Dumbarton Burgh Order Confirmation Act 1974

CHAPTER xxxiii

ARRANGEMENT OF SECTIONS

Section

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

SCHEDULE

DUMBARTON BURGH

1. Short title.
2. Interpretation.
3. Transfer of harbour undertaking.
4. Dissolution of Board.
5. Contracts to be binding.
6. Proceedings not to abate.
7. Repeals.
8. Amendment of Act of 1881.
9. Byelaws.
10. Powers as to moorings, etc.
11. Harbour master may give directions as to mooring.
12. Power to sell or lease undertaking.
13. Power to sell or lease lands and premises.
14. Power to borrow.
15. Deficiency of revenue out of burgh rate.
16. Crown rights.
17. Saving for Harbours Act 1964.
18. Costs of Order.

SCHEDULE—Enactments repealed.

ELIZABETH II



1974 CHAPTER xxxiii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Dumbarton Burgh. [19th December 1974]

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:—

Confirmation of Order in schedule.

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed.

Short title.

2. This Act may be cited as the Dumbarton Burgh Order Confirmation Act 1974.

SCHEDULE

DUMBARTON BURGH

Provisional Order to transfer to and vest in the provost magistrates and councillors of the royal burgh of Dumbarton the undertaking of the Dumbarton Harbour Board and to confer upon the said provost magistrates and councillors all necessary powers with respect to the said undertaking; and for other purposes.

1881 c. lxxxviii. Whereas by the Dumbarton Harbour Act 1881 (hereinafter called "the Act of 1881") six members of the Town Council of Dumbarton and five other persons to be elected as therein mentioned were constituted and incorporated under the name of "the Dumbarton Harbour Board" (hereinafter referred to as "the Board") with perpetual succession and a common seal and the harbour undertaking and harbour works which had previously belonged to the Town Council and all the property, rights, interests and privileges theretofore possessed by the Town Council therein were subject to the then existing debts and liabilities affecting the same transferred to and vested in the Board:

And whereas with the passing of time and the diminishing use of the harbour for the shipment of goods the harbour undertaking and the harbour works connected therewith have ceased to be a viable and economic concern:

And whereas the Board has insufficient funds to enable it to carry out its duties of management and maintenance of the harbour and has become defunct and it is expedient and in the public interest that the undertaking of the Board and the harbour works connected therewith should be transferred to and vested in the Town Council as in this Order provided and that the other powers in this Order contained should be conferred upon the Town Council:

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 Dumbarton Burgh Order 1974.

Interpretation. 2. In this Order, unless the context otherwise requires, the following words and expressions have the meanings hereby respectively assigned to them:—

"Act of 1881" means the Dumbarton Harbour Act 1881;

"the Board" shall mean the Dumbarton Harbour Board incorporated by the Act of 1881;

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

"harbour" shall have the same meaning as in section 3 of the Act of 1881;

"harbour undertaking" means the harbour undertaking and the whole harbour works within the harbour and the lands, tenements, works, property and effects, heritable and movable, vested in the Board at the commencement of this Order;

"land" includes land covered by water and includes any rights in or over land;

"Town Council" means the provost magistrates and councillors of the royal burgh of Dumbarton.

Transfer of harbour undertaking.

3. As from the commencement of this Order the harbour undertaking and all rights, interests and privileges heretofore possessed, used or enjoyed by the Board therein subject to the existing debts, liabilities, obligations, incumbrances, contracts and engagements affecting the same shall be and may, by virtue of this Order and without the necessity of any assignation or of recording in the Register of Sasines any conveyance, notarial instrument, notice of title or other deed or writing, be and the same are hereby transferred to and vested in the Town Council and the Town Council shall exercise jurisdiction as a harbour authority and the powers of the harbour master shall be exercised within the limits described in section 3 of the Act of 1881.

Dissolution of Board.

4. The Board is hereby dissolved.

Contracts to be binding.

5. Except as is by this Order otherwise provided, all purchases, sales, conveyances, deeds, contracts and agreements entered into or made by the Board and in force at the commencement of this Order shall be as binding and of as full force and effect in every respect against or in favour of the Town Council and may be enforced as fully and effectually as if instead of the Board the Town Council had been a party thereto.

Proceedings not to abate.

6. All legal or other proceedings begun before the commencement of this Order and relating to any property or liabilities transferred to the Town Council under this Order may be carried on with the substitution of the Town Council as party to the proceedings in lieu of the authority from whom the property or liabilities was or were transferred and any such proceedings may be amended in such manner as may be necessary for that purpose.

