

ELIZABETH II



1979 CHAPTER vii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Gairloch Piers. [4th April 1979]

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 Gairloch Piers Order Confirmation Act 1979. Short title.

SCHEDULE

GAIRLOCH PIERS

Provisional Order to confer powers on the Highland Regional Council with respect to their piers at Gairloch; and for purposes connected therewith.

1973 c. 65,
S.I. 1975/659
(S. 92).

Whereas by virtue of the provisions of the Local Government (Scotland) Act 1973, the Local Authorities (Property etc.) (Scotland) Order 1975 and lease between the Crown Estate Commissioners and the Highland Regional Council (hereinafter called "the Council") dated 30th March and 30th June and registered in the Books of Council and Session on 7th July, all 1976, the Council acquired right to the piers at Gairloch in the parish of Gairloch in the Highland Region:

And whereas it is expedient that there should be conferred upon the Council the powers mentioned in this Order for the maintenance and regulation of the use of the said piers and the surrounding waters:

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

1936 c. 52.

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

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

Short title.

1. This Order may be cited as the Gairloch Piers Order 1979.

Interpretation.

2.—(1) In this Order the several words and expressions to which meanings are assigned by any Act wholly or partially incorporated with this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction, and in this Order unless the context otherwise requires—

1847 c. 27.

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

"Council" means the Highland Regional Council;

"existing piers" means the piers shown on the pier limits map;

"houseboat" means any boat or barge or any vessel or structure or any part, remains or wreckage thereof, whether or not the same shall be floating at any state of the tide and whether

or not the same shall be used or intended to be used for human habitation, but does not include any ship registered under the Merchant Shipping Act 1894 or any boat or 1894 c. 60. vessel bona fide used for navigation;

“ piers ” includes the existing piers and the existing piers as the same may be from time to time extended, reconstructed or improved;

“ pier limits ” means the limits within which the Council exercises jurisdiction as defined in section 4 (Pier limits) of this Order;

“ pier limits map ” means the map signed in quadruplicate by Gavin Douglas, Q.C., Senior Counsel to the Secretary of State for the purposes of the Private Legislation Procedure (Scotland) Act 1936, and deposited, within one month of the commencement of this Order, 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 at Inverness and one at the office of the chief executive of the Highland Regional Council; 1936 c. 52.

“ vessel ” includes any ship or boat or other description of vessel used in navigation, any seaplane on the surface of the water and any hovercraft within the meaning of the Hovercraft Act 1968. 1968 c. 59.

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

3. The following sections of the Act of 1847, that is to say, sections 1 to 5, 21, 23, 27 to 29, 34 to 46, 48, 51 to 76, 79 to 83, 97 to 100, 102 and 103 are hereby incorporated with this Order and shall apply to the piers subject to the following modifications, that is to say:— Incorporation of Act of 1847.

(a) for any reference in any of the said sections to the special Act, the undertakers and the prescribed limits there shall be substituted references to this Order, the Council and the pier limits respectively;

(b) 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 Council was subject to immediately before the granting of the lease ”;

(c) in section 63, for the words from “ penalty ” to the end of the section there shall be substituted the words “ penalty not exceeding £50 ”;

(d) in section 69, for the words from “ not exceeding ” to the end of the section there shall be substituted the words “ not exceeding £50 ”.

Pier limits.

4. The limits within which the Council shall exercise jurisdiction as a harbour authority and within which the powers of the harbour-master may be exercised shall comprise the piers and so much of the area of the sea as is shown edged blue on the pier limits map.

Power to Council to manage and maintain piers.

5. Subject to the provisions of this Order the Council shall have power to manage and maintain the piers.

Piers to be in parish of Gairloch.

6. The piers shall be deemed for all purposes to be within the parish of Gairloch and district of Ross and Cromarty.

Byelaws respecting piers.

7.—(1) In addition to the powers of making byelaws contained in the Act of 1847, the Council may, subject to the provisions of this Order, make such byelaws as they think fit for all or any of the following purposes, that is to say:—

- (a) for the protection of the piers and the buildings, accommodation, machinery and appliances connected therewith and for regulating the use thereof and the conduct of persons frequenting or using the same;
- (b) for the regulation and control of vessels within the pier limits and persons resorting to or employed within the pier limits;
- (c) for the regulation of the embarking, loading and unloading of any goods or traffic at or within the pier limits.

(2) Byelaws to be made by the Council under the Act of 1847 or this Order may provide for imposing a penalty not exceeding £50 for the breach or non-observance of any byelaw.

Power to dredge.

