ELIZABETH II



1973 CHAPTER xxvi

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Dundee Corporation (Brokers &c.).

[25th July 1973]

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 Dundee Corporation (Brokers &c.) Order Confirmation Act 1973. Short title.

SCHEDULE

DUNDEE CORPORATION (BROKERS &c.)

Provisional Order to amend the provisions of the Dundee Corporation Orders 1957 *to* 1972 *and to enact further provisions with respect to brokers, metal refiners and pawnbrokers; and for other purposes.*

Whereas the Corporation of the city and royal burgh of Dundee (hereinafter referred to as "the Corporation") are vested with the municipal government and administration of the city and royal burgh of Dundee and are the local authority therein:

And whereas it is expedient that the provisions of the Dundee Corporation Orders 1957 to 1972 should be amended as hereinafter provided and that further provisions should be enacted with respect to brokers, metal refiners and pawnbrokers:

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

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the Private Legislation Procedure (Scotland) Act 1936: 1936 c. 52.

Now therefore, in pursuance of the powers contained in the said Act, the Secretary of State orders as follows:—

Short title and citations.

1. This Order may be cited for all purposes as the Dundee Corporation (Brokers &c.) Order 1973 and the Dundee Corporation Orders 1957 to 1972 and this Order may be cited together as the Dundee Corporation Orders 1957 to 1973.

Interpretation.

2.—(1) In this Order terms, words and expressions to which meanings are assigned by any public Act applicable to the Corporation shall, subject to the provisions of this Order, have the same respective meanings unless there be something in the subject or context inconsistent with or repugnant to such construction.

(2) Subject to the provisions of this Order, and unless there be something in the subject or context inconsistent with or repugnant to such construction, terms, words or expressions to which meanings are assigned by the Dundee Corporation Orders 1957 to 1972 shall have the same meanings respectively in this Order.

(3) The following words and expressions in this Order have the meanings hereby assigned to them, that is to say:—

" Order of 1957 " means the Dundee Corporation (Consolidated Powers) Order 1957; and 1957 c. iv (6 Eliz. 2).

" Order of 1969 " means the Dundee Corporation Order 1969. 1969 c. xxxii.

3. The Order of 1957 shall be read and have effect as if— Brokers, metal refiners and pawnbrokers.

(1) In section 2 (Interpretation) thereof, after the definition of " medical officer " there were inserted the following definition:—

"'metal refiner' means any person who in the ordinary course of business keeps or suffers to be on his premises any melting pot or implement for melting, altering or defacing any metals and who purchases, receives or bargains for old metal, scrap metal, broken metal, defaced metal or partly manufactured metal goods whether new or old but shall not include (*a*) any such person purchasing any of the said metals in greater quantities than those respectively set forth in the Twelfth Schedule to this Order or purchasing in one lot not less than one hundred and fifty kilograms (2 cwts. 3 qtrs. $22\frac{3}{4}$ lbs.) of any two or more of such metals or (*b*) plumbers, gas fitters and other such tradesmen receiving such metals in the ordinary course of business for the value of which they give credit in their accounts to their customers or purchasing in good faith new metals for the purposes of their business; ";

(2) In place of Part XXXI (Brokers and pawnbrokers) thereof there were inserted the provisions set out in Schedule 1 to this Order; and

(3) After the Eleventh Schedule thereof there were added a new Schedule in the terms set out in Schedule 2 to this Order.

4.—(1) The provisions of the Order of 1969 specified in Part I of Schedule 3 to this Order are hereby repealed to the extent shown in column (2) of the said Schedule. Repeals and amendments.

(2) The provisions of the Order of 1969 specified in column (1) of Part II of Schedule 3 to this Order shall have effect subject to the amendments specified in relation to those provisions respectively in column (2) of the said Schedule.

5. The costs, charges and expenses of and incidental to the preparing, obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Corporation out of the burgh fund in such manner as the Corporation may determine. Costs of Order.

SCHEDULES

SCHEDULE 1

PROVISIONS TO BE SUBSTITUTED FOR PART XXXI (BROKERS AND PAWNBROKERS) OF ORDER OF 1957

PART XXXI—BROKERS, METAL REFINERS AND PAWNBROKERS

Licensing of brokers and metal refiners.

459.—(1) A person shall not carry on business as a broker or as a metal refiner within the city unless he is licensed to do so by the Corporation.

