

ELIZABETH II



1986 CHAPTER ix

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to
Ullapool Harbour. [20th May 1986]

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 Ullapool Harbour Order Short title.
Confirmation Act 1986.

SCHEDULE

ULLAPOOL HARBOUR

Provisional Order to provide for the licensing of works and dredging in and otherwise for the regulation of Ullapool Harbour; to confer powers on the Ullapool Harbour Trustees; and for other purposes.

Whereas by the Ullapool Pier and Harbour Orders 1911 to 1982 powers were conferred on the Ullapool Pier Trustees for the maintenance and regulation of piers and works at Ullapool in the parish of Lochbroom in the district of Ross and Cromarty in the Highland Region, for the construction of further works and extending the limits of jurisdiction therefor, as well as for other purposes:

1984 c. iii.

And whereas by the Ullapool Harbour Order 1984 other such powers were conferred and the name of the said Trustees was changed to the Ullapool Harbour Trustees (hereinafter referred to as "the Trustees"), being the name they now bear:

And whereas for ensuring safe navigation within the limits of Ullapool Harbour and for the orderly development of marine and other facilities in the harbour, it is expedient in the public interest that powers be conferred on the Trustees for the licensing of works and dredging in the harbour and for the giving of directions to vessels, and that the other provisions of 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
and
citations.

1.—(1) This Order may be cited as the Ullapool Harbour Order 1986.

(2) This Order and the Ullapool Pier and Harbour Orders 1911 to 1984 may be cited together as the Ullapool Pier and Harbour Orders 1911 to 1986.

Interpretation.

2. In this Order, unless the context otherwise requires—

1985 c. 6.

"British Telecommunications plc" includes any subsidiary thereof within the meaning given by section 736 of the Companies Act 1985;

"dredging licence" has the meaning given in section 11 (Licence to dredge) of this Order;

"enactment" means an enactment in any Act or in any order (including this Order), and any byelaw, scheme or regulation made thereunder;

S.I. 1965/1387.
1981 c. xxix.

"the harbour" means the area within the limits prescribed by section 21 (Harbour and rating limits) of the Ullapool Pier Order 1965 (as substituted by section 3 of the Ullapool Pier Order 1981);

“the harbour master” has the meaning given in section 2 of the Harbours, Docks, and Piers Clauses Act 1847 as applied to the undertaking of the Trustees; 1847 c. 27.

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

“telecommunications apparatus” has the meaning given in paragraph 1 (1) of Schedule 2 to the Telecommunications Act 1984; 1984 c. 12.

“the Trustees” means the Ullapool Harbour Trustees;

“vessel” means every description of vessel, however propelled or moved, and includes—

(a) anything constructed or used to carry persons or goods by water;

(b) any rig, platform or other man-made structure on or in navigable water;

(c) a seaplane on or in the water, a hovercraft and a hydrofoil vessel;

“works” means works of every description and includes floating structures other than vessels;

“works licence” has the meaning assigned to that expression in section 10 (Licensing of works) of this Order.

3.—(1) In subsection (1) of section 27 (Power to dredge) of the Ullapool Pier Order 1911, scheduled to and confirmed by the Pier and Harbour Order Confirmation (No. 4) Act 1911, for the words following “bed of the sea” there shall be substituted the words “within the limits prescribed by section 21 (Harbour and rating limits) of the Ullapool Pier Order 1965 (as substituted by section 3 of the Ullapool Pier Order 1981)”. Amendments of Ullapool Pier Order 1911. 1911 c. clxxxvi. S.I. 1965/1387. 1981 c. xxix.

(2) After the said section 27 there shall be inserted the following section 27A:—

“Minor works in the harbour.”
27A. The Trustees may provide, place, lay down, maintain and operate in and over any lands or water within the limits prescribed by section 21 (Harbour and rating limits) of the Ullapool Pier Order 1965 (as substituted by section 3 of the Ullapool Pier Order 1981) such moorings and other minor works and equipment of a like nature as may be necessary or expedient for the convenience of vessels and for the purposes of, or in connection with, the carrying on of the Trustees’ undertaking in the harbour.”

