ELIZABETH II

1980 CHAPTER xxxiv

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Dundee Port Authority. [8th August 1980]

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 Port Authority Order Confirmation Act 1980. Short title.

SCHEDULE

DUNDEE PORT AUTHORITY

Provisional Order to confer further powers on the Dundee Port Authority; and for other purposes.

Whereas—

(1) The port of Dundee in the Tayside region is, by virtue of the Dundee Port Authority Orders 1952 to 1975, under the superintendence and control of the Dundee Port Authority (hereinafter called "the Authority"):

(2) Having regard to the nature and extent of activities in the port, including those relating to the exploitation of offshore deposits of oil and gas, it is expedient that further powers be conferred on the Authority, including powers—

(*a*) to appropriate any of their lands or property for particular trades, persons, vessels or goods, or classes of vessels and goods;

(*b*) by licence to control the provision of works or the carrying out of dredging in the port;

(*c*) to issue general directions (and for the harbourmaster to issue special directions) in respect of vessels in the port;

(*d*) to invest in securities of bodies corporate;

and that the Authority be empowered to make byelaws with respect to dangerous goods:

(3) It is expedient that the incidental and other provisions of this Order be passed into law:

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

Now therefore, in pursuance of the powers contained in the said Act of 1936, the Secretary of State orders as follows:—

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Order may be cited as the Dundee Port Authority Order 1980.

(2) The Dundee Port Authority Orders 1952 to 1975 and this Order may be cited together as the Dundee Port Authority Orders 1952 to 1980.

PART I —*cont.*

2. In this Order— Interpretation.

" the Authority " means the Dundee Port Authority;

" the chief executive " means the chief executive for the time being of the Authority;

" dangerous goods " means any goods defined as dangerous goods by rules for the time being in force under section 23 of the Merchant Shipping (Safety Convention) Act 1949; 1949 c. 43.

" dredging licence " means a licence granted under section 6 (Licence to dredge) of this Order;

" general direction " means a direction given under section 10 (General directions to vessels) of this Order;

" goods " includes all tangible personal property of any kind whatsoever;

" the harbourmaster " means the person appointed as such pursuant to section 40 of the Dundee Harbour and Tay Ferries Order 1952, and includes deputies and assistants of the person so appointed and any person for the time being authorised by the Authority to act, either generally or for a specific purpose, in the capacity of harbourmaster; 1952 c. xx.

" hovercraft " has the same meaning as in the Hovercraft Act 1968; 1968 c. 59.

" hydrofoil vessel " means a vessel, however propelled, designed to be supported on foils;

" land " includes land covered by water, and any interest in land or any servitude or right in, to or over land;

" the level of high water " means the level of mean high-water springs;

" licensee " means a person in whose favour a works licence or a dredging licence has been granted and is in operation;

" master ", in relation to a vessel, means any person for the time being having or taking (lawfully or otherwise) the command, charge or management thereof;

" owner " in relation to a vessel includes the charterer;

" port premises " means the docks, landing places and all other works, land and buildings for the time being vested in or occupied or administered by the Authority as part of the undertaking;

" the port " means the area within the limits defined in article 4 of the Dundee Harbour Revision Order 1969 and, except where the context otherwise requires, includes the port premises; S.I. 1969/1488.

" the river Tay " means that part of the river or firth of Tay which is within the port;

" special direction " means a direction given under section 11 (Special directions) of this Order;

" tidal work " means so much of any work belonging to or licensed by the Authority as is in, on, under or over tidal lands below the level of high water;

" the undertaking " means the undertaking of the Authority as from time to time authorised;

PART I —*cont.*

"vessel" means every description of vessel, however propelled or moved, and includes—

(*a*) any thing constructed or used to carry persons or goods by water;

(*b*) any rig, platform or other man-made structure on or in the water; and

(*c*) a seaplane on or in the water, a hovercraft and a hydrofoil vessel;

"works" means works of every description, including moorings, and includes the reclamation of land reasonably required for the purpose of executing works;

"works licence" means a licence granted under section 5 (Licensing of works) of this Order.

PART II

REGULATION OF THE PORT

Appropriation of lands, etc., for particular trades, etc.