Repeals.

7. The provisions of the Act of 1881, the Dumbarton Burgh Act 1899 and the Dumbarton Burgh Order 1907 set out in the Schedule to this Order are to the extent specified in the third column thereof hereby repealed.

1899 c. xlvii.
1907 c. cl.

Amendment of Act of 1881.

8.—(1) The Act of 1881 so far as not repealed by the provisions of this Order shall be read and have effect as if for the word "Board" wherever the same shall appear there were substituted the words "Town Council".

(2) Section 2 (Incorporation of general Acts) of the Act of 1881 shall be read and have effect as if with respect to the exceptions to the incorporation of the provisions of the Harbours, Docks and Piers Clauses Act 1847 there were added the words "with respect to the provision of life-boats and the penalty for not providing a life-boat."

1847 c. 27.

Byelaws.

9. The provisions of any general enactment with respect to the making of byelaws by a local authority shall apply to any byelaws made by the Town Council under the Harbours, Docks and Piers Clauses Act 1847 or the Act of 1881.

Powers as to moorings, etc.

10.—(1) The Town Council may provide, place, lay down, maintain, use and have moorings on lands within the harbour, in the harbour and on banks belonging to the Town Council adjoining the harbour.

(2) The Town Council may demand, receive and recover in respect of any vessel or houseboat using any of the moorings provided by the Town Council under this section or moored to land owned or leased to the Town Council in or adjoining the harbour such reasonable charges as may from time to time be prescribed by the Town Council.

(3) The Town Council may compound with any person with respect to the payment of the charges prescribed by the Town Council under this section.

Harbour master may give directions as to mooring.

11. Section 52 of the Harbours, Docks and Piers Clauses Act 1847 as incorporated with the Act of 1881 in its application to the harbour and to the harbour master shall extend to empower the harbour master to give directions prohibiting the mooring of vessels in any particular part of the harbour.

Power to sell or lease undertaking.

12. The Town Council may at any time sell or lease the harbour undertaking and the purchaser to the extent authorised by his conveyance shall have and may exercise all or any of the powers conferred upon the Town Council by this Order or which the Town Council have or might exercise under this Order and shall be subject to all the liabilities and obligations to which the Town Council are subject and shall perform all the duties of the Town Council under this Order.

Power to sell or lease lands and premises.

13. The Town Council may sell or lease any lands and premises or interest therein vested in them as part of the harbour undertaking and the purchaser or lessee shall be subject to all the liabilities and obligations to which the Town Council are subject and shall perform all the duties of the Town Council under this Order.

Power to borrow.

14.—(1) The Town Council may, with the sanction of the Secretary of State, borrow such sums as may be necessary for the general purposes of the harbour undertaking and any sum borrowed under the powers of this section shall be repaid within such period from the date of borrowing as the Town Council, with the consent of the Secretary of State, may determine.

(2) The provisions of Part XII of the Local Government (Scotland) Act 1947, so far as they are not inconsistent with this Order, shall apply to money borrowed under this section as they apply to money borrowed under that Act. 1947 c. 43.

(3) It shall not be lawful to exercise the powers of borrowing conferred by this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946. 1946 c. 58.

Deficiency of revenue out of burgh rate.

15.—(1) Any deficit in any financial year in the revenues of the harbour undertaking which cannot otherwise be provided for under the provisions of this Order and of any other enactment applicable to the harbour undertaking may be met out of the burgh rate.

(2) Any surplus in any financial year in the accounts of the harbour undertaking may be credited to the burgh rate.

Crown rights.

16. 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 contained shall authorise the Town Council or any licensee of the Town Council to take, use or in any way interfere with any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary of any land, heritages, subjects or rights of whatsoever description—

(*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 on behalf of Her Majesty first had and obtained for that purpose; 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.

Saving for Harbours Act 1964. 1964 c. 40.

17. Nothing in this Order shall exempt the Town Council or any other person from the provisions of sections 9 and 10 of the Harbours Act 1964.

Costs of Order.

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

SCHEDULE

ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
44 & 45 Vict. c. lxxxviii	Dumbarton Harbour Act 1881	Sections 5 to 48. Sections 50 to 52. Section 55. Sections 70 to 79. Sections 107 to 129 and the Schedules.
62 & 63 Vict. c. xlvii	Dumbarton Burgh Act 1899	Sections 31 to 35.
7 Edw. 7 c. cl	Dumbarton Burgh Order 1907	The whole Order.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR HAROLD GLOVER
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE
12p net
ISBN 0 10 513374 4