4.—(1) In their application to the Trustees sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the Trustees 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) below and to any enactment for the time being in force limiting his liability, the Trustees may recover from the owner of any vessel in relation to which they have exercised their powers under the said section 530 any expenses reasonably incurred by them 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 Trustees a case of emergency, subsection (2) above shall not apply in relation to any vessel unless before exercising in relation to that vessel any of the powers conferred on them by the said section 530, other than the power of lighting and buoying, the Trustees have given to the owner of the vessel not less than 48 hours' notice of their intention to do so; and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under paragraph (b) of subsection (2) of the next following section, he shall be at liberty to do so, and the Trustees shall not exercise the powers aforesaid in relation to that vessel until the expiration of 7 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 Trustees.

(4) Except in a case which is, in the opinion of the Trustees, a case of emergency, the Trustees shall, before raising, removing or destroying under the powers conferred upon them by the said section 530 any vessel sunk, stranded or abandoned in the harbour or in or near any approach thereto and within a distance of 200 metres of any subaqueous telecommunication apparatus belonging to or used by British Telecommunications plc give to British Telecommunications plc in writing as long notice as is practicable of their intention to do so.

(5) Notice under subsection (3) above to the owner of any vessel may be served by the Trustees either 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 the owner or any such place of business or abode is not known to the Trustees, by displaying the notice at the office of the Trustees for the period of its duration.

(6) 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.

5.—(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 Trustees 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 subsection (2) (b) below, 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 Trustees shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Transport of any decision of the Trustees 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 Trustees 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 Transport before the expiration of a period of 14 days from the giving of the notice; or

(b) if before the expiration of the said period there is served on the Trustees a direction by the Secretary of State for Defence or the Secretary of State for Transport 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 Trustees proceed to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) above or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if before the expiration of the period aforesaid such a direction is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of the last foregoing section:

Provided that—

(i) the Trustees shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under subsection (1) (b) above, but any direction such as is referred to in paragraph (b) above 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) above;

(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 Transport for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Trustees by the said section 530, the Trustees shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section, in accordance with such directions, if any, as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property the Trustees 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 Trustees under that section.

(4) Any limitation of the powers of the Trustees in relation to any vessel arising by virtue of subsection (1) or subsection (2) above 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.

Removal of
obstructions
other than
vessels.

1894 c. 60.

6.—(1) The Trustees may remove—

- (a) anything, which is not a vessel or a wreck (within the meaning of Part IX of the Merchant Shipping Act 1894) or a controlled work, and which is causing or likely to become an obstruction or impediment in any part of the harbour;
- (b) anything, other than a vehicle, causing or likely to become an obstruction or impediment to the proper use of the works and property vested in or administered by the Trustees in connection with their harbour undertaking.

In paragraph (a) above “controlled work” means a work carried out under and in accordance with a works licence granted under section 10 (Licensing of works) of this Order or a work respecting which prior to the coming into force of this Order, consent has been given pursuant to section 34 of the Coast Protection Act 1949.

1949 c. 74.

(2) (a) If anything removed by the Trustees under subsection (1) above is so marked as to be readily identifiable as the property of any person, the Trustees shall within one month of its coming into their custody give notice, as required by subsection (5) below, 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 Trustees.

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

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

expenses incurred by them under this section in relation to the thing, and any balance—

(a) shall be paid to any person who within three months from the time when the thing came into the custody of the Trustees proves to their 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 Trustees.

(4) If anything removed under this section—

(a) is sold by the Trustees and the proceeds of sale are insufficient to reimburse them for the amount of the expenses incurred in the exercise of their powers of removal; or

(b) is unsaleable;

the Trustees 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 Trustees or who was the owner at the time of its abandonment or loss.

(5) A notice given under subsection (2) (a) above shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Trustees possession may be retaken at a place named in the notice within the time specified therein, being not less than 14 days after the date when the notice is served.

(6) The Trustees shall not under the powers of this section move 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 Trustees thereunder.

(7) In subsection (6) above—

“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 a person authorised by statute to carry on any undertaking for the supply of electricity, gas or water or British Telecommunications plc.

7.—(1) The Trustees may by notice require the owner or occupier of a landing place, embankment or pier which in the opinion of the Trustees is, or is likely to become, by reason of its insecure condition or want of repair—

Repair of landing places, embankments, etc.