(2) A licence under this section shall specify the premises in which the business is to be carried on including all cellars, closets and other places used or proposed to be used in the course of the business.

(3) A licence under this section shall not be granted to any person who is the holder of a pawnbroker's licence under the Pawnbrokers Act 1872.

1872 c. 93.

(4) Any person who—

(*a*) contravenes any provision of this section; or

(*b*) being the holder of a licence granted under this section contravenes or permits a contravention of any condition to which it is subject;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding—

(i) in the case of an offence under paragraph (*a*) of this subsection twenty-five pounds; and

(ii) in the case of an offence under paragraph (*b*) of this subsection ten pounds and, where the contravention is continued after conviction, to a further fine not exceeding five pounds for each day or part of a day during which the contravention is shown to have been so continued.

Offences by brokers and metal refiners.

460. Every broker and every metal refiner who—

(*a*) carries on business as a retailer of exciseable liquor;

(*b*) receives or takes any goods in pledge;

(*c*) receives or takes a pawn ticket issued by a pawnbroker for any article which has been pawned or negotiates in any manner with the holder of any such pawn ticket or any person on his behalf for the purchase of any article to which the pawn ticket refers;

(*d*) acquires in the course of business—

(i) any voucher, note or other document issued by or under the authority of any local or public authority or any charitable institution by virtue of which a person may receive any assistance whatsoever; or

(ii) any article of clothing issued by or on behalf of any such authority or institution and legibly marked as being so issued or known by the broker to be so issued;

(*e*) carries on business as a broker or as a metal refiner in any premises in which the business of a pawnbroker is carried on or in any other premises having access to such premises;

(*f*) disposes of goods to or acquires goods from any person who appears to be under sixteen years of age whether such person is acting on his own behalf or on behalf of some other person; or

(*g*) being a broker, keeps or permits to be kept in or on his premises any melting pot or implement for melting, altering or defacing gold, silver, lead or other metals;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

Miscellaneous provisions as to brokers and metal refiners.

461.—(1) Every broker and every metal refiner—

(*a*) shall keep—

(i) a book in the form described in the Eleventh Schedule to this Order, and enter therein, as soon as reasonably practicable after the transaction recorded, the particulars indicated in and in accordance with the directions of that Schedule, and shall make all inquiries necessary for that purpose;

(ii) any such book for a period of not less than six months after the date of the final transaction entered therein;

(*b*) shall provide means whereby every article in his possession for business purposes can be identified with the record of the transaction relating thereto;

(*c*) shall keep at the place specified in his licence under section 459 (Licensing of brokers and metal refiners) of this Order for a period of not less than fourteen days from the day on which it was acquired every article acquired by him in the course of his business;

(*d*) on being required at any reasonable time by a constable (who if not in uniform shall exhibit his authority on request) shall produce for inspection by the constable—

(i) every article in his possession which he has acquired in the course of his business; and

(ii) the book referred to in paragraph (*a*) of this subsection;

(*e*) if at any time he has in his possession an article of any description and is aware that an article of a corresponding description is alleged to have been stolen, embezzled or otherwise unlawfully appropriated shall forthwith—

(i) inform a constable at a police station that such first-mentioned article is in his possession; and

(ii) state to the constable the name and address, if any, given to him by the person from whom he received the first-mentioned article.

(2) A person who contravenes any provision of the foregoing subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

(3) If—

(*a*) a broker or a metal refiner being aware that an article of any description is alleged to have been stolen, embezzled or otherwise unlawfully appropriated alters or defaces any article of corresponding description in his possession; and

(*b*) the article in his possession was stolen, embezzled or otherwise unlawfully appropriated;

he shall for the purpose of any criminal proceedings be deemed unless the contrary is proved to have received the article in his possession knowing it to have been stolen, embezzled or otherwise unlawfully appropriated.

(4) If in any criminal proceedings (including proceedings in respect of a contravention of paragraph (*e*) of subsection (1) of this section) it is proved that a list containing descriptions of articles which are alleged to have been stolen, embezzled or otherwise unlawfully appropriated has been delivered at the ordinary residence or place of business of a broker or a metal refiner, the broker or the metal refiner shall be deemed unless the contrary is proved to have been aware of the information contained in the list as from the expiry of twenty-four hours from the time of such delivery.

Pawnbrokers.

