

ELIZABETH II



1988 CHAPTER xx

An Act to confirm a Provisional Order under the
Private Legislation Procedure (Scotland) Act 1936,
relating to Highland Region (Lochinver Harbour).
[29th July 1988]

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 Highland Region (Lochinver Harbour) Order Confirmation Act 1988. Short title.

SCHEDULE

HIGHLAND REGION (LOCHINVER HARBOUR)

Provisional Order to confer powers on the Highland Regional Council with respect to their harbour at Lochinver in the district of Sutherland; to provide for new harbour limits within which the Council shall have jurisdiction; and for other purposes.

WHEREAS—

1973 c. 65. (1) By virtue of the provisions of the Local Government (Scotland) Act 1973 the harbour at Lochinver became vested in the Highland Regional Council (hereinafter referred to as “the Council”):

(2) It is expedient that the limits within which the Council should exercise jurisdiction as a harbour authority so as to be able to exercise proper control of the movement of vessels in the harbour should be extended as in this Order provided:

(3) It is expedient that the Council should be authorised to carry out the works described in this Order for the improvement of the harbour at Lochinver and the facilities thereat:

(4) Estimates have been prepared by the Council with respect to the proposed works totalling in the whole the sum of £5,838,000:

(5) A plan and sections showing the lines or situations and levels of the proposed works have been deposited with the sheriff clerk of the sheriff court district of Dornoch:

(6) It is expedient that the other provisions in this Order should be enacted:

1936 c. 52. (7) 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:—

PART I

PRELIMINARY

Short title. 1. This Order may be cited as the Highland Region (Lochinver Harbour) Order 1988.

Interpretation. 2. In this Order, unless the context otherwise requires—
 “Council” means the Highland Regional Council;
 “deposited plan and sections” means the plan and sections deposited in connection with this Order;
 “harbour” means the area referred to in section 14 (Harbour limits) of this Order and includes the quays, piers, landing places and all other works, land and buildings for the time being vested in or occupied or administered by the Council within that area and the works;
 “level of high water” means the level of mean high-water springs;

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

“tidal work” means so much of any work as is on, under or over tidal waters or tidal lands below the level of high water;

“works” means the works authorised by this Order or as the case may be any part thereof.

PART I
—cont.

PART II

WORKS

3.—(1) Subject to the provisions of this Order, the Council may, in the parish of Assynt in the Highland Region area and on the foreshore and bed of the sea adjacent thereto and in the lines and situations and upon the lands delineated on the deposited plan and within the limits of deviation and according to the levels shown on the deposited sections, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith or incidental thereto, that is to say:—

Power to
construct works.

Work No. 1

An extension to the existing quay as a solid structure commencing at the south-west corner of the existing quay at a point 2 metres south-west of the south-west corner of the existing fish market building and extending west-south-west for a distance of 163 metres and thence north-north-west for a distance of 100 metres and thence west-south-west for a distance of 10 metres and thence south-south-east for a distance of 100 metres and thence west-south-west for a distance of 20 metres and thence south for a distance of 55 metres and there terminating and the construction over part thereof of necessary buildings together with a reclamation of the seabed by infilling, levelling and surfacing.

Work No. 2

A breakwater being 10 metres in width of rubble construction commencing at a point 410 metres west of the south-west corner of the existing fish market building and 12 metres above (southward of) the level of high water and extending north-north-east for a distance of 245 metres and there terminating together with a reclamation of the seabed by infilling, levelling and surfacing.

Work No. 3

A slipway being 15 metres in width of solid construction together with an apron at the upper end of the slipway with a hard standing surface commencing at a point 359 metres west-south-west of the south-west corner of the existing fish market building and 18 metres above (southward of) the level of high water and extending north-north-east for a distance of 120 metres and there terminating and the construction over part thereof of necessary buildings together with a reclamation of the seabed by infilling, levelling and surfacing.

Work No. 4

A rubble bund being 12 metres in width (as access causeway) commencing at a point 295 metres west-south-west of the south-west corner of the existing fish market building and 5 metres above (westward of) the level of high water and extending east-south-east for a distance of 77 metres and there terminating together with a reclamation of the seabed by infilling, levelling and surfacing.

(2) All areas, directions, distances, lengths and widths as stated in any description of works, powers or lands other than in section 6 (Power to deviate) of this Order shall be construed as if the words “or thereabouts” were inserted after each such area, direction, distance, length and width.

PART II
—cont.Subsidiary
works.

4. Subject to the provisions of this Order, the Council may within the limits of deviation from time to time erect, construct and maintain, whether temporarily or permanently, all such subsidiary or incidental works and conveniences as may be necessary or expedient for the purposes of or in connection with the construction, maintenance and use of the works.

