Forth Ports Authority Order Confirmation Act 1980

CHAPTER ii

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ELIZABETH II



1980 CHAPTER ii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to the Forth Ports Authority. [31st January 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 Forth Ports Authority Order Confirmation Act 1980. Short title.

SCHEDULE

FORTH PORTS AUTHORITY

Provisional Order to confer further powers upon the Forth Ports Authority and their harbourmaster; and for other purposes.

Whereas by the Forth Ports Authority Orders 1966 to 1973 the Forth Ports Authority (hereinafter referred to as "the Authority") are constituted as the Authority responsible for the improvement, maintenance and management of the harbours of Burntisland, Grangemouth, Granton, Kirkcaldy, Leith and Methil, and the river and firth of Forth:

And whereas it is expedient—

(1) that the Authority should be empowered to issue general directions to vessels, and the harbourmaster of the Authority to issue special directions, as in this Order provided;

(2) that the maximum fee chargeable by the Authority for the grant of a tug licence be increased;

(3) that certain penalties prescribed by the enactments applicable to the Authority should be altered;

(4) that certain other enactments be repealed, being enactments which are spent, obsolete or otherwise not required;

and that the incidental and other provisions of this Order be passed into law:

And whereas these purposes 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 conferred by the said Act of 1936, the Secretary of State hereby orders as follows:—

Short and collective titles.

1. This Order may be cited as the Forth Ports Authority Order 1980, and the Forth Ports Authority Orders 1966 to 1973 and this Order may together be cited as the Forth Ports Authority Orders 1966 to 1980.

Interpretation.

2. In this Order, except where the subject or context otherwise requires, expressions which are defined in section 4 of the 1969 Order have the meanings given by that section, and—

1969 c. xxxiv.

"the 1969 Order" means the Forth Ports Authority Order 1969;

"general direction" means a direction given under section 3 (General directions to vessels) of this Order;

"special direction" means a direction given under section 5 (Special directions) of this Order.

General directions to vessels.

3.—(1) The Authority may, after consultation in each case with the General Council of British Shipping and the Forth Pilotage Authority, give general directions for the purpose 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 or 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 for the purposes of this subsection.

(2) A general direction may apply—

(*a*) to all vessels or to a class of vessels 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*) of this subsection.

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

Publication of general directions.

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.

5.—(1) The harbourmaster 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*) specifying the precautions to be taken in respect of apparatus, machinery and equipment;

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

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

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

(*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, to sink, or to constitute a danger to life or property;

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

(iv) it is interfering with the use of port premises by other vessels, or otherwise interfering with the proper use of port premises or the dispatch of business thereat;

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

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.

Effect of directions on life and property.

6. In giving a general direction or a special direction the Authority or, as the case may be, the harbourmaster shall have regard, where applicable, to the safety of life and property on land as well as in or on the Forth.

Failure to comply with directions.

7.—(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 to a fine not exceeding £500.

(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 supposing that compliance with the direction in question would be likely to imperil his vessel or that in the circumstances compliance was impracticable.

Enforcement of special directions.

8.—(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:

Provided that the powers of this subsection shall not be exercised—

(*a*) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or

(*b*) in relation to a lighter unless it is obstructing or interfering with navigation.

(3) Expenses incurred by the Authority in the 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.

Master's responsibility in relation to directions.

9. 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 to which the direction is given in relation to his vessel, to persons on board the vessel, to the cargo or to any other person or property.

Confirmation of byelaws. 1973 c. 65.

10. Subsections (4) to (8) and (10) to (12) of section 202, and section 204, of the Local Government (Scotland) Act 1973 shall apply to all byelaws made by the Authority as if the Authority were a local authority and the Secretary of State were the confirming authority.

Increase of fines.

11. The sections of the 1969 Order specified in column (1) of Schedule 1 to this Order, which provide maximum fines for the offences mentioned and broadly described in column (2) of that Schedule shall have effect respectively as if all references to daily fines were removed therefrom and the maximum fine (other than the daily fine) that may be imposed on conviction of any offence so mentioned were a fine not exceeding the amount specified in column (4) thereof instead of an amount not exceeding the amount specified in column (3) of that Schedule.

Application of Harbours Clauses Act. 1847 c. 27.

12. Section 3 (1) of the 1969 Order (which specifies, inter alia, sections of the Harbours, Docks and Piers Clauses Act 1847 excluded from application to the Order) is amended by inserting next after the figures "50" the figures "52, 53".

Tug licence fees.

13. Section 11 (1) (*b*) of the 1969 Order (which specifies a maximum fee of £5 for the grant of a tug licence) is amended by substituting for the words " five pounds " the words " twenty pounds ".

Crown rights.

14. Nothing in this Order shall prejudice 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 Authority 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.

Saving for Secretary of State for Defence. 1865 c. 125.

15. Nothing in this Order shall prejudice the authority or powers of the Secretary of State for Defence under the Dockyard Ports Regulation Act 1865 or derogate from any Order in Council, regulation or rule made under that Act for the protection of Her Majesty's vessels, dockyards or property or for meeting the requirements of Her Majesty