CHAPTER iv

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Argyll County Council (Scalasaig Pier, etc.).

[20th December, 1961.]

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:

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 Argyll County Council (Scalasaig Pier, etc.) Order Confirmation Act, 1961. Short title.

SCHEDULE

ARGYLL COUNTY COUNCIL (SCALASAIG PIER, ETC.)

Provisional Order to authorise the County Council of the county of Argyll to construct a new pierhead and approach gantry or bridge thereto at Scalasaig in the parish of Colonsay and Oronsay in the Island of Colonsay and to confer further powers on the said County Council with respect to the pier undertaking at Scalasaig and for other purposes.

Whereas the existing pier at Scalasaig in the parish of Colonsay and Oronsay and Island of Colonsay is inadequate to meet the present-day needs for transport between the said island and the mainland, and the County Council of the county of Argyll (hereinafter referred to as " the County Council ") are desirous of improving the said pier by the construction of a new pier head together with an approach gantry or bridge thereto:

And whereas agreement has been reached for the acquisition by the County Council of the existing pier at Scalasaig and so much of the lands necessary for the construction of the said new pierhead and approach gantry or bridge thereto as are situate above high-water mark of ordinary spring tides:

And whereas it is expedient that the County Council should be authorised to construct the works hereinafter in this Order described:

And whereas estimates have been prepared by the County Council in relation to the following purposes in respect of which they are authorised to borrow money and such estimates are as follows:—

For the construction of a new approach gantry or bridge	£18,000
For the construction of a new pierhead	£92,000

And whereas plans and sections (in this Order referred to as " the deposited plans and sections ") showing the lines, situations and levels of the works to be constructed under the powers of this Order were duly deposited with the Sheriff Clerk of the county of Argyll:

And whereas it is expedient that the County Council should be authorised to borrow money for the purposes of this Order:

And whereas it is expedient that the further powers contained in this Order should be enacted:

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:—

PART I

PRELIMINARY

1. This Order may be cited as the Argyll County Council (Scalasaig Pier, etc.) Order, 1961. Short title.

2.—(1) In this Order, unless there be something in the subject or context repugnant to such construction, the following words and expressions have the meanings hereby assigned to them, that is to say:— Interpretation.

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

" Act of 1937 " means the Harbours, Piers and Ferries (Scotland) Act, 1937;

" County Council " means the County Council of the county of Argyll;

" daily fine " means a fine for every day on which any offence is continued after conviction therefor;

" date of commencement " means the date of the passing of the Act confirming this Order;

" deposited plans " and " deposited sections " mean respectively the plans and sections deposited with reference to this Order;

" high-water mark " means high-water mark of ordinary spring tides;

" Minister " means the Minister of Transport;

" pier undertaking " means the existing pier undertaking at Scalasaig and the works together with all lands for the time being belonging to or held, used or enjoyed by the County Council in connection therewith;

" summary conviction " means conviction in a court of summary jurisdiction;

" the works " means the works authorised by this Order or, as the case may require, any part thereof.

(2) Any reference in this Order to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment.

3.—(1) The Lands Clauses Acts (except so much thereof as relates to the purchase and taking of land otherwise than by agreement and Incorporation of Acts.

PART I —*cont.*

to the entry upon lands by the promoters of the undertaking and with the exception of sections 120 to 126 of the Lands Clauses Consolidation (Scotland) Act, 1845, relating to the sale of superfluous lands) are hereby incorporated with this Order.

(2) For the purposes of the incorporation of the said Acts the expression " the special Act " in those Acts shall mean this Order.

(3) Notwithstanding anything contained in the Act of 1937 sections 25 and 26, 79, 80 and 86 to 90 of the Act of 1847 shall not apply to the works.

(4) Part III of the Act of 1937, so far as applicable and not inconsistent with or varied by the provisions of this Order, is hereby incorporated with and forms part of this Order.

(5) Section 28 of the Act of 1847 (which section exempts certain vessels from the provisions of the Act) in its application to this Order shall have effect as if in the said section for the words from " or any packet-boat " to " any such packet-boat or packet " there were substituted the words " or any vessel employed by or under the authority of the Postmaster General for the conveyance under contract of postal packets as defined by the Post Office Act, 1953, not being a vessel also conveying passengers or goods for hire or reward, or any mail bag as so defined conveyed by any such vessel ".