3.—(1) Notwithstanding anything in this or any other statutory provision of local application the Authority may from time to time set apart and appropriate any lands (other than land covered by water), works, buildings, machinery, equipment or other property of the Authority for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or goods, or class of vessels or goods, subject to the payment of such charges and to such terms and conditions as the Authority may think fit.

(2) No person or vessel shall make use of any lands, works, buildings, machinery, equipment or other property so set apart or appropriated without the consent of the harbourmaster or other duly authorised officer of the Authority, and the harbourmaster or, as the case may be, such officer may order any person or vessel making use thereof without such consent to leave or be removed, and the provisions of section 58 of the Harbours, Docks and Piers Clauses Act 1847 shall extend and apply mutatis mutandis to and in relation to any such vessel.

1847 c. 27.

Restriction on works and dredging.

4.—(1) No person other than the Authority shall in the port—

(*a*) construct, place, alter, renew or extend any works;

or

(*b*) dredge;

unless he is licensed so to do, in the case of works by a works licence and in the case of dredging by a dredging licence, nor except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 5 (Licensing of works) or, as the case may require, section 6 (Licence to dredge) of this Order:

Provided that this subsection shall not apply to any activity specifically authorised under any enactment.

(2) Any person who contravenes this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(3) The Authority may by notice require a person who contravenes this section to remove, abate or rectify within a reasonable time specified in the notice any work, operation or omission to which the

contravention relates, and to restore the site thereof to its former condition, and if he fails to comply with the notice the Authority may carry out the work so required and may recover the cost of so doing from that person. PART II —*cont.*

Licensing of works.

5.—(1) The Authority may upon such terms and conditions as they think fit grant to any person a licence to construct, place, alter, renew or extend works within the port on, under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, placed, altered, renewed or extended.

(2) Application for a works licence shall be made in writing to the Authority and shall—

(*a*) be accompanied by plans, sections and particulars of the works to which the application relates;

(*b*) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted; and

(*c*) be accompanied by a copy of a notice published in a newspaper circulating in the City of Dundee District stating that it is intended to make the application containing a general description of the nature of the works for which application is being made and of the land affected thereby, naming a place where a copy of the plans, sections and particulars of the proposed works may be seen at all reasonable hours and stating that any person who desires to object to the Authority to the grant of the application should do so in writing stating the grounds of his objection before the expiration of the period of 28 days from the date of the publication.

(3) In deciding whether or not to grant a works licence or as to the terms and conditions to be included in the licence the Authority shall take into consideration any objection in writing made to them pursuant to subsection (2) (*c*) above (hereafter in this section and in section 7 (Appeals in respect of works or dredging licence) of this Order referred to as a valid objection) and in granting a licence the Authority may require modifications in the plans, sections and particulars submitted to them by the applicant.

(4) If the Authority decide to grant a works licence they shall give notice of their decision to the applicant and to any person who has made a valid objection and has not withdrawn it.

(5) If within three months from the date of the making of an application under subsection (2) above the Authority do not grant a works licence, they shall be deemed to have refused the application.

(6) The grant of a works licence shall not confer statutory authority for the carrying out of the operations covered by the licence.

(7) For the purpose of section 7 of the Telegraph Act 1878 any work proposed to be carried out under a works licence shall be deemed to be a work proposed to be done in the execution of an undertaking authorised by an Act of Parliament, and the person to whom the licence is granted shall be deemed to be the undertakers. 1878 c. 76.

PART II —*cont.*

6.—(1) The Authority may upon such terms and conditions as they think fit grant to any person a licence to dredge in any part of the port.

Licence to dredge.

(2) Application for a dredging licence shall be made in writing to the Authority and shall be accompanied by—

(*a*) plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence; and

(*b*) a copy of a notice published in a newspaper circulating in the City of Dundee District stating that it is intended to make the application, containing a general description of the position, nature, extent and manner of the operations in respect of which the application is made, naming a place where a copy of the plans, sections and particulars of the proposed operations may be seen at all reasonable hours and stating that any person who desires to object to the Authority to the grant of the application should do so in writing stating the grounds of his objection before the expiration of the period of 28 days from the date of publication.

(3) In deciding whether or not to grant a dredging licence or as to the terms and conditions to be included in the licence the Authority shall take into consideration any objection made to them pursuant to subsection (2) (*b*) above (hereafter in this section and in section 7 (Appeals in respect of works or dredging licence) of this Order referred to as a valid objection) and in granting a licence the Authority may require modifications in the plans, sections and particulars submitted to them by the applicant.

