British Aluminium (Saltburn Pier) Order Confirmation Act 1971

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ELIZABETH II



1971 CHAPTER xx

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to British Aluminium (Saltburn Pier). [8th April 1971]

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 British Aluminium (Saltburn Pier) Order Confirmation Act 1971. Short title.

SCHEDULE

BRITISH ALUMINIUM (SALTBURN PIER)

Provisional Order to confer powers on The British Aluminium Company, Limited with respect to their pier at Saltburn; and for purposes connected therewith.

Whereas The British Aluminium Company, Limited (hereinafter called "the Company") are constructing an aluminium smelter at Invergordon in the county of Ross and Cromarty in accordance with
S.I. 1968/1875. The Aluminium Industry (Invergordon Project) Scheme 1968 made by the Board of Trade in pursuance of the Industrial Expansion Act
1968 c. 32. 1968:

And whereas in connection with the said aluminium smelter and in pursuance of authority given by the Minister of Transport under
1964 c. 40. section 9 of the Harbours Act 1964 the Company have constructed in the Firth of Cromarty a deep water berth and pier at Saltburn consisting of works as shown on the plan and drawings known as Foreshore Plan 50754:

And whereas it is expedient that there should be conferred on the Company the powers mentioned in this Order for the maintenance and regulation of the use of their said deep water berth and pier:

And whereas before the commencement of the construction of the said deep water berth and pier, of the consents required to be obtained in relation to the said works by virtue of section 34 (1) of the Coast
1949 c. 74. Protection Act 1949 (Restriction of works detrimental to navigation) only a consent to operations affected by heads (*b*) and (*c*) of that subsection (deposit of materials and dredging) was given by the Board of Trade:

And whereas the Board of Trade are not empowered to give ex post facto a consent required by the said subsection:

And whereas it is expedient that the necessary consents to the commencement of the said works, subject to all relevant and usual conditions, should be deemed to have been given:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private
1936 c. 52. 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. 1. This Order may be cited as the British Aluminium (Saltburn Pier) Order 1971.

Interpretation.

2.—(1) In this Order the several words and expressions to which meanings are assigned by any Act wholly or partially incorporated with this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction; and in this Order unless the context otherwise requires—

"Act of 1847" means the Harbours Docks and Piers Clauses Act 1847; 1847 c. 27.

"Company" means The British Aluminium Company, Limited;

"existing" means existing at the commencement of this Order;

"existing pier" means the deep water berth and pier belonging to the Company at Saltburn in the county of Ross and Cromarty referred to in the Preamble to this Order;

"hovercraft" means hovercraft within the meaning of the Hovercraft Act 1968; 1968 c. 59.

"pier" includes the existing pier and the existing pier as the same may be from time to time extended, reconstructed or improved with the consent of the Secretary of State for Trade and Industry;

"pier limits" means the limits within which the Company exercise jurisdiction as defined in section 4 (Pier limits) of this Order;

"pier limits map" means the map marked "Saltburn Pier Limits" of which five copies have been signed by Colin Neil Fraser Q.C. Counsel to the Secretary of State under the Private Legislation Procedure (Scotland) Act 1936; 1936 c. 52.

"vessel" includes any ship or boat or other description of vessel used in navigation, any seaplane on the surface of the water and any hovercraft.

(2) Unless the context otherwise requires, any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by any subsequent enactment including this Order.

Incorporation of Act of 1847.

3.—(1) The Act of 1847 (except sections 6 to 13, 16 to 27, 30, 32, 33, 47, 49, 50, 77, 78, 81, 82 and 84 to 96) so far as the same is applicable to the purposes of and is not inconsistent with the provisions of this Order is hereby incorporated with this Order:

Provided that in construing the Act of 1847 as so incorporated, the expression "the special Act" shall mean this Order; the prescribed limits shall be the pier limits; and the expression "vessel" shall have the meaning assigned to it by section 2 (Interpretation) of this Order.

(2) Section 15 of the Act of 1847 as so incorporated shall have effect as if the words from "shall forfeit" to the end of the section were deleted and there were substituted therefor the words "shall be liable on summary conviction to a fine not exceeding twenty pounds".

Pier limits.

4.—(1) The limits within which the Company shall exercise jurisdiction as a harbour authority and within which the powers of the harbour master may be exercised shall comprise the pier and so much of the Firth of Cromarty as is shown coloured pink on the pier limits map.

(2) Within one month after the commencement of this Order copies of the pier limits map shall be deposited as follows, that is to say, one copy with the sheriff clerk of the county of Ross and Cromarty at his office, one copy at the office of the county clerk of the said county, one copy with the Department of Trade and Industry, one copy with the Department of the Environment and one copy at the registered office of the Company.

Power to Company to maintain pier.

5. Subject to the provisions of this Order the Company shall have power to maintain and manage the pier.

Pier to be in parish of Rosskeen.