PART II

WORKS

Power to construct works.

4. Subject to the provisions of this Order the County Council may, when they shall have acquired the necessary lands or obtained sufficient rights therein, construct and maintain in the lines and according to the levels and within the limits of deviation shown on the deposited plans and sections, the works hereinafter described with all necessary works and conveniences connected therewith.

Description of works.

5. The works will be situated in the parish of Colonsay and Oronsay in the Island of Colonsay and in the county of Argyll and on the foreshore and bed of the sea adjacent thereto and consist of—

Work No. 1 An approach gantry or bridge of open work construction consisting of a reinforced concrete deck twelve feet six inches in width supported by vertical reinforced concrete piers, columns and piles commencing at a point on the face of the existing quay three hundred and twenty feet or thereby east of the fixed point shown on the deposited plans and extending thence in an east-north-easterly direction for a distance of three hundred and eighty feet or thereby and there terminating;

Work No. 2 A pierhead of open work construction consisting of a reinforced concrete and timber deck thirty-four feet in width supported by vertical and raking reinforced concrete piles and surrounded by timber fendering commencing at the termination of Work No. 1 and extending in prolongation of

PART II —*cont.*

Work No. 1 in an east-north-easterly direction for a distance of two hundred and forty-seven feet or thereby and there terminating.

Power to deviate.

6. Subject to the provisions of this Order, in constructing the works the County Council may deviate laterally from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and they may deviate vertically from the levels of the works as shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards:

Provided that deviation either lateral or vertical below high-water mark shall not be made without the consent in writing of the Minister.

Powers as to subsidiary works.

7. The County Council may, in connection with the works, from time to time construct or place and maintain in, under or over any of the lands delineated on the deposited plans relating to the works, all such works and conveniences subsidiary or ancillary to the works and all such appliances, machinery and apparatus as they may from time to time deem necessary or convenient for any purpose of or in connection with the works or the accommodation of vessels and traffic thereat.

Power to maintain and improve pier undertaking.

8.—(1) Subject to the provisions of this Order the County Council may rebuild, maintain, repair, renew, widen, alter, improve, restore, reconstruct and extend the pier undertaking and any works thereof and in connection therewith may from time to time construct, erect, maintain, alter and improve all necessary ancillary works, buildings, apparatus and conveniences and may also from time to time lay down and maintain rails, tramways and turntables.

(2) A line of rails or tramway constructed under the powers of this Order shall not be used for the public conveyance of passengers unless it has been certified by the Minister to be fit for that purpose.

(3) Any electric light and power or other apparatus constructed and maintained under this Order shall be so constructed, used and maintained as to prevent any interference with any telegraphic line (as defined by the Telegraph Act, 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

Penalty for obstructing works.

9. Any person who wilfully obstructs any person acting under the authority of the County Council in setting out the lines of the works, or who pulls up or removes any poles or stakes driven into the ground for the purpose of such setting out, shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding five pounds and shall, in addition, be liable to repay to the County Council any expenses incurred by them in making good such damage.

Powers to cease in certain events.

10.—(1) If the works are not substantially commenced within five years from the date of commencement, or such extended time as the Secretary of State may in the circumstances by order direct, the powers granted to the County Council by this Order for the construction of the works shall cease.

PART II —*cont.*

(2) If the execution of the works, after having been substantially commenced, is virtually suspended for twelve consecutive months, the said powers shall cease except as to so much of the works as is then completed unless the Secretary of State by order directs that the said powers shall continue and remain in force but, subject to the foregoing provision as to completion, the said powers shall cease in any event within eight years from the date of commencement.

(3) A certificate of the Secretary of State to the effect that the works have not been substantially commenced, or that they have been virtually suspended for twelve consecutive months, shall, for the purposes of this section, be conclusive evidence of the facts stated in such certificate.

Works to be deemed part of pier undertaking.