(4) If the Authority decide to grant a dredging licence they shall give notice of their decision to the applicant and to any person who has made a valid objection and has not withdrawn it.

(5) If within three months from the date of making an application under subsection (2) above the Authority do not grant a dredging licence, they shall be deemed to have refused the application.

(6) Unless otherwise agreed between the Authority and the holder of the licence any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) taken up or collected by means of dredging in pursuance of a dredging licence shall be the property of the Authority and may be used, sold, removed, deposited or otherwise disposed of as the Authority may think fit:

1894 c. 60.

Provided that the Authority shall not lay down or deposit any materials below the level of high water except in such positions as the Secretary of State may approve and subject to such conditions and restrictions as he may impose.

Appeals in respect of works or dredging licence.

7.—(1) A person who has made a valid objection and has not withdrawn his objection and who is aggrieved by the decision of the Authority to grant a works licence or a dredging licence and an applicant for a works licence or for a dredging licence who is aggrieved by—

(*a*) the refusal of the Authority to grant a licence; or

(*b*) any terms or conditions subject to which the licence is granted; or

(*c*) any modifications required by the Authority in the plans, sections and particulars submitted by the applicant; PART II —*cont.*

may within 28 days from the date on which the Authority give notice of their decision or the date on which the Authority are under subsection (5) of section 5 (Licensing of works) or subsection (5) of section 6 (Licence to dredge) of this Order deemed to have refused the application, as the case may be, appeal to the Secretary of State.

(2) An appeal under subsection (1) above shall be made by notice in writing stating the grounds of appeal.

(3) A person who appeals to the Secretary of State under this section shall at the same time send a copy of his statement of appeal to the Authority and the Authority shall as soon as practicable thereafter furnish the Secretary of State with all relevant documents including a copy of any valid objection made to the original application which has not been withdrawn.

(4) The Authority may within 40 days from the receipt of the statement of appeal furnish the Secretary of State with their observations on the appeal.

(5) On an appeal under this section the Secretary of State may confirm, vary or revoke the decision appealed against and may require any consequential amendment to be made, including amendment of the terms and conditions or modification of the plans, sections and particulars.

(6) The Authority shall give effect to any decision or requirement given or made by the Secretary of State under subsection (5) above.

Saving for Post Office and electrical and gas apparatus.

8.—(1) The following provisions of this section shall operate as conditions attaching to every works licence and every dredging licence.

(2) Before exercising the powers within a distance of 50 metres from any submarine cable placed and maintained by the Post Office or the North of Scotland Hydro-Electric Board, or any work placed and maintained by the British Gas Corporation, in or across the river Tay the licensee shall give in writing to the Post Office or to the body concerned, as the case may be, as long notice as is possible, and in any case not less than 28 days' notice, of his intention to exercise the powers.

(3) In the exercise of the said powers the licensee shall not interfere with, damage or injuriously affect any such submarine cable or work.

(4) Any sand, mud, shingle and other materials dredged up and removed shall not be laid down or deposited in such a place or manner as to cover any such submarine cable or work or to impede the inspection or repair of such cable or work.

General rules for navigation.

9. A master who navigates his vessel in the port—

(*a*) without due care and attention; or

(*b*) in a manner liable to injure or endanger persons or property;

shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding £200.

PART II —*cont.*

General directions to vessels.

10.—(1) The Authority may, after consultation in each case with the General Council of British Shipping and the Dundee Pilotage Authority, give directions for the purposes of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the port and, without prejudice to the generality of the foregoing, for any of the following purposes:—

(*a*) for designating areas, routes and channels within the port which vessels are to use or refrain from using for movement or mooring;

(*b*) for securing that vessels move only at certain times or during certain periods;

(*c*) requiring the master of a vessel to give to the harbourmaster information relating to the vessel reasonably required by the harbourmaster in order to effect the objects of this subsection.

(2) A general direction may apply—

(*a*) to all vessels or to a class of vessel designated, or the designation of which is provided for, in the direction; and

(*b*) to the whole of the port or to a part designated, or the designation of which is provided for, in the direction; and

(*c*) at all times or at times designated, or the designation of which is provided for, in the direction;

and every general direction shall specify the extent of its application in relation to the matters referred to in paragraphs (*a*), (*b*), and (*c*) above.