(a) dangerous to persons or vessels using the harbour;

(b) injurious to the condition of the harbour as a navigable waterway; or

(c) a hindrance to the navigation of the harbour;

to remedy its condition to the satisfaction of a duly authorised officer of the Trustees within a reasonable time specified in the notice.

(2) If a person to whom notice is given under this section fails to comply with it within the time stated in the notice, or, if he appeals and the appeal is not allowed, within the time stated in the notice or such other time as the court may substitute therefor—

- (a) he shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale; and
- (b) the Trustees may carry out the works they consider necessary to remedy the condition of the landing place or embankment in question and may recover the expenses of so doing from the person on whom the notice was served as a debt in any court of competent jurisdiction.

(3) A notice under subsection (1) above shall have annexed to it a copy of this section.

(4) A person aggrieved by a notice served by the Trustees under subsection (1) above may appeal to the sheriff who may confirm, vary or quash the notice as he thinks just, and make such order in the matter as he considers equitable, and the determination of the sheriff on any such appeal shall be binding on all parties, and shall be final.

Boarding vessels.

8. Any duly authorised officer of the Trustees may, on producing if so required his authority, enter and inspect a vessel in the harbour—

- (a) for the purposes of any enactment relating to the Trustees or of any byelaw of the Trustees including the enforcement thereof;
- (b) to prevent or extinguish fire;

but, except in emergency, no entry shall be made under this section without notice first given to the owner or the person appearing to have charge of the vessel; and the notice shall have annexed to it a copy of this section.

Removal of goods.

9.—(1) The Trustees may remove to another part of the works and lands vested in or administered by them or to a place of storage elsewhere goods—

- (a) which are obstructing or interfering with the use of those works and lands; or
- (b) which remain at a place used for the deposit or storage of goods for a longer time than that specified in relation to that place in a schedule of charges published by the Trustees;

and such removal and storage shall be carried out at the risk and expense of the owner.

(2) Notwithstanding such removal or placing in store, such goods shall be liable to a general lien for the cost of removal, and for any charges payable to the Trustees by the owner.

(3) In this section “goods” includes all corporeal moveables of any kind whatsoever.

Licensing of works.

10.—(1) The Trustees may upon such terms and conditions as they think fit grant to any other person a licence (hereinafter in this Order referred to as a “works licence”) to construct, place, maintain, alter, renew or extend any works on, under or over tidal waters or tidal land below the level of high water in the harbour notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, placed, maintained, altered, renewed or extended.

(2) A licence under this section may be granted for such period commencing with the date on which it takes effect as may be specified in the licence.

(3) Without prejudice to the generality of the foregoing, conditions subject to which a works licence is granted under this section may include a condition specifying a period, not less than one year from the grant of the licence, on the expiration of which the licence shall become void unless the works to which the licence relates have by then been substantially commenced.

(4) Application for grant or renewal of a works licence shall be made in writing to the Trustees and shall—

(a) except in the case of an application for renewal of a licence, 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; and

(c) be accompanied by a copy of a notice published in a newspaper circulating in the Highland Region stating that it is intended to make the application, containing a general description of the nature of the works for which application is being made and of the land affected thereby, specifying a place where a copy of the plans, sections and particulars of the proposed works may be inspected at all reasonable hours and stating that any person who desires to object to the Trustees to the grant of the application should do so in writing, stating the grounds of his objection before the expiration of the period of 28 days from the date of the publication.

(5) In deciding whether or not to grant a works licence or as to the terms and conditions to be included in the licence the Trustees shall take into consideration any objection made to them in accordance with subsection (4) (c) above (hereinafter in this section and in section 12 below referred to as a competent objection) and in granting a licence the Trustees may require modifications in the plans, sections and particulars submitted to them by the applicant.

(6) If the Trustees decide to grant a works licence they shall give notice of their decision to the applicant and to any person who has made a competent objection and has not withdrawn it.

(7) With his application for a works licence the applicant shall pay such reasonable fee to cover the expense of the Trustees in dealing with such applications as the Trustees may by resolution prescribe; and different fees may be prescribed for applications of different kinds.

