove anything placed or constructed by a local authority or statutory undertakers under the provisions of a statute or of a consent or licence given or issued by the Commission thereunder.

PART VIII
—cont.

(7) In subsection (6) of this section—

“local authority” has the meaning assigned to that expression by section 235 of the Local Government (Scotland) Act 1973; 1973 c 65.

“statutory undertakers” means persons authorised by statute to carry on any undertaking for the supply of electricity, gas or water and includes the Post Office.

39.—(1) A tidal work shall not be constructed, reconstructed, restored, improved, extended 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.

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

(2) If a tidal work is constructed, reconstructed, restored, improved, extended or altered in contravention of this section or of any condition or restriction imposed under this section—

(a) the Secretary of State may by notice in writing require the Commission at its 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 thirty days from the date when the notice is served upon the Commission it has 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 do to, 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 a debt due from the Commission to the Crown and shall be recoverable accordingly.

40.—(1) The Commission shall at or near a tidal work during the whole time of the construction, reconstruction, restoration, improvement, extension 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 Commission fail to comply in any respect with a direction given under this section it shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

41. 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 the Commission propose to construct a tidal work, and any expenditure incurred by the Secretary of State in any such survey or examination shall be a debt due from the Commission to the Crown and shall be recoverable accordingly.

Survey of tidal works.

PART VIII

—cont.

Permanent
lights on
tidal works.

42.—(1) After the completion of a tidal work the Commission 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.

(2) If the Commission fails to comply in any respect with a direction given under this section, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

Saving for
marine works.
1937 c. 28.

43.—(1) Nothing in this Order shall affect the operation of the Harbours, Piers and Ferries (Scotland) Act 1937, and any dispute arising under this section shall be referred to and determined by the Secretary of State whose decision shall be binding on all parties.

1964 c. 40.

(2) The Commission shall not exercise the powers conferred upon it by section 10 (Power to dredge), section 12 (Licensing of works) and section 13 (Licence to dredge) of this Order in such a way as to affect or prejudice the rights of any person in respect of a marine work (as defined in section 57 of the Harbours Act 1964) without the consent in writing of the Secretary of State.

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

44. 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.

Saving for
Coast
Protection
Act.
1949 c. 74.

45. Nothing in this Order shall exempt the Commission or any other person from the provisions of Part I of the Coast Protection Act 1949.

Saving for
Dumping at
Sea Act.
1974 c. 20.

46. Nothing in this Order shall affect the operation of the Dumping at Sea Act 1974.

Crown rights.

47. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, and in particular nothing in this Order shall authorise the Commission to take, use or interfere with any land or rights—

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners on behalf of Her Majesty; 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 the Crown Estate Commissioners or, as the case may be, that department.

Repeals and
amendment.

48.—(1) On the appointed day the enactments specified in Part I of Schedule 2 to this Order, except the provisions thereof set out in Part II of that schedule, shall be repealed.

(2) On the appointed day subsection (1) of section 24 (Complementary powers &c.) of the Stornoway Harbour Order 1926 shall be amended by the substitution for the words "provisions of this Order", of the words "provisions of the Stornoway Harbour Order 1976".

PART VIII
—cont.

(3) On the appointed day the provisions set out in Part II of Schedule 2 to this Order shall be amended by the substitution throughout, for the words "the Commissioners", of the words "the Commission".

49. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order, and otherwise in relation thereto, shall be paid by the Commission. Costs of Order.

SCHEDULES

Section 4.

SCHEDULE 1

ADMINISTRATIVE AND OTHER PROVISIONS AFFECTING THE COMMISSION

Informalities in appointment, etc., not to invalidate acts and proceedings.

1. The acts and proceedings of the Commission or of any committee thereof, or of any person acting as a member of the Commission or of such committee, shall not be invalidated by any vacancy in their number or by any defect in the nomination, appointment, election or qualifications of any person as a member or as chairman or vice-chairman of the Commission or committee.

Meetings of Commission.

2. The Commission shall hold a meeting once in every month or at such other period as the Commission think fit on such day and at such hour as it shall from time to time by resolution appoint and the Commission shall hold an annual general meeting on the first Tuesday of May in each year:

Provided that in the event of any general meeting of the Commission falling to be held on a public or local holiday the Commission may by resolution alter the date of such meeting.