(3) The Authority may, after such consultation as aforesaid, revoke or amend a general direction.

(4) Notice of a general direction shall as soon as practicable after it is given, be published by the Authority once in Lloyd's List or some other newspaper specialising in shipping news, and shall state a place at which copies of the direction may be inspected and bought, and the price thereof.

Special directions.

11.—(1) The habourmaster may give a special direction in respect of a vessel anywhere in the port for any of the following purposes:—

(*a*) regulating or requiring the movement, berthing, mooring or unmooring of the vessel;

(*b*) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores and the dispatch of its business at the port premises;

(*c*) specifying the precautions to be taken in respect of apparatus, machinery and equipment;

(*d*) as to the use of the motive power of the vessel;

(*e*) prohibiting or restricting the use of fires or lights;

(*f*) as to the use of ballast;

(*g*) requiring the removal of the vessel from any part of the port if—

(i) it is on fire;

(ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink;

PART II —*cont.*

(iii) it is making an unlawful use of port premises;

(iv) it is interfering with the use of port premises by vessels or otherwise or the dispatch of business therein; or

(v) its removal is necessary to enable maintenance or repair work to be carried out to port premises or to premises adjacent thereto;

and requiring its removal outside the port if such removal is considered by the harbourmaster to be necessary in order to avoid danger to life (including wildlife) or to property.

(2) A special direction may be given in any manner considered by the harbourmaster to be appropriate.

Enforcement of special directions.

12.—(1) Without prejudice to any other remedy available to the Authority, if a special direction is not complied with within a reasonable time, the harbourmaster may put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board a vessel to attend to a special direction, the harbourmaster may proceed as if the direction had been given and not complied with.

(3) Expenses incurred by the Authority in exercise of the powers conferred by subsection (1) above shall be recoverable by them as if they were a charge of the Authority in respect of the vessel.

Failure to comply with directions.

13.—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding £200.

(2) It shall be a defence for the master of a vessel charged with an offence under subsection (1) above that he had reasonable ground for believing that compliance with the direction in question would be likely to imperil his vessel or that in the circumstances compliance was impracticable.

Master's responsibility in relation to directions.

14. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel affected in relation to that vessel, to persons on board, to its cargo or to any other person or property.

Notice before entry of dangerous goods.

15.—(1) Except in case of emergency, the owner or master of a vessel—

(*a*) which it is intended to bring into the port carrying dangerous goods; or

(*b*) which is within the port and on which it is intended to place dangerous goods;

shall, not less than 24 hours before the vessel enters the port or before the dangerous goods are placed on board, as the case may be, give notice to the harbourmaster of the nature and quantity of the dangerous goods in question, and if such notice is not given the owner or master of the vessel shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding £100.

PART II —*cont.*

(2) Where a person is charged with an offence under subsection (1) above it shall be a defence that he did not know and could not with reasonable diligence have ascertained the nature of the goods in respect of which the proceedings are taken.

(3) This section does not apply to dangerous goods to which byelaws made by the Authority under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply.

1875 c. 17.
1928 c. 32.

Byelaws as to dangerous goods.

16.—(1) The Authority may make byelaws as to the loading and discharging by vessels within the port of dangerous goods (which expression in this section does not include dangerous goods to which byelaws made by the Authority under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply) and as to the bringing, handling, transport and storage of such goods within the port and generally as to the precautions to be observed with respect to vessels carrying dangerous goods while in the port, and such byelaws may in particular provide—

(*a*) for regulating places at which vessels are to load or discharge such goods and the time and mode of, and the precautions to be taken on, such loading and discharging;

(*b*) for regulating the places at which vessels carrying such goods are to be moored.

(2) If a person is charged with an offence against a byelaw in force under this section it shall be a defence that the offence was not caused or facilitated by any action or neglect on his part, or on the part of any person engaged or employed by him, and if he was at the material time the owner or master of a vessel, that all reasonable steps were taken to prevent the commission of the offence.

(3) Byelaws made under subsection (1) above may provide for imposing on persons offending against them fines not exceeding £200.

Removal of vehicles at port premises.