6. The pier shall be deemed for all purposes to be within the parish of Rosskeen and in the county of Ross and Cromarty.

Byelaws respecting pier.

7.—(1) In addition to the powers of making byelaws contained in the Act of 1847, the Company 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:—

(*a*) for the protection of the pier 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 pier limits and persons resorting to or employed within the pier limits;

(*c*) for the regulation of the embarking, loading and unloading of any goods or traffic at or within the pier limits.

(2) Byelaws to be made by the Company under the Act of 1847 or this Order may provide for imposing a penalty not exceeding £10 for the breach or non-observance of any byelaw.

Confirmation of byelaws, etc.
1947 c. 43.

8. The provisions of subsections (4), (5), (7), (8), (9), (11), (12) and (13) of section 301 and section 303 of the Local Government (Scotland) Act 1947 shall apply to all byelaws made by the Company under this Order or in exercise of powers conferred on the Company by any other enactment as if the Company were a local authority and in the application of the provisions of the Local Government (Scotland) Act 1947 the Secretary of State for the Environment shall be the confirming authority.

Partial cesser of Act of 1826.
1826 c. xliii.

9. The Act passed in the seventh year of the reign of His late Majesty King George the Fourth intituled "An Act for erecting and maintaining a Harbour, and Works connected therewith, in the Frith of Cromarty, at or near the Village of Invergordon in the County of Ross" shall cease to apply and have effect within the pier limits.

Saving for Dockyard Ports Regulation Act 1865.
1865 c. 125.

10. Nothing in this Order shall affect prejudicially any power conferred by or under the Dockyard Ports Regulation Act 1865 within the limits of the dockyard port in the Firth of Cromarty for the time being established by Order in Council under the said Act of 1865.

Power to dredge.

11. The Company may from time to time deepen, dredge, scour, cleanse, alter and improve the bed and foreshore within the pier limits, and any material taken up or collected in the course of such operations shall be the property of the Company and may be used, sold, removed, deposited or otherwise disposed of as the Company may think fit:

Provided that—

(i) no such material shall be laid down or deposited in any place below the level of mean high water springs except in such position as the Secretary of State for Trade and Industry may approve and subject to such conditions or restrictions as he may impose;

(ii) nothing in this Order shall affect prejudicially any powers conferred on the council of the county of Ross and Cromarty under the provisions of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965.

As to consent under Coast Protection Act. 1949 c. 74.

12. Notwithstanding the omission by the Company to obtain any consent required by section 34 (1) (*a*) of the Coast Protection Act 1949 in relation to the commencement of the construction of the existing pier, any such consent shall be deemed to have been duly applied for, and duly given by the Board of Trade, in accordance with the requirements of the said section 34, and the conditions set out in the schedule to this Order shall have the like force and effect as if they had been imposed with the granting of a consent given before the said commencement.

Crown rights

13. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, and in particular nothing herein contained shall authorise the Company to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any channel, river, 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 such Commissioners on behalf of Her Majesty first had and obtained for that purpose.

Costs of Order.

14. 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 Company.

Section 12.

SCHEDULE

CONDITIONS ATTACHING TO THE CONSENT DEEMED TO HAVE BEEN GIVEN BY THE BOARD OF TRADE

1. The works as shown on Foreshore Plan 50754 shall, unless the Board of Trade should otherwise direct, be at all times marked as follows, that is to say:—

(*a*) with a main navigation light with a character of quick flashing white at the rate of 60 flashes per minute and a nominal range of 5 miles to be erected on the top of a mast located on the roof of the Pier Head building, being a light with a focal plane of 55 feet above mean high water springs;

(*b*) with the easternmost and the westernmost dolphins each to be marked by a fixed red light at an elevation of 18 feet above mean high water springs;

(*c*) with a fixed red light to be situated in each of the two passing places on the approach access, with an elevation of 28 feet above mean high water springs and with the capability of being visible to the westward of the conveyor housing; and

(*d*) with four fixed red berthing lights situated on the pier face at quarterly length points at a height of approximately 8 feet above mean high water springs;

and all the lights mentioned in heads (*a*), (*b*) and (*c*) of this paragraph shall be permanently exhibited during the hours of darkness, but the four lights mentioned in paragraph (*d*) shall be exhibited only when ships are manoeuvring in the vicinity of the pier head for berthing purposes.

2. In the event of any flood-lighting being required on the said works that lighting shall be so shaded as to avoid any interference with any of the navigation lights mentioned in the foregoing paragraph.

3. No deviation from the said Foreshore Plan shall be made at any time without the consent of the Board of Trade.

4. The said works shall be maintained at all times in good repair.

5. Officers of Her Majesty's Coastguard or any other person authorised by the Board of Trade, and officers of Her Majesty's Customs and Excise being duly authorised in that behalf, shall be permitted to inspect the said Foreshore Plan and the said works at any reasonable time.

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