(8) If within three months from the date of the making of an application under subsection (4) above the Trustees do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.

1984 c. 12.

(9) For the purposes of paragraph 23 of the telecommunications code contained in Schedule 2 to the Telecommunications Act 1984 any work proposed to be carried out under a works licence granted in accordance with subsection (1) above shall be deemed to be a work proposed to be executed as undertaker's works by a relevant undertaker as defined in the said paragraph 23 of the telecommunications code, the provisions of which paragraph shall apply to the said work.

Licence to dredge.

11.—(1) The Trustees may upon such terms and conditions as they think fit grant to any person a licence (hereinafter in this Order referred to as a "dredging licence") to dredge in any part of the harbour.

(2) Application for a dredging licence shall be made in writing to the Trustees and shall be accompanied by—

- (a) plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence; and
- (b) a copy of a notice published in a newspaper circulating in the Highland Region stating that it is intended to make the application, containing a general description of the position, nature, extent and manner of the operations in respect of which the application is made, specifying a place where a copy of the plans, sections and particulars of the proposed operations may be inspected at all reasonable hours and stating that any person who desires to object to the Trustees to the grant of the application should do so in writing stating the grounds of his objection before the expiration of the period of 28 days from the date of publication of the notice.

(3) In deciding whether or not to grant a dredging licence or as to the terms and conditions to be included in the licence the Trustees shall take into consideration any objection made to them in accordance with subsection (2) (b) above (hereinafter in this section and in section 12 below referred to as a competent objection) and in granting a licence the Trustees may require modifications in the plans, sections and particulars submitted to them by the applicant.

(4) If the Trustees decide to grant a dredging licence they shall give notice of their decision to the applicant and to any person who has made a competent objection and has not withdrawn it.

(5) With his application for a dredging licence the applicant shall pay such reasonable fee to cover the expense of the Trustees in dealing with such applications as the Trustees may by resolution prescribe; and different fees may be prescribed for applications of different kinds.

(6) If within three months from the date of making an application under subsection (2) above the Trustees do not grant a dredging licence in accordance with the application, they shall be deemed to have refused the application.

(7) The issue of a licence under this section shall not confer statutory authority for the carrying out of the work covered by the licence.

(8) 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 be the property of the holder of the licence and he may use, sell or otherwise dispose of or remove or deposit the materials as he thinks fit: 1894 c. 60.

Provided that—

- (a) no such material shall be laid down or deposited in any place or manner so as to cover any subaqueous telecommunication apparatus belonging to or used by British Telecommunications plc or to impede in any way the inspection, maintenance, removal or renewal of any such apparatus;
- (b) (i) without prejudice to paragraph (a) above, no such material shall be laid down or deposited in any place below the level of high water except in such position as may be approved by the Trustees and subject to such conditions as may be imposed by the Trustees;
- (ii) if it appears to the holder of the dredging licence that the Trustees have unreasonably withheld their approval under sub-paragraph (i) above or that any condition imposed by the Trustees under that sub-paragraph is unreasonable, he may appeal to the Secretary of State, whose decision shall be binding upon the parties.

(9) As early as possible, and in any event not less than 28 days before carrying out dredging within a distance of 50 metres of any subaqueous telecommunication apparatus belonging to or used by British Telecommunications plc, the holder of a dredging licence shall give notice in writing to British Telecommunications plc of such intended exercise.

12.—(1) A person who has made a competent objection and has not withdrawn his objection and who is aggrieved by the decision of the Trustees to grant a works licence or a dredging licence, and an applicant for any such licence who is aggrieved by—

Appeals in respect of works or dredging licence.

- (a) the refusal of the Trustees to grant the licence; or
- (b) the refusal of the Trustees to renew a works licence which is valid only for a period specified therein in accordance with subsection (2) of section 10 (Licensing of works) of this Order;
- (c) any terms or conditions on or subject to which the licence is granted; or
- (d) any modifications required by the Trustees in the plans, sections and particulars submitted by the applicant;

may within 28 days from the date on which the Trustees notify the applicant of their decision or the date on which the Trustees are under subsection (8) of the said section 10 or subsection (6) of section 11 (Licence to dredge) of this Order deemed to have refused the application, appeal to the Secretary of State whose decision shall be binding upon the parties.