1894 c. 60.

8. The Council may from time to time deepen, dredge, scour, cleanse, alter and improve the bed and foreshore within the pier limits and any material other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894 taken up or collected in the course of such operations shall be the property of the Council and may be used, sold, removed, deposited or otherwise disposed of as the Council may think fit:

Provided that no such material shall be laid down or deposited in any place below the level of mean high-water springs except in such position as the Secretary of State may approve and subject to such conditions or restrictions as he may impose.

Power to purchase vessels, equipment, etc.

9. The Council may purchase, take on lease and hire such vessels, machinery, apparatus and equipment as they may think necessary or expedient for the carrying on of their functions in relation to the piers or otherwise effecting the purposes of this Order and may let the same on hire (with or without the services of their employees) for such reasonable sums and upon and subject to such terms and conditions as they may think fit or may sell and dispose of the same.

10.—(1) The Council may provide and maintain moorings on land owned or leased by the Council, or in which they hold an appropriate interest and on any other land with the consent in writing of the owner and lessee thereof. Provision of moorings, etc.

(2) The Council may recover in respect of any vessel or houseboat using any of the moorings provided by the Council under this section or moored to land owned or leased by the Council such reasonable charges as may from time to time be prescribed by the Council.

(3) The Council may compound with any person with respect to the payment of the charges prescribed by the Council under subsection (2) of this section.

11.—(1) The Council may from time to time grant licences to any person to place and maintain moorings within the pier limits: Licensing of moorings.

Provided that—

- (i) nothing in any such licence shall entitle a person to place and maintain any mooring on land not owned or leased by him or by the Council or in which he has no appropriate interest;
- (ii) the Council shall not unreasonably refuse to grant a licence to an owner or lessee of any land not leased by the Council to place and maintain moorings on that land and any question whether the grant of a licence has or has not been unreasonably refused shall be determined by the Secretary of State.

(2) Any licence granted under subsection (1) of this section shall be valid only for such period not exceeding three years as may be specified in the licence.

(3) The Council may charge a fee for granting a licence under subsection (1) of this section, but such fee shall not exceed an amount sufficient to enable the Council to recover the reasonable costs arising from the application for, and the issue of, licences.

12. Any person who—

- (a) wilfully obstructs any person acting under the authority of the Council in setting out moorings; or
- (b) pulls up or removes any mooring or any part thereof; or
- (c) causes or permits a vessel to be moored except at a mooring provided or licensed by the Council under section 10 (Provision of moorings, etc.) or section 11 (Licensing of moorings) respectively of this Order or at a quay, jetty, slipway or other work or to land owned or leased by the Council; or
- (d) places or maintains any mooring not provided or licensed by the Council under the said sections of this Order;

Penalty for offences in relation to moorings.

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

13.—(1) The Council may recover such reasonable charges for services and facilities provided by them at or in connection with the piers as they may from time to time determine. Charges for pier facilities.

(2) A list showing the charges payable from time to time under subsection (1) of this section shall be open during reasonable hours for inspection by any person without charge at the harbour office of the Council and copies of the list shall be kept for sale at that office at a price not exceeding ten pence for each copy.

Crown rights.

14. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained shall authorise the Council to take, use or in any way interfere with any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary, or any land, heritages, subjects or rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

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

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

Saving for
marine works.
1937 c. 28.

16.—(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.

(2) The Council shall not exercise the powers conferred upon them by section 8 (Power 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 without the consent in writing of the Secretary of State.

Saving for
existing rights.

17. Whereas by a Minute of Agreement between the Trustees of the late Sir Kenneth John Mackenzie and David MacBrayne (1928) Limited dated 29th November 1932 and registered in the Books of Council and Session on 20th September 1934 it was provided that the Tenants of the Salmon Netting Fishings belong to the Estate of the late Sir Kenneth John Mackenzie (hereinafter called "the Estate") should continue to enjoy the facilities therein more particularly referred to and exercised by them before the date of the said agreement including the right to make use of the landing steps at the end of the then existing stone pier and that no pier dues were to be levied on the Estate or their shooting tenants.

Now it is hereby declared that nothing contained in this Order shall—

- (1) prejudice, alter or in any way affect; or

- (2) confer on the Council or any other person any powers which are inconsistent with;

the terms of the said Agreement or of any rights thereby conferred so far as the same are subsisting at the commencement of this Order.

18. All costs, charges and expenses of and incidental to the preparing Costs of and obtaining of this Order and otherwise incurred in reference thereto Order. shall be paid by the Council.



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CHAPTER vii

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