

ELIZABETH II



1987 CHAPTER xviii

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to Western
Isles Islands Council (Vatersay Causeway). [23rd July 1987]

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

Be it therefore enacted by the Queen's most Excellent Majesty,
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 Western Isles Islands Council
(Vatersay Causeway) Order Confirmation Act 1987. Short title.

SCHEDULE

Western Isles Islands Council (Vatersay Causeway)

Provisional Order to authorise the Western Isles Islands Council to construct a causeway for pedestrian and vehicular traffic between the islands of Barra and Vatersay in the Western Isles Islands Area.

WHEREAS—

1973 c. 65.

(1) Under the Local Government (Scotland) Act 1973 the Western Isles Islands Council (hereinafter referred to as "the Council") are the local authority vested with the functions of an islands council in respect of the Western Isles Islands Area which Area includes the islands of Barra and Vatersay:

(2) The inhabitants of the island of Vatersay suffer hardship and difficulty due to the lack of proper communication across the Sound of Vatersay between that island and the island of Barra:

(3) There is great difficulty in transporting building materials, equipment, livestock and vehicles to and from the island of Vatersay and it is the Council's policy to maintain remote communities and to procure that wherever possible they have reasonable access to the more populated and better provided-for localities within the islands:

(4) The Council are the body statutorily responsible for the provision of roads in the islands area:

(5) The Council accordingly desire to construct between the islands of Vatersay and Barra a causeway across waters now lying below the level of low water which will, in their opinion, help to maintain the present population of Vatersay and will also relieve hardship:

(6) A plan and sections showing the lines or situations and levels of the works proposed to be authorised by this Order, such plan showing also the lands which may be compulsorily acquired or used under the powers of this Order and for the purposes thereof, together with a book of reference to the said plan containing the names of the owners or reputed owners, lessees or reputed lessees and occupiers of all such lands and describing the lands, have been deposited with the sheriff-clerk of the sheriff court district of Lochmaddy at Lochmaddy:

(7) The purposes of this Order 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 said Act of 1936, the Secretary of State orders as follows:—

1936 c. 52.

PART I
PRELIMINARY

1. This Order may be cited as the Western Isles Islands Council (Vatersay Causeway) Order 1987.

Short title.

2.—(1) In this Order, except where the context otherwise requires—

Interpretation.

“the authorised works” means the works (or any of them) described in, and authorised by, section 4 below and includes such works as renewed, replaced or altered under section 5 below, and any works constructed or executed under section 12 below;

“the Council” means the Western Isles Islands Council;

“the deposited plan”, “the deposited sections” and “the deposited book of reference” mean respectively the plan, sections and book of reference deposited on or before 20th November 1986 in Parliament, with the proper officer of the Council and with the sheriff-clerk of the sheriff court district of Lochmaddy at Lochmaddy in connection with the application for this Order;

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

“the limits of deviation” means the limits of deviation shown on the deposited plan;

“tidal work” means so much of any of the authorised works as are on, under or over tidal waters or tidal lands below the level of high water.

(2) Except in relation to section 11 below, all dimensions stated in any description of works or lands in this Order shall be construed as if the words “or thereabouts” were inserted after each such dimension.

(3) Map reference points specified in this Order shall be construed as references to Ordnance Survey National Grid reference points.

3. The Lands Clauses Acts, except sections 120 to 124 and 127 of the Lands Clauses Consolidation (Scotland) Act 1845, are hereby incorporated with this Order and in construing the provisions so incorporated the expression “the special Act” shall mean this Order.

Incorporation of
Lands Clauses
Acts.
1845 c. 19.

PART II
WORKS AND LANDPower to
construct works.

4. Subject to the provisions of this Order, the Council may, in the lines and situations and within the limits of deviation shown on the deposited plan and according to the levels shown on the deposited sections, construct, execute and maintain the work hereinafter described, with all necessary conveniences connected therewith in the Castlebay Electoral Division, parish of Barra in the Western Isles Islands Area, that is to say—

A causeway providing an access way for pedestrian and vehicular traffic between the islands of Barra and Vatersay commencing at a point NL 6385097667 on the island of Barra and extending through a curve in a generally west-south-westerly direction for a distance of 59 metres, thence in a south-westerly direction for a distance of 191 metres, thence through a curve in a generally westerly direction for a distance of 26 metres and thence in a west-north-westerly direction for a distance of 38 metres and there terminating at a point NL 6362597505 on the island of Vatersay having a width at the level of the metalled carriageway generally of 12 metres but increasing to 15 metres at its curved sections and surrounded on both its seaward faces by breakwaters of broken rock construction.

Power to renew,
etc., works.

5. Subject to the provisions of this Order the Council may, within the limits of deviation, renew, replace, or otherwise alter temporarily or permanently the authorised works.

Power to acquire
lands.

6. Subject to the provisions of this Order the Council may enter upon, take and use all or any of the lands within the limits of deviation and described by reference to the numbered parcels referred to in the deposited book of reference which they may require.

Period of
compulsory
purchase.

7. The powers of the Council for the compulsory purchase of lands under section 6 above shall cease on 31st December 1997.

Private rights of
way over lands
taken
compulsorily.

8.—(1) All private rights of way over any lands which under the powers of this Order are acquired compulsorily shall as from the date of such acquisition be extinguished.

1963 c. 51.

(2) The Council shall make compensation to all parties interested in respect of any such rights and such compensation shall be assessed, failing agreement, in the manner provided by the Land Compensation (Scotland) Act 1963 for determining disputed compensation for lands authorised to be acquired compulsorily.

Powers of entry.

9. At any time after notice to treat has been served for any land which the Council are authorised by this Order to purchase compulsorily the Council may, after giving to the owner and occupier of the land not less than 28 days' notice, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections 83 to 89 of the Lands Clauses Consolidation (Scotland) Act 1845 but subject to the payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with.

1845 c. 19.

Power to acquire
servitudes or
rights.

10.—(1) In lieu of acquiring any land that may be acquired compulsorily under this Order the Council may acquire compulsorily such servitudes and rights in or over that land as they may require for the purposes of this Order.

(2) The Council may give notice to treat in respect of any such servitude or right describing the nature thereof, and the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such servitudes and rights as if they were lands within the meaning of those Acts.

(3) Where the Council have acquired a servitude or right in or over any land under this section—

- (a) they shall not be required (except by agreement) to fence off or sever that land from adjoining land; and
- (b) the owner or occupier of the land for the time being shall, subject to the servitude or right, have the same right to use and cultivate the land as if this Order had not been made.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for a servitude or right is given under this section requires the Council to acquire the land, the Council shall not be entitled to acquire the servitude or right unless the Lands Tribunal for Scotland determines that the servitude or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

11. Subject to the provisions of this Order, in the construction or execution of the authorised works the Council may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation, and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to any extent downwards.

Power to deviate.

12. Subject to the provisions of this Order the Council, for the purposes of or in connection with the authorised works, may within the limits of deviation construct, execute and maintain all such subsidiary works and conveniences as may be necessary or expedient for or in connection with the authorised works.

Subsidiary works.

13.—(1) If the deposited plan or the deposited book of reference is inaccurate in its description of any land or in its statement or description of the ownership or occupation of any land, the Council, after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question, may apply to the sheriff for the correction thereof.

Correction of errors in deposited plan and book of reference.

(2) If on any such application it appears to the sheriff that the misstatement or wrong description arose from mistake, he shall certify the fact accordingly and shall in his certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments and a copy thereof respectively in the Private Bill Office, House of Commons, and with the sheriff-clerk and with the proper officer of the Council within the meaning of section 235 of the Local Government (Scotland) Act 1973, and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Council to take the land or a servitude therein (as the case may be) and execute the works in accordance with the certificate.

1973 c. 65.

(4) Any certificate or copy deposited under this section with any person shall be kept by him with the other documents to which it relates.

(5) In this section "the sheriff-clerk" means the sheriff-clerk of the sheriff court district of Lochmaddy.

14. So much of the authorised works constructed or executed pursuant to this Order as are not within the Western Isles Islands Area shall be deemed for all purposes to be within that Area.

Works deemed to be within Western Isles Islands Area.

PART III

MISCELLANEOUS

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

15.—(1) A tidal work shall not be constructed, executed, renewed, replaced 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.

(2) If a tidal work is constructed, executed, renewed, replaced or altered in contravention of this section—

(a) the Secretary of State may by notice in writing require the Council at their 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 30 days from the date when the notice is served upon the Council, they have 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 to do, 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 recoverable from the Council.

Lights on tidal
works during
construction.

16.—(1) The Council shall at or near a tidal work during the whole time of the construction, execution, renewal, replacement 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.

(2) If the Council fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Permanent lights
on tidal works.

17.—(1) After the completion of a tidal work the Council shall 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 Council fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Survey of tidal
works.

18. 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 it is proposed to construct and execute the work and any expenditure incurred by him in such survey and examination shall be recoverable from the Council.

Provision against
danger to
navigation.

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

(2) If the Council fail to notify the Commissioners of Northern Lighthouses as required by this section or to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary

conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

PART III
— cont.

20.—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Council at their 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 30 days from the date when a notice under this section is served upon the Council, they have 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 recoverable from the Council.

21.—(1) Nothing in this Order affects the operation of—

- (a) the Prevention of Oil Pollution Act 1971;
- (b) the Control of Pollution Act 1974;
- (c) the Offshore Petroleum Development (Scotland) Act 1975;
- (d) any of the relevant statutory provisions as defined in section 53 of the Health and Safety at Work etc. Act 1974;
- (e) Part II of the Food and Environment Protection Act 1985.

Saving for certain
enactments, etc.
1971 c. 60.
1974 c. 40.
1975 c. 8.
1974 c. 37.
1985 c. 48.

(2) Nothing in this Order affects prejudicially the jurisdiction or authority of the Commissioners of Northern Lighthouses.

22. Nothing in this Order shall exempt the Council from the provisions of Part I of the Coast Protection Act 1949.

Saving for Coast
Protection Act
1949.
1949 c. 74.

23.—(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 Council 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)—

Crown rights.

- (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 the 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.

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CHAPTER xviii

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