17.—(1) If a vehicle is left without the permission of the Authority—

(*a*) in a parking place provided by the Authority for a longer period than 24 hours; or

(*b*) in any part of the port premises where the parking of vehicles is prohibited by notice erected by the Authority; or

(*c*) in any place within the port premises where it is likely to obstruct or interfere with the use of the port premises;

the Authority may cause it to be removed to a place of safe custody.

(2) Any such notice as is referred to in subsection (1) above shall be conspicuously posted in or in proximity to the place to which it relates.

(3) Where the Authority in exercise of the powers of this section cause a vehicle to be removed, the expenses of and incidental to its removal and safe custody shall be recoverable by the Authority from the person responsible.

(4) If the Authority in exercise of the powers of this section cause a vehicle to be removed, they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as

PART II —*cont.*

he owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1964, or any regulations replacing those regulations, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this section and of the place to which the vehicle has been removed.

(5) A notice stating the general effect of subsection (1) above shall be displayed in a prominent position at each entrance to any parking place provided by the Authority and at each place where a road accessible to vehicles enters any part of the port premises, and shall be endorsed on any tickets issued to persons leaving vehicles in such parking place or elsewhere at the port premises.

(6) In subsection (3) above " person responsible ", in relation to a vehicle, means—

(*a*) the owner of the vehicle at the time when it was put in the place from which it was so removed, unless he shows that he was not concerned in and did not know of its being put there;

(*b*) any person by whom it was put in the place aforesaid;

(*c*) any person convicted of an offence under section 19 (1) of the Civic Amenities Act 1967 in consequence of the putting of the vehicle in the place aforesaid. 1967 c. 69.

Traffic offences on port roads.

18.—(1) In this section—

" port road " means any road, pier, wharf, quay, bridge or other work which, or any land which, is—

(i) vested in or the property of the Authority; and

(ii) accessible to motor vehicles;

" motor vehicle " has the same meaning as in section 253 (1) of the Road Traffic Act 1960; 1960 c. 16.

and references to the Acts of 1967 and 1972 are references respectively to the Road Traffic Regulation Act 1967 and the Road Traffic Act 1972. 1967 c. 76. 1972 c. 20.

(2) The Acts of 1967 and 1972 shall have effect as if in the provisions thereof hereinafter mentioned the expressions " road " and " highway " include a port road, and any person who commits an offence under any of those provisions as extended by this section shall be liable to be dealt with in all respects as if the offence had been committed under those provisions on a road as defined by section 196 of the Act of 1972, and all the provisions of those Acts, so far as applicable (including, without prejudice to the generality of the foregoing, section 79 of the Act of 1967 and section 188 of the Act of 1972), shall apply accordingly.

(3) The provisions referred to in subsection (2) above are—

In the Act of 1967—

Section 20 (Removal of vehicles illegally, obstructively or dangerously parked, abandoned or broken down);

Section 52 (Charges for removing, storing and disposing of vehicles);

Section 55 (Powers and duties of highway authorities as to placing of traffic signs);

PART II —*cont.*

Section 58 (Emergency traffic signs);
Section 78 (Speed limits for vehicles of different classes):

In the Act of 1972—

Section 1 (Causing death by reckless or dangerous driving);
Section 2 (Reckless and dangerous driving, generally);
Section 3 (Careless and inconsiderate driving);
Section 5 (Driving, or being in charge, when under influence of drink or drugs);
Section 6 (Driving, or being in charge, with blood-alcohol concentration above the prescribed limit);
Section 8 (Breath tests);
Section 17 (Reckless and dangerous cycling);
Section 18 (Careless and inconsiderate cycling);
Section 19 (Cycling when under influence of drink or drugs);
Section 21 (Restriction on carriage of persons on bicycles);
Section 22 (Drivers to comply with traffic directions);
Section 23 (Pedestrians to comply with directions to stop given by constables regulating vehicular traffic);
Section 24 (Leaving vehicles in dangerous positions);
Section 25 (Duty to stop and furnish particulars, in case of accident);
Section 29 (Penalisation of tampering with motor vehicles);
Section 30 (Penalisation of holding or getting on to vehicle in order to be towed or carried);
Section 44 (Obligatory test certificates for vehicles other than goods vehicles to which section 45 applies);
Section 53 (Testing of condition of vehicles on roads);
Section 76 (Vehicles carrying overhanging or projecting loads);
Section 84 (Drivers of motor vehicles to have driving licences);
Section 100 (Arrest without warrant of persons driving while disqualified);
Section 112 (Drivers of heavy goods vehicles to be licensed);
Section 143 (Users of motor vehicles to be insured or secured against third-party risks);
Section 144 (Exceptions from requirement of third-party insurance or security);
Section 159 (Power of police to stop vehicles);
Section 161 (Power of police constables to require production of driving licences and in certain cases statement of date of birth);
Section 162 (Power of police constables to obtain names and addresses of drivers, and others, and to require production of evidence of insurance or security and test certificates);