Chairmen.

3.—(1) At their first meeting after the commencement of this Order, and thereafter at each general meeting, the members of the Commission shall elect a chairman and a vice-chairman, and in the absence of the chairman at any meeting the vice-chairman shall exercise in his place the powers of the chairman.

(2) In the absence at any meeting of both the chairman and the vice-chairman the members present may elect a temporary chairman to exercise the powers of the chairman at that meeting.

(3) The chairman at any meeting of the Commission shall have a casting as well as a deliberative vote.

Special meetings.

4. The Commission may hold special meetings and the chairman and the secretary, or any three members, of the Commission may require the secretary to call a special meeting, but a special meeting shall not be held unless one day's notice thereof is given.

Quorum of Commission.

5.—(1) The quorum at meetings of the Commission shall be three.

(2) If at any such meeting a quorum is not present within fifteen minutes after the time appointed for the meeting, the meeting shall be adjourned.

Orders and resolutions not to be altered without notice.

6. Any order made and any resolution adopted by the Commission at any of its meetings shall not be altered or revoked unless at some meeting called for that special purpose or unless notice of the intention to propose such alteration or revocation be—

(a) given by a member of the Commission at some previous meeting; or

(b) received by the secretary from a member of the Commission in writing not less than seven days before the day on which the meeting is held;

and be intimated in the card, letter or circular calling the meeting at which it is intended to propose such alteration or revocation.

7. The Commission may at any meeting from time to time appoint committees of any of its number for carrying into effect any of the provisions of this Order and may delegate such powers to any such committee as it deems proper and the Commission shall fix the quorum of any such committee and name the convener and may continue, alter or discontinue such committee:

SCH. 1
—cont.

Power to
delegate to
committees.

Provided that the Commission shall not under the powers of this paragraph delegate to a committee any power—

- (i) to borrow moneys or to fix dues;
- (ii) to issue a general direction or to make byelaws;
- (iii) to grant a licence; or
- (iv) to appoint a Pilotage Committee.

8. For and incidental to the purpose of its duties under this Order the Commission shall employ and appoint a secretary, a treasurer, a harbourmaster and such other officers and servants as from time to time it deems necessary or desirable and may suspend or terminate any such employment or appointment.

Staff.

9. Subject to the foregoing provisions of this Schedule the Commission may determine its own procedure and the procedure of any committees appointed by it.

Further
procedure.

SCHEDULE 2

Section 48.

PART I

ENACTMENTS REPEALED

(EXCEPT THE PROVISIONS SET OUT IN PART II)

The Stornoway Harbour Order 1926

The Stornoway Harbour Order 1947

The Stornoway Harbour Order 1948

PART II

ENACTMENTS SAVED FROM REPEAL

In the Stornoway Harbour Order 1926—

Lands for extraordinary purposes

14. The Commissioners may (in addition to all other powers) by agreement acquire and hold for extraordinary purposes any lands not exceeding in the whole twenty acres but nothing in this Order contained shall exempt the Commissioners from any proceedings for nuisances caused or permitted by them on lands acquired by them under the powers conferred by this section.

Power to lease

17.—(1) The Commissioners may with the previous consent in writing of and upon such terms conditions and restrictions and for such period as may be sanctioned by the Secretary of State lease

SCH. 2
—cont.

to any company corporation or person (a) the entire undertaking of the Commissioners or any part thereof including the gifted properties or (b) the rates and other charges authorised to be taken by this Order.

(2) As from the date of any lease made under the last preceding subsection the lessee during the continuance of and to the extent provided in his lease shall have and may exercise all or any of the powers conferred upon the Commissioners by this Order which the Commissioners have or might exercise under this Order and shall be subject to all the liabilities and obligations to which the Commissioners are subject and shall perform all the duties of the Commissioners under this Order.

(3) No lease made under subsection (1) of this section shall be assignable without the previous consent in writing of the Secretary of State.

(4) The Commissioners shall within one month after the date of any lease made under this section deposit a certified copy thereof with the Secretary of State and shall as from the expiration of that month be liable to a penalty not exceeding five pounds for every week or part of a week during which they refuse or neglect to comply with this subsection.

(5) No lease made under this section shall be made in consideration or part consideration of any fine premium or other capital sum.