(2) A person who appeals to the Secretary of State under this section shall give to the Trustees notice of his appeal accompanied by

a copy of his statement of appeal and the Trustees may within 28 days from the receipt of such notice furnish the Secretary of State with their observations on the appeal.

(3) On an appeal under this section the Secretary of State may—

- (i) dismiss the appeal; or
- (ii) require the Trustees to grant the licence upon such terms and conditions as the Secretary of State may determine; or
- (iii) require the Trustees to approve the plans, sections and particulars without modification or with such modifications as the Secretary of State may determine.

(4) The Trustees shall give effect to any requirement made by the Secretary of State under subsection (3) above.

Restriction of
works and
dredging.

13.—(1) No person other than the Trustees shall—

- (a) construct, place, alter, renew or extend any works on, under or over tidal waters or tidal lands below the level of high water in the harbour unless he is licensed so to do by a works licence and except upon the terms and subject to the conditions (if any) upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 10 (Licensing of works) of this Order;
- (b) dredge in the harbour unless he is licensed so to do by a dredging licence and except upon the terms and subject to the conditions (if any) upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 11 (Licence to dredge) of this Order:

Provided that this subsection shall not apply to the construction, placing, alteration, renewal or extension of—

- (i) any such works or to the carrying out of dredging in the harbour specifically authorised under any enactment;
- (ii) a minor work consisting of a jetty, pier, slipway, landing place or similar work in respect of which the prior written consent of the Trustees has been obtained being a work not extending to a point where the depth of water at mean low-water springs exceeds 1.2 metres;
- (iii) the laying down, with the prior written consent of the Trustees, of a mooring suitable for a vessel of not more than 12 metres in length overall; or
- (iv) any works by British Telecommunications plc authorised by the telecommunications code contained in Schedule 2 to the Telecommunications Act 1984 and of which a plan is submitted to the Secretary of State in accordance with paragraph 11 of the said Schedule 2, accompanied by a written request by British Telecommunications plc to the Secretary of State to consult the Trustees in accordance with sub-paragraph (5) of that paragraph.

1984 c. 12.

(2) Any person who fails to comply with any provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

14.—(1) The Trustees may, after consultation in each case with the General Council of British Shipping, give directions (hereinafter in this Order referred to as “general 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 in the harbour which vessels are to use or refrain from using for movement or mooring;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master in order to effect the objects of this subsection.

(2) Directions given under subsection (1) above 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; and
- (c) at all times or at times designated, or the designation of which is provided for, in the direction;

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

(3) The Trustees may, after such consultation as aforesaid, revoke or amend directions given under this section.

15.—(1) A direction under this section (hereinafter in this Order referred to as a “special direction”) may be given—

Special
directions to
vessels.

- (a) by the harbour master to a vessel anywhere in the harbour; and
- (b) by the harbour master to a vessel in a part of the harbour designated by the Trustees as an area in which the power to give directions under this section shall be exercisable by the harbour master.

(2) A direction under this section may be given for any of the following purposes:—

- (a) requiring a vessel to comply with a requirement made in or under a general direction pursuant to section 14 (General directions to vessels) of this Order;
- (b) regulating or requiring the movement, 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.

(3) A direction under this section may be given in any manner considered by the harbour master to be appropriate.

Directions to
vessels at pier
works.

16.—(1) The Trustees may give directions applicable to all vessels, or to a specified class of vessels, at any of the pier works, for the purpose of ensuring the safety of vessels at the pier works, preventing injury to persons at, or to property at, or forming part of, the pier works or of securing the efficient conduct of the business carried on thereat and, without prejudice to the generality of the foregoing, such directions may relate to—

- (a) the movement, berthing or mooring of a vessel;
- (b) the dispatch of its business at the pier works;
- (c) the disposition or use of its appurtenances or equipment;
- (d) the use of its motive power;
- (e) the embarking or landing of passengers;
- (f) the loading or discharging of cargo, fuel, water or ship's stores;
- (g) the use of ballast.

