

ELIZABETH II



1987 CHAPTER xxv

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Highland Region Harbours (Miscellaneous Powers).
[10th December 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 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 Highland Region Harbours Short title.
(Miscellaneous Powers) Order Confirmation Act 1987.

SCHEDULE

HIGHLAND REGION HARBOURS
(MISCELLANEOUS POWERS)

Provisional Order to confer powers on the Highland Regional Council with respect to the management, regulation and control of their harbours; and for connected purposes.

WHEREAS—

1973 c. 65. Under the Local Government (Scotland) Act 1973 the Highland Regional Council (hereinafter referred to as “the Council”) are the authority charged with the administration of local government in the Highland Region:

The harbours at Gairloch, Helmsdale, Kinlochbervie, Kyle of Lochalsh, Lochinver, Portree and Uig are by virtue of Section 154 of the said Act vested in the Council:

It is expedient to confer on the Council powers with respect to the management, regulation and control of the said harbours as in this Order provided:

1936 c. 52. 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:—

Short title. 1. This Order may be cited as the Highland Region Harbours (Miscellaneous Powers) Order 1987.

Interpretation. 2. In this Order, except where 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;

“harbour” means any harbour to which this Order applies;

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

(a) any thing 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; and

(d) any other structure capable of floating on water (or which would be so capable if in proper repair) and used or capable of being used for human habitation;

but does not include any houseboat constructed for or used by five or less persons.

3. This Order shall apply to any harbour specified in the Schedule to this Order save that section 6 (Powers as to moorings, etc.) and section 7 (Obstruction of moorings, etc.) shall not apply to the harbour at Portree. Application of Order.

4. Section 83 of the Act of 1847 is hereby incorporated with and forms part of this Order save that the words therein appearing after the words "special Act" shall be omitted therefrom except in the case of the harbours at Gairloch and Kinlochbervie. Incorporation of Act of 1847.

5. The following provisions shall have effect as regards the harbour:— Powers of Council in relation to harbours.

- (a) The Council may provide and supply or contract with others for the provision and supply of fuel, ice, water, chandlery and marine equipment for the bunkering and service of any vessel entering and using the harbour.
- (b) The Council may let upon hire (with or without the services of their employees) to such persons, at such places and on such terms as they think fit any vessel, plant, equipment or other property belonging to them.
- (c) The Council may make arrangements for the handling, sale, storage, processing and transhipment of fish or fish products and other goods or cargo passing through the harbour.
- (d) The Council may provide warehouses, workshops, slipways and services for marine repairs and ancillary works or contract with others for the provision of such facilities or services.
- (e) The Council may recover such reasonable charges for services and facilities provided by them in, or in connection with, the harbour as they may from time to time determine.

6.—(1) The Council may place and maintain moorings on land owned or leased by the Council in the harbour. Powers as to moorings, etc.

(2) The Council may recover in respect of any vessel using any of the moorings in the harbour provided by the Council under this section 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 this section.

(4) The Council may from time to time grant licences to any person to place and maintain moorings in the harbour:

Provided that—

- (a) 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;
- (b) the Council shall not 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 unless they are satisfied that the placing or maintenance of the moorings to which the application relates would constitute a danger to or interfere with the navigation of vessels in the harbour.

c. xxv Highland Region Harbours (Miscellaneous Powers) Order Confirmation Act 1987

(5) Any licence granted under subsection (4) above shall be valid only for such period not exceeding three years as may be specified in the licence.

(6) The Council may charge a reasonable fee for granting a licence under subsection (4) above.

Obstruction of moorings, etc.

7.—(1) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Council in placing or maintaining moorings; or
- (b) intentionally and without lawful authority pulls up or removes any moorings; or
- (c) places or maintains any mooring not provided or licensed by the Council under section 6 (Powers as to moorings, etc.) of this Order; or
- (d) without reasonable excuse causes a vessel to be moored except at a mooring provided or licensed by the Council under the said section 6 of this Order or at a quay, jetty, slipway or other work;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If—

- (a) any person contravenes paragraph (c) of subsection (1) above the Council may remove the mooring in question and recover from that person the expenses incurred in so doing;
- (b) any vessel is moored at a mooring in contravention of paragraph (d) of subsection (1) above the Council may remove that vessel to another mooring and such removal shall be carried out at the expense and risk of the owner of the vessel.

Power to provide and operate fish markets.

8.—(1) The Council may in relation to the harbour provide, operate and maintain a market for the sale of fish with all such appliances and fittings as they deem necessary and suitable for the purposes thereof, and may—

- (a) divide or allocate any parts thereof into stalls or other defined or limited places;
- (b) in connection with such market provide and operate such services and facilities as may be requisite or expedient;
- (c) fix and regulate the hours during which the market or any part thereof shall be open;
- (d) recover such reasonable charges as they think fit for the use of the market and for such services and facilities.

(2) The Council may, for such consideration and upon such terms and conditions, subject to such restrictions and for such periods as they think fit, sell, feu, lease, excamb or otherwise dispose of the whole or any part of the lands forming a fish market or part thereof and may enter into and carry into effect agreements with respect to any offices, stalls and ancillary buildings in connection therewith.

Highland Region Harbours (Miscellaneous Powers) Order Confirmation Act 1987 c. xxv

5

9.—(1) In addition to the powers of making byelaws contained in section 83 of 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:—

Byelaws respecting harbour.