Section 166 (Duty of driver, in case of accident involving injury to another, to produce evidence of insurance or security or to report accident);

PART II —*cont.*

Section 168 (Duty to give information as to identity of driver, etc. in certain cases):

Provided that, if no duty is chargeable under the Vehicles (Excise) Act 1971 in respect of a motor vehicle— 1971 c. 10.

(*a*) by virtue of section 7(1) of that Act; or

(*b*) by reason only that the vehicle is used exclusively on roads which are not public roads within the meaning of that Act;

the said sections 44, 84, 143, 161 and 166 of the Act of 1972 shall not apply in respect of that vehicle while it is being driven, or to any person while driving it, on a port road.

(4) Notwithstanding that no maximum speed limit or a maximum speed limit in excess of 30 miles per hour has for the time being been fixed by or under section 78 of the Act of 1967 in relation to a motor vehicle of any class or description, that section, except subsection (2) thereof, shall for the purposes of this section have effect, so far as applicable, as if a maximum speed limit of 30 miles per hour had been fixed thereby or thereunder in relation to a motor vehicle of that class or description.

(5) Regulations or orders made under section 20 of the Act of 1967 or sections 40 and 66 of the Act of 1972, and from time to time in force, shall extend and apply to port roads as they apply to roads as defined by section 104 of the Act of 1967 or section 196 of the Act of 1972, as the case may require, and section 87 of the Act of 1967 and sections 40 (5) and 66 (5) of the Act of 1972 shall apply accordingly:

Provided that, if no duty is chargeable under the Vehicles (Excise) Act 1971 in respect of a motor vehicle—

(*a*) by virtue of section 7 (1) of that Act; or

(*b*) by reason only that the vehicle is used exclusively on roads which are not public roads within the meaning of that Act;

the said regulations or orders shall not apply in respect of that vehicle while it is being driven, or to any person while driving it, on a port road.

(6) For the purposes of the Acts of 1967 and 1972 as extended and applied by this section, the expression " police station " where used in those Acts includes any police station maintained by the Authority, and the expressions " highway authority " and " competent authority " shall mean the Authority in relation to any port road for the maintenance of which the Authority is responsible.

PART III

MISCELLANEOUS

Power to invest in securities of bodies corporate.

19.—(1) In order to provide or facilitate the provision of funds for—

(*a*) the establishment, carrying on or extension by any body corporate of warehouses, factories or works at or near port

PART III —*cont.*

premises for purposes connected with the functions of th Authority; or

(*b*) the establishment or carrying on by any body corporate of ar undertaking or business (including an undertaking or busines concerned with the transport or handling of goods) connecte with or ancillary to the carrying on of the undertaking; or

(*c*) the carrying on by any body corporate of any other under taking or business which appears to the Authority to b advantageous or convenient for, or in connection with, th functions of the Authority;

and to the extent requisite therefor, the Authority may subscribe for purchase, take up and hold or dispose of any shares, stock, mortgages debentures or debenture stock of such body corporate and may in respect of any such shares, stock, mortgages, debentures or debenture stock for the time being held by them exercise either by themselves or through some person nominated by them for the purpose all or any of the rights exercisable by an individual holder of such shares stock, mortgages, debentures or debenture stock.

(2) The Authority may apply for the purposes of this section any of their capital or funds for the time being available.

Provision against danger to navigation.

20.—(1) In the case of injury to or destruction or decay of a tidal work or any part thereof the Authority 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 Authority fail to comply in any respect with a provision of this section they shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding £100 and on conviction on indictment to a fine.

Abatement of works abandoned or decayed.

21.—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Authority at their 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 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 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 the requirements of the notice have not been complied with the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be a debt due from the Authority to the Crown and shall be recoverable accordingly.

PART III —*cont.*

22. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be a debt due from the Authority to the Crown and shall be recoverable accordingly. Survey of tidal works.