462.—(1) The following provisions of this Order shall apply to pawnbrokers and to the business of a pawnbroker as they apply to brokers and metal refiners and the business of a broker and of a metal refiner:—

paragraphs (*a*), (*d*) and (*g*) of subsection (1) of section 460 (Offences by brokers and metal refiners) of this Order;

paragraphs (*d*) and (*e*) of subsection (1) and subsections (2), (3) and (4) of section 461 (Miscellaneous provisions as to brokers and metal refiners) of this Order with the substitution in the said paragraph (*d*) of a reference to the records which he is required to keep under any enactment for the reference to the book referred to in paragraph (*a*) of the said subsection (1).

(2) A pawnbroker shall not—

(*a*) carry on business as a broker or as a metal refiner; or

(*b*) carry on business as a pawnbroker in any premises in which the business of a broker or of a metal refiner is carried on or in any other premises having access to such premises.

(3) Any person who contravenes any of the provisions of subsection (2) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

463. Every broker, metal refiner or pawnbroker to whom any article is offered and who has reasonable grounds to suspect that the article has been stolen, embezzled or otherwise unlawfully appropriated shall forthwith— Police to be informed of persons offering stolen property.

(*a*) inform a constable at a police station of those facts; and

(*b*) state to the constable—

(i) the name and address, if known, or description of the person by whom the article was offered; and

(ii) a description of the article.

SCHEDULE 2

NEW SCHEDULE TO BE INSERTED AFTER ELEVENTH SCHEDULE TO ORDER OF 1957

THE TWELFTH SCHEDULE

QUANTITIES OF METALS REFERRED TO IN THE DEFINITION OF "METAL REFINER" IN SECTION 2 OF THIS ORDER

150 kg. of lead or any composite the principal ingredient of which is lead.

100 kg. of copper or any composite the principal ingredient of which is copper.

100 kg. of brass or any composite the principal ingredient of which is brass.

50 kg. of tin or any composite the principal ingredient of which is tin.

50 kg. of pewter or any composite the principal ingredient of which is pewter.

50 kg. of spelter or zinc or any composite the principal ingredient of which is spelter or zinc.

50 kg. of german silver or nickel silver or any composite the principal ingredient of which is german silver or nickel silver.

Note:

In this Schedule the measures of 150, 100 and 50 kilograms shall be construed as having respectively the following equivalents of imperial measure, namely:—

150 kilograms—2 cwts. 3 qtrs. 22¾ lbs.
100 kilograms—1 cwt. 3 qtrs. 24½ lbs.
50 kilograms—3 qtrs. 26¼ lbs.

SCHEDULE 3

REPEALS AND AMENDMENTS OF PROVISIONS OF ORDER OF 1969

PART I

REPEALS

(1) Provision	(2) Extent of Repeal
Schedule 2 ...	The entries relating to sections 460, 461 and 462 of the Order of 1957.
Schedule 4 ...	The entry relating to section 461 of the Order of 1957.

PART II

AMENDMENTS

(1) Provision	(2) Amendment
Section 2 ...	In subsection (3) at the end of the definition of "authorised officer" add "and includes any constable".
Section 11 ...	In the table of fees for the grant and renewal of licences, in place of the word " Brokers " insert " Brokers and metal refiners " and in place of the fees shown as payable for the grant and renewal of brokers' licences in columns 2 and 3 respectively insert " £5 " and " £2 ".
Schedule 4 ...	In the reference to the Eleventh Schedule delete " Miscellaneous provisions as to brokers " and insert " Miscellaneous provisions as to brokers and metal refiners "; and for the words " Broker's Record Book " substitute the words " Broker's and Metal Refiner's Record Book ".

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Dundee Corporation (Brokers &c.) Order Confirmation Act 1973

CHAPTER xxvi

ARRANGEMENT OF SECTIONS

Section

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

SCHEDULE

DUNDEE CORPORATION (BROKERS &C.)

1. Short title and citations.
2. Interpretation.
3. Brokers, metal refiners and pawnbrokers.
4. Repeals and amendments.
5. Costs of Order.

SCHEDULES:

Schedule 1—Provisions to be substituted for Part XXXI (Brokers and pawnbrokers) of Order of 1957.

Schedule 2—New Schedule to be inserted after Eleventh Schedule to Order of 1957.

Schedule 3—Repeals and amendments of provisions of Order of 1969—

Part I—Repeals.
Part II—Amendments.