11. Subject to the provisions of this Order, the works shall be deemed for all purposes to be part of the pier undertaking, and all byelaws, rules and regulations of the County Council for the time being in force relating to the pier undertaking shall be applicable and shall apply to the works and shall and may be enforced by the County Council accordingly:

Provided that nothing in this section shall extend to the levying and recovery of dues.

Works to be in parish of Colonsay and Oronsay.

12. The works shall be deemed to be for all purposes within the parish of Colonsay and Oronsay and in the county of Argyll.

Power to grant servitudes, etc.

13.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or release lands may, if he thinks fit, subject to the provisions of those Acts, grant to the County Council any servitude, right or privilege required for the purposes of this Order in, over or affecting any such lands (not being a servitude or right of water in which some person other than the grantor has an interest).

(2) The provisions of the said Acts with respect to lands and feu duties or ground annuals, so far as such provisions are applicable, shall extend and apply to any such grant and to any such servitude, right or privilege as aforesaid.

Recovery of penalties.

14. Proceedings for any offence against this Order or for the recovery of any fine or penalty thereunder may be brought in any court of summary jurisdiction.

Works below high-water mark to be subject to approval of Minister.

15.—(1) Subject to the provisions of this Order, any work authorised by this Order shall only be constructed so far as the same shall be on, in, under or over tidal waters or tidal lands below high-water mark in accordance with plans and sections approved by the Minister and subject to such conditions and restrictions as the Minister may prescribe before such work is begun.

(2) Any alteration or extension of any such work shall be subject to the like approval.

PART II —*cont.*

(3) If any such work be commenced or completed contrary to the provisions of this section the Minister may abate and remove the same and restore the site thereof to its former condition at the cost of the County Council and the amount of such cost shall be a debt due from the County Council to the Crown and shall be recoverable accordingly.

Survey of works by Minister.

16. If at any time the Minister deems it expedient to order a survey and examination of any work carried out by the County Council under the powers of this Order on, in, under or over tidal waters or tidal lands below high-water mark, or of the site upon which it is proposed to construct any such work, the County Council shall defray the expense of the survey and examination, and the amount thereof shall be a debt due from the County Council to the Crown and shall be recoverable accordingly.

Abatement of work abandoned or decayed.

17.—(1) Where any work carried out by the County Council under the powers of this Order wholly or partially on, in, under or over tidal waters or tidal lands below high-water mark is abandoned, or suffered to fall into decay, the Minister may, by notice in writing, either require the County Council at their own expense to repair and restore such part of such work as is situated below high-water mark, or any portion thereof, or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Minister may think proper.

(2) Where any part of such work which has been abandoned or suffered to fall into decay is situated above high-water mark, and is in such condition as to interfere or cause reasonable apprehension that the same may interfere with the right of navigation, or the exercise of other public rights over the foreshore, the Minister may include any such part of such work or any portion thereof in any notice under this section.

(3) If the County Council fail to comply with any notice under this section within thirty days from the date when the notice is served upon them, the Minister may execute the works specified in the notice at the expense of the County Council, and the amount of such expense shall be a debt due from the County Council to the Crown and shall be recoverable accordingly.

Lights on works during construction.

18.—(1) The County Council shall, at or near such part of the works as shall be below high-water mark, during the whole time of the construction, renewal, extension or alteration thereof exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Minister shall from time to time require or approve.

(2) If the County Council fail to comply in any respect with the provisions of this section, they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding twenty pounds and to a daily fine not exceeding two pounds.

PART II —*cont.*

Permanent lights on works.

19.—(1) After the completion of the works the County Council shall, at the outer extremity of the works below high-water mark, exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the County Council fail to comply in any respect with the provisions of this section, they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding twenty pounds and to a daily fine not exceeding two pounds.

Provision against danger to navigation.

20.—(1) In the case of injury to or destruction or decay of the works, or any part thereof, so far as the same shall be constructed on, in, under or over any tidal waters or tidal lands below high-water mark, the County Council shall lay down such buoys, exhibit such lights or take such other means for preventing, so far as may be, danger to navigation, as shall from time to time be directed by the Commissioners of Northern Lighthouses and shall apply to those Commissioners for directions as to the means to be taken.