Minor works in
harbour.

5. The Council may, in and over the area hatched black on the deposited plan, provide, lay down, maintain and use such moorings and other minor works and equipment of a like nature as may be necessary and expedient for the purposes of, or in connection with, the carrying on of the Council's undertaking in the harbour.

Power to
deviate.

6. Subject to the provisions of this Order, in constructing the 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 such extent downwards as may be found necessary or convenient.

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

7.—(1) A tidal work shall not be constructed 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 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 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 by him from the Council.

Survey of tidal
works.

8. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work constructed by the Council or of the site upon which it is proposed to construct the work and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable by him from the Council.

Provision
against danger
to navigation.

9.—(1) In 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 shall 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.

Abatement of
works abandoned
or decayed.

10.—(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.

(2) Where a work authorised by this Order and 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 by him from the Council.

11.—(1) The Council shall at or near a tidal work during the whole time of the construction 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.

12.—(1) After the completion of a tidal work the Council shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such steps for the prevention of 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.

13. The works shall be deemed for all purposes to be within the parish of Assynt and district of Sutherland.

PART II
—cont.

Lights on works
during construction.

Permanent lights
on works.

Works to be in
parish of Assynt.

PART III

MISCELLANEOUS

14.—(1) The limits within which the Council shall exercise jurisdiction as a harbour authority and within which the power of the harbour authority and the power of the harbour master may be exercised shall comprise the area described in the Schedule to this Order.

(2) In the event of any discrepancy between the harbour limits as described in the Schedule to this Order and the limits as shown on the deposited plan, the limits as described in the said Schedule shall be deemed to be correct and shall prevail.

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

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

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

18. Nothing in this Order shall prejudice or derogate from, or in any way alter, affect or interfere with the jurisdiction or authority of the Commissioners of Northern Lighthouses.

Harbour limits.

Saving for Coast
Protection Act
1949.

1949 c. 74.
Saving for Food
and Environment
Protection Act
1985.

1985 c. 48.

Saving for Control
of Pollution Act
1974.

1974 c. 40.

Saving for
Commissioners
of Northern
Lighthouses.

PART III
—*cont.*

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

19.—(1) The Town and Country Planning (Scotland) Act 1972 and any order, 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.

S.I. 1981/830
(S. 86).

(2) In their application to development authorised by this Order Article 3 of, and Class X in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1981 shall have effect as if the authority to develop given by this Order were limited to development begun within 10 years after the passing of the Act confirming this Order.

Crown rights.

20.—(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 or any licensee of 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.

SCHEDULE

Section 14.

LIMITS OF THE HARBOUR

All waters below the level of high water forming the approaches to Lochinver Bay, B'agh an t Srathain and Lady Constance Bay with the boundary commencing at the westernmost point on the east side of Loch Bad nam Ban latitude 58° 08.291' N, longitude 5° 16.322' W; thence in a north-north-westerly direction for a distance of 130 metres to the westernmost point of Sgeir Bhuidhe latitude 58° 08.355' N, longitude 5° 16.378' W; thence in a north-north-westerly direction for a distance of 1,080 metres to Rubha nam Fad latitude 58° 08.924' N, longitude 5° 16.635' W; on the level of high water.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR J. A. DOLE
Controller and Chief Executive of Her Majesty's Stationery Office and
Queen's Printer of Acts of Parliament

Highland Region (Lochinver Harbour)
Order Confirmation Act 1988

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

£1.90 net

ISBN 0 10 512088 X



Highland Region (Lochinver Harbour) Order Confirmation Act 1988

CHAPTER xx

ARRANGEMENT OF SECTIONS

Section

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

SCHEDULE

HIGHLAND REGION (LOCHINVER HARBOUR)

PART I

PRELIMINARY

1. Short title.
2. Interpretation.

PART II

WORKS

3. Power to construct works.
4. Subsidiary works.
5. Minor works in harbour.
6. Power to deviate.
7. Tidal works not to be executed without approval of Secretary of State.
8. Survey of tidal works.

Highland Region (Lochinver Harbour)
Order Confirmation Act 1988

Section

9. Provision against danger to navigation.
10. Abatement of works abandoned or decayed.
11. Lights on works during construction.
12. Permanent lights on works.
13. Works to be in parish of Assynt.

PART III

MISCELLANEOUS

14. Harbour limits.
15. Saving for Coast Protection Act 1949.
16. Saving for Food and Environment Protection Act 1985.
17. Saving for Control of Pollution Act 1974.
18. Saving for Commissioners of Northern Lighthouses.
19. Saving for town and country planning.
20. Crown rights.

SCHEDULE—Limits of the harbour.