23.—(1) After the completion of a tidal work the Authority shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct. Permanent lights on works.

(2) If the Authority fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding £100 and on conviction on indictment to a fine.

24.—(1) When the Authority consider it necessary so to do by reason of traffic conditions, or for the carrying out of harbour operations, they may from time to time make orders for regulating the traffic upon or closing such roads or other parts of the port premises, for such periods, as shall be specified in any such order. Orders for regulation of traffic or road closure, etc.

(2) A copy of any order made under this section shall, at least 24 hours before the order is to take effect, be prominently affixed at or near the approaches to the parts of the port to which it relates, and shall be kept in position until the period specified in the order has expired:

Provided that if the order has been made under the powers conferred by subsection (3) below a copy thereof shall, if it is impracticable to affix it 24 hours before it takes effect, be so affixed as soon as it is practicable to do so.

(3) If the chief executive or (in the absence of the chief executive from the port) the harbourmaster is satisfied that an order should be made under this section before it is practicable to convene a meeting of the Authority, he may exercise the power of subsection (1) above in place of the Authority.

(4) Any person who contravenes an order made under this section shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding £50.

(5) Section 228 of the Dundee Harbour and Tay Ferries Order 1952 is hereby repealed. 1952 c. xx.

25. So much of any works constructed or placed pursuant to this Order, and of any of the port premises, as is not within a district, and any alteration or extension of such works, shall be deemed for all purposes to be within the district to which it is nearest. Works, etc., to be in nearest district.

PART IV

SUPPLEMENTAL

For protection of statutory undertakers.

26. For the protection of the undertakers the provisions of this section shall, except so far as may be otherwise agreed in relation to any such undertaker between the Authority and the undertaker, apply and have effect—

(1) In this section, except where otherwise indicated—

"protected work" means, in relation to—

(*a*) the Tayside Regional Council, any sewer, quay, river wall, embankment or other work of the Council whether existing at the commencement of this Order or to be constructed thereafter;

(*b*) the Tay Road Bridge Joint Board, any pier of the bridge vested in the Board or any other work authorised pursuant to the Tay Road Bridge Order 1962, whether existing at the commencement of this Order or to be constructed or executed thereafter;

1962 c. xxxiii.

(*c*) the British Gas Corporation or the North of Scotland Hydro-Electric Board, any main as defined in the Electric Lighting (Clauses) Act 1899, any electric line or works as respectively defined in the Electric Lighting Act 1882, and any pipe, apparatus, building, structure or other work required for or in connection with the supply or transmission of gas or electricity and wholly owned or operated by the undertakers for the exercise of their statutory duties.

1899 c. 19.

1882 c. 56.

"the undertakers" means, so far as applicable—

(*a*) the Tayside Regional Council;

(*b*) the Tay Road Bridge Joint Board;

(*c*) the British Gas Corporation; or

(*d*) the North of Scotland Hydro-Electric Board.

(2) Nothing in section 4 (Restriction on works and dredging) of this Order shall apply in respect of a protected work, or of dredging necessary for its protection or efficient operation, subject to any directions given by the Authority for the protection of navigation:

Provided that—

(i) except in an emergency the undertakers shall give to the Authority not less than 28 days' notice of the intended operations, together with such plans and particulars thereof as shall be reasonably required;

(ii) in an emergency the undertakers shall as soon as practicable notify the Authority of their intention to carry out any work or dredging and thereafter supply such plans and particulars thereof as may be reasonably required by the Authority.

PART IV —*cont.*

(3) Before granting a works licence or a dredging licence in respect of works or dredging at, over, under or near to a protected work or in such position as to be likely to affect or endanger such work, or in any case where reasonably requested by the undertakers so to do, the Authority shall submit to the undertakers particulars of the proposed work or dredging and such further particulars with respect thereto as the undertakers may reasonably require.

(4) In the exercise of the powers conferred by a works licence or a dredging licence the licensee shall not damage or injuriously affect any protected work or, without the consent of the undertakers, interfere with or adversely affect the operation of any such work.

(5) A works licence or dredging licence to which paragraph (3) above applies shall embody such conditions as may be reasonably required by the undertakers as necessary to safeguard protected works, including (without prejudice to the foregoing generality) conditions empowering the undertakers from time to time to inspect the operations to which the licence relates, to take any steps necessary to prevent damage to the protected work or to ensure its efficient operation and to recover from the licensee the reasonable cost of any works carried out by the undertakers for those purposes.

(6) The Authority shall forthwith supply to the undertakers affected a copy of any works licence or dredging licence to which paragraph (3) above applies.

(7) If any difference shall arise between the Authority and the undertakers with respect to any of the provisions of this section, such difference shall be referred to and determined by a single arbiter to be agreed between the Authority and the undertakers or, in default of agreement, to be appointed (on the application of either party after notice in writing to the other) by the President of the Institution of Civil Engineers.

For further protection of Tayside Regional Council.

27. For the further protection of the Tayside Regional Council (hereafter in this section called "the Council") the provisions of this section shall, except so far as may be otherwise agreed between the Authority and the Council, apply and have effect—

(1) If as a consequence of the carrying out of works or dredging under a works licence or dredging licence it is reasonably necessary for the Council to carry out coast protection works under the powers of the Coast Protection Act 1949 the Authority shall repay to the Council the reasonable expenses of carrying out such works. 1949 c. 74.

(2) Nothing in this Order shall authorise the Authority or any other person to construct, place, alter, renew or extend works in such position or manner as unreasonably to narrow or obstruct the navigable waters of the Firth of Tay or otherwise unreasonably to interfere with or impede navigation to and from Perth Harbour.

PART IV —*cont.*

(3) Nothing in this Order shall extend or be construed to extend to take away, diminish, alter, prejudice or affect the provisions relating to the river Tay or the navigation thereof contained in the North British Railway (New Tay Viaduct) Act 1881 and the North British Railway Act 1888.

1881 c. cxxxvii.
1888 c. clxiii.

(4) Any difference between the Council and the Authority arising under this section shall be referred to and determined by a single arbiter to be agreed between the Authority and the Council, or, in default of agreement, to be appointed (on the application of either party after notice in writing to the other) by the President of the Institution of Civil Engineers.

For further protection of North of Scotland Hydro-Electric Board.

28.—(1) Nothing in sections 4 (Restriction on works and dredging), 5 (Licensing of works) or 6 (Licence to dredge) of this Order shall relieve the Authority or any licensee from liability for damage to or injurious affection of a protected work of the North of Scotland Hydro-Electric Board, and the powers or requirements of a works licence or a dredging licence shall not be so exercised or complied with as to obstruct or render unreasonably inconvenient the access to such work or to operational land (as defined in section 211 of the Town and Country Planning (Scotland) Act 1972).

1972 c. 52.

(2) In this section "protected work" has the same meaning as in section 26 (For protection of statutory undertakers) of this Order.

Saving for rights, etc., of district councils.

29. Nothing in this Order shall prejudice, diminish, alter or take away any of the rights, powers, jurisdictions and authorities vested in the district councils of the City of Dundee, Perth and Kinross, and North East Fife, and all such rights, powers, jurisdictions and authorities shall be as valid and effectual as if the Act confirming this Order had not been passed.

Crown rights.

30. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular, nothing in this Order shall authorise the Authority or any licensee of the Authority to take, use or interfere with any land or rights—

(*a*) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate 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 the Crown Estate Commissioners or, as the case may be, that department.

Saving for Commissioners of Northern Lighthouses.

31. 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.

Saving for certain public Acts.

32.—(1) Nothing in this Order shall exempt the Authority or any other person from the provisions of—

1964 c. 40.

(*a*) sections 9 and 10 of the Harbours Act 1964;

1949 c. 74.

(*b*) Part I of the Coast Protection Act 1949; or

PART IV —*cont.*

(*c*) the Dumping at Sea Act 1974;

nor affect the operation of the Health and Safety at Work etc. Act 1974 and the relevant statutory provisions as defined in section 53 of that Act. 1974 c. 20. 1974 c. 37.

(2) The provisions of the Town and Country Planning (Scotland) Act 1972 and any restrictions or 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 or may be authorised or regulated by or under this Order. 1972 c. 52.

33. The costs, charges and expenses of and incidental to the preparing and obtaining of this Order, and otherwise in relation thereto, shall be paid by the Authority and may in whole or in part be defrayed out of revenue. Costs of Order.

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CHAPTER xxxiv

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