(2) If the County Council fail to comply in any respect with the provisions of this section they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding ten pounds and to a daily fine not exceeding one pound.

PART III

BORROWING

Power to borrow money for purposes of works, etc.

21. The power to borrow money conferred on county and town councils by section 21 of the Act of 1937 shall extend and apply with respect to the works, and with regard to the exercise by the County Council of the powers conferred on them by this Order, in the same way as if the works were works authorised by a provisional order made under section 4 of the Act of 1937, and as if the exercise of the powers conferred on the County Council by this Order were purposes of the Act of 1937.

Further borrowing powers.

22. The County Council in addition to any other powers of borrowing which they now have may, with the sanction of the Secretary of State, borrow such sums of money as may be necessary for—

(*a*) the general purposes of the pier undertaking;

(*b*) the payment of the costs, charges and expenses of and incident to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto:

Provided that money so borrowed for purpose (*a*) shall be repaid within thirty years from the date or dates of borrowing and that money so borrowed for purpose (*b*) shall be repaid within five years from the date of commencement

PART III —*cont.*

23. All moneys borrowed by the County Council under this Order shall be applied only to the purposes for which such sums are authorised to be borrowed and to which capital is properly applicable.

Application of moneys borrowed.

24. Nothing in this Order shall authorise the exercise of any power of borrowing money or the making of any issue of capital otherwise than in compliance with the provisions of any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946, or of section 259 of the Local Government (Scotland) Act, 1947.

Saving for control on borrowing.

PART IV

HARBOUR LIMITS

25.—(1) The limits within which the County Council shall have authority, and within which the powers of the pier master or harbour master may be exercised with respect to the pier undertaking shall comprise the lands forming part of the pier undertaking and the following area below high-water mark, that is to say, all and whole that area of water within a radius of two thousand feet from a point at the seaward end of the pierhead (Work No. 2) constructed in accordance with the provisions of this Order which limits are in this Order referred to as " the Scalasaig harbour limits ".

Harbour limits.

(2) A map or plan showing the Scalasaig harbour limits of which four copies have been signed by Colin Neil Fraser Q.C. Counsel to the Secretary of State under the Private Legislation Procedure (Scotland) Act, 1936, shall, within one month after the date of commencement, be deposited as follows, that is to say, two copies at the office of the Minister, one copy with the Sheriff Clerk of the county of Argyll at his office and one copy at the office of the County Clerk of the county of Argyll.

PART V

MISCELLANEOUS

26. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, and in particular, and without prejudice to the generality of the foregoing, nothing herein shall authorise the County Council to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, heritages, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners on behalf of Her Majesty first had and obtained for that purpose.

Crown rights.

27. This Order shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning

Saving for town and country planning.

PART V —*cont.*

(Scotland) Act, 1947, for the purposes of subsection (4) of section 11 and subsection (1) of section 112 of that Act, and for the purposes of the last-mentioned subsection shall be further deemed to be an enactment whereby provision is made for authorising or regulating the development of land.

Costs of Order.

28. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order, or otherwise in relation thereto, shall be paid by the County Council.

Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation (Scotland) Act, 1845	8 & 9 Vict. c. 19.
Harbours, Docks and Piers Clauses Act, 1847	10 & 11 Vict. c. 27.
Telegraph Act, 1878	41 & 42 Vict. c. 76.
Private Legislation Procedure (Scotland) Act, 1936	26 Geo. 5 and 1 Edw. 8 c. 52.
Harbours, Piers and Ferries (Scotland) Act, 1937	1 Edw. 8 & 1 Geo. 6 c. 28.
Borrowing (Control and Guarantees) Act, 1946	9 & 10 Geo. 6 c. 58.
Local Government (Scotland) Act, 1947	10 & 11 Geo. 6 c. 43.
Town and Country Planning (Scotland) Act, 1947	10 & 11 Geo. 6 c. 53.
Post Office Act, 1953	1 & 2 Eliz. 2 c. 36.

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR PERCY FAULKNER, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 1*s.* 0*d.* net

PRINTED IN ENGLAND