(6) Nothing in this section shall exempt the Commissioners from their obligation to keep and render accounts and as from the date of any lease made under this section all the provisions of the Act incorporated with this Order and of this Order as to the keeping delivery and audit of accounts shall apply to and be binding upon as well the lessee as the Commissioners and all moneys received by the Commissioners under or in respect of any such lease shall be deemed to be moneys levied by virtue of and income received under this Order.

Complementary powers &c.

24.—(1) Subject to the provisions of this Order the Commissioners may maintain restore reconstruct alter improve enlarge and extend the harbour and may in connection with the harbour construct maintain alter improve and enlarge embankments landing places piers quays jetties weirs bridges slips wharves beaches for hauling boats buoys moorings cranes lights beacons roads sewers drains watercourses gas and water pipes electric light and power and other works and conveniences which may be found necessary for the accommodation of vessels and traffic and may construct and carry out such works as may be necessary for reclaiming or filling in any portion of the foreshore within the limits of this Order and may also from time to time lay down and maintain rails tramways sidings and turntables on and along the piers quays and other harbour works of the Commissioners and lands connected therewith and may provide motive power for tramways and may acquire or construct and maintain all warehouses offices sheds weighing-machines cranes and other plant or buildings which may be necessary or convenient in connection with their duties or works.

(2) No line of rails or tramway constructed under the powers of this Order shall be used for the public conveyance of passengers unless and until it has been inspected and certified by the Secretary of State to be fit for that use.

SCH. 2
—cont.

(3) Any electric light and power or other apparatus constructed and maintained under this Order shall be so constructed maintained and used as to prevent any interference with telegraphic communication by means of any telegraphic lines belonging to or used by the Post Office.

(4) Nothing in this Order shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity Supply Acts 1882 to 1922 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section. 1882 c. 56.

Power to construct warehouses stores &c.

26. The Commissioners may construct and maintain and may furnish manage and equip warehouses sheds stores fishing platforms auctioneers' stances pavilions waiting refreshment reading and other rooms automatic machines bicycle stands bandstands shops water-closets urinals lavatories baths and sanitary and other conveniences and they may also construct and maintain and make such reasonable charges as they think fit for the use of and admission to floating swimming baths.

Certain fishing vessels under stress exempt from rates

46. Fishing vessels belonging to countries with which for the time being treaties exist exempting from duty and port charges those vessels when forced by stress of weather to seek shelter in the ports or on the coast of the United Kingdom shall when forced by stress of weather to make use of the harbour and not breaking bulk while making use thereof be exempt from rates leviable under this Order.

Exemption of lifeboat crews

47. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and also all persons brought ashore from any vessel in distress shall at all times have free ingress passage and egress to or along and on and from the harbour without payment.

In the Stornoway Harbour Order 1947—

Power to require shipowners to use cranes

34. When the Commissioners provide or possess cranes or other lifting gear they shall have power to require the owners carriers or other persons in charge of any vessel or goods to make use of such cranes or lifting gear on every occasion when they are available for the loading or discharging of cargo.

SCH. 2
—cont.

In the Stornoway Harbour Order 1948—

Prohibition of net fishing within limits of harbour

5.—(1) A person shall not fish from a vessel or boat or otherwise by means of nets (other than ground nets or nets made specifically for catching salmon) within the limits of the harbour.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on summary conviction for each offence to a fine not exceeding one hundred pounds and in default in payment to imprisonment for a period not exceeding three months.

(3) Without prejudice to the provisions of subsection (1) of this section the following persons shall be guilty of an offence and be liable on summary conviction to the aforesaid penalty:—

- (a) The owner of any fishing or other vessel or boat who uses or permits the use of such vessel or boat for the purpose of fishing by means of nets (other than ground nets or nets made specifically for catching salmon) within the limits of the harbour;
- (b) The master or person in charge of a fishing or other vessel from which fishing is carried out in manner aforesaid within the limits of the harbour; and
- (c) All or any of the persons on board a boat which does not have a person in charge and from which fishing is carried out in manner aforesaid within the limits of the harbour.

Power to cut or sink nets

6. The harbourmaster or any servant of the Commissioners acting on the instructions of the harbourmaster may after giving warning if reasonably practicable to the owner or person in charge thereof cut adrift or sink any fishing nets or appurtenances within the limits of the harbour which may constitute a danger to navigation.

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