(2) The harbour master may give a direction requiring the removal from any of the pier works of a vessel if—

- (a) it is on fire;
- (b) it is in a condition where it is liable to become immobilised or waterlogged, or to sink;
- (c) it is making an unlawful or improper use of the pier work;
- (d) it is interfering with the use of the pier work by other vessels, or is otherwise interfering with the proper use of the pier work or the dispatch of business therein;
- (e) the removal is necessary to enable maintenance or repair work to be carried out to the pier work or to an adjacent part of the works and lands vested in or administered by the Trustees.

(3) The harbour master may give a direction to a vessel at the pier works for the following purposes:—

- (a) any of the purposes referred to in subsection (1) above;
- (b) requiring the vessel to comply with a general direction made under this section.

(4) In this section reference to a vessel at a pier work includes reference to a vessel berthing or about to berth at a pier work and to a vessel leaving or having just left a pier work; and "pier works" means the works and conveniences and lands incident thereto vested in or administered by the Trustees in connection with their harbour undertaking, "pier work" being construed accordingly.

Publication of
designations and
general
directions.

17.—(1) Notice of the designation of an area of the harbour under subsection (1) (b) of section 15 (Special directions to vessels) of this Order or of the revocation of such a designation, and, except in an emergency, notice of a general direction and of the amendment or revocation of a general direction shall, so soon as practicable after it is made, be published by the Trustees once in Lloyd's List or some other newspaper specialising in shipping news, and, if the notice relates to the making of a designation or the making or amendment

of a general direction, it shall state a place at which copies of the designation or direction may be inspected and bought and the price thereof.

(2) In an emergency notice of a general direction or of the amendment or revocation of a general direction may be given in any manner the harbour master considers appropriate.

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 level 2 on the standard scale. Failure to comply with directions.

(2) It shall be a defence to the master of a vessel charged with an offence under subsection (1) above to prove 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 impracticable.

19.—(1) Without prejudice to any other remedy available to the Trustees, if a special direction is not complied with within a reasonable time, the harbour master may, where practicable, 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 harbour master 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 the access to or exit from any of the works of the Trustees or otherwise interfering with navigation.

(3) Expenses incurred by the Trustees in the exercise of the powers conferred by subsection (1) above shall be recoverable by them as if they were a charge of the Trustees in respect of the vessel.

20.—(1) Except as provided in subsection (2) of this section, nothing in this Order shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Secretary of State to the carrying out of certain operations whereby obstruction or danger to navigation is caused or is likely to result). Saving for Coast Protection Act 1949. 1949 c. 74.

(2) An application for consent under the said sections 34 to 36 to—

- (a) the carrying out of any operations for which a works licence is required or is required to be renewed under section 13 (Restriction of works and dredging) of this Order; or
- (b) the deposit of any materials for which the approval of the Trustees is required under proviso (b) (i) to subsection (8) of section 11 (Licence to dredge) of this Order;

shall not be determined until application has been made to the Trustees for a works licence, for renewal of a works licence or for such approval (as the case may be) and the Trustees have notified the applicant of their decision upon his application or, where there is an appeal under section 12 (Appeals in respect of works or dredging licence) of this Order in respect of any decision given, or deemed to have been given, by the Trustees upon that application, the appeal has been dealt with.

Saving for
certain other
enactments, etc.
1974 c. 40.
1985 c. 48.

21. Nothing in this Order—

- (a) affects the operation of the Control of Pollution Act 1974 or of Part II of the Food and Environment Protection Act 1985 (which restricts dumping at sea);
- (b) shall prejudice or derogate from, or in any way alter, affect or interfere with, the jurisdiction or authority of the Commissioners of Northern Lighthouses.

Crown rights.

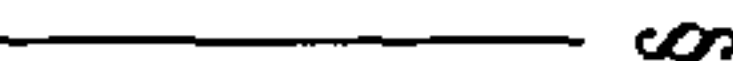
22.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing, nothing in this Order authorises the Trustees or any licensee to take, use, enter upon or in any manner interfere with any land or interests in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

- (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; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without consent in writing of that government department.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

Costs of Order.

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



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Ullapool Harbour Order Confirmation Act 1986

CHAPTER ix

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ULLAPOOL HARBOUR

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