- (a) for the protection of the harbour 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 harbour;
- (c) for the regulation of the embarking, loading and unloading of any goods or traffic at or within the harbour.

(2) Byelaws to be made by the Council under Section 83 of the Act of 1847 or this Order may provide for imposing a penalty not exceeding level 2 on the standard scale for the breach or non-observance of any byelaw.

(3) Byelaws made under this Order shall not have effect until confirmed by the Secretary of State, and the provisions of sections 202, 202A, 202B, 202C, 203 and 204 of the Local Government (Scotland) Act 1973 shall have effect in relation to such byelaws as if they were byelaws made under section 201 of that Act.

1973 c. 65.

(4) Where the Secretary of State proposes to exercise the power conferred on him under subsection (10) of section 202 of the Local Government (Scotland) Act 1973 to confirm with modifications any byelaws submitted by the Council for confirmation and where the Secretary of State proposes to make a modification which appears to him to be substantial he shall inform the Council and require them 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 Council, and by other persons who have been informed of it.

10. 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.

11. Nothing in this Order shall affect the operation of the Food and Environment Protection Act 1985.

Saving for Food and Environment Protection Act 1985.

1985 c. 48.

12. Nothing in this Order shall affect the operation of the Control of Pollution Act 1974.

Saving for Control of Pollution Act 1974.

1974 c. 40.

13. The Town and Country Planning (Scotland) Act 1972 and any orders, regulations, rules, schemes and directions made or given thereunder and any restrictions of 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 authorised by this Order.

Saving for town and country planning.

1972 c. 52.

c. xxv Highland Region Harbours (Miscellaneous Powers) Order Confirmation Act 1987

Crown rights.

14.—(1) Nothing in this Order shall affect 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 herein contained shall authorise the Council to take, use, enter upon or in any manner interfere with any land or interest 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 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.

Repeals.

15. The enactments mentioned in Schedule 2 to this Order are hereby repealed.

SCHEDULE 1

Section 3.

HARBOURS TO WHICH THIS ORDER APPLIES

- The harbour at Gairloch in the parish of Gairloch and district of Ross and Cromarty described and defined in the Gairloch Piers Order Confirmation Act 1979; 1979 c. vii.
- The harbour at Helmsdale in the parish of Kildoran and district of Sutherland described and defined in the Pier and Harbour Orders Confirmation (No. 1) Act 1890 and the Pier and Harbour Orders Confirmation (No. 1) Act 1901; 1890 c. xxxvii.
1901 c. lii.
- The harbour at Kinlochbervie in the parish of Eddrachillis and district of Sutherland described and defined in the Highland Region (Kinlochbervie) Order Confirmation Act 1985; 1985 c. ii.
- The harbour at Kyle of Lochalsh in the parish of Lochalsh and the district of Ross and Cromarty described and defined in the Ross and Cromarty County Council (Kyle of Lochalsh Fishery Pier) Order Confirmation Act 1950; 1950 c. iii (14 & 15 Geo. 6).
- The harbour at Lochinver in the parish of Assynt and district of Sutherland described and defined in the Pier and Harbour Order (Culag (Lochinver)) Confirmation Act 1937, the Culag (Lochinver) Pier Order 1967 and the Culag (Lochinver) Pier Order Confirmation Act 1972; 1937 c. lxxi.
S.I. 1967/1735.
1972 c. xix.
- The harbour at Portree in the parish of Portree and district of Skye and Lochalsh described and defined in the Portree Pier Order 1957; S.I. 1957/1459.
- The harbour at Uig in the parish of Snizort in the district of Skye and Lochalsh as described and defined in the Pier and Harbour Orders Confirmation (No. 1) Act 1891. 1891 c. xlvi.

SCHEDULE 2

ENACTMENTS REPEALED

Chapter (1)	Short title (2)	Extent of repeal (3)
1890 c. xxxvii	Pier and Harbour Orders Confirmation (No. 1) Act 1890	Section 44 of the Helmsdale Harbour Order 1890.
1950 c. iii (14 & 15 Geo. 6)	Ross and Cromarty County Council (Kyle of Lochalsh Fishery Pier) Order Confirmation Act 1950	Section 6 (2).
1972 c. xix	Culag (Lochinver) Pier Order Confirmation Act 1972	Sections 15 (2), 20, 22 and 23 and 24.
1979 c. vii	Gairloch Piers Order Confirmation Act 1979	Sections 3, 7, 10, 11 and 12.
1985 c. ii	Highland Region (Kinlochbervie) Order 1985	Sections 3, 17 and 18.

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CHAPTER xxv

ARRANGEMENT OF SECTIONS

Section

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

SCHEDULE

HIGHLAND REGION HARBOURS (MISCELLANEOUS POWERS)

1. Short title.
2. Interpretation.
3. Application of Order.
4. Incorporation of Act of 1847.
5. Powers of Council in relation to harbours.
6. Powers as to moorings, etc.
7. Obstruction of moorings, etc.
8. Power to provide and operate fish markets.
9. Byelaws respecting harbour.
10. Saving for Coast Protection Act 1949.
11. Saving for Food and Environment Protection Act 1985.
12. Saving for Control of Pollution Act 1974.
13. Saving for town and country planning.
14. Crown rights.
15. Repeals.

SCHEDULE 1—Harbours to which this Order applies.

SCHEDULE 2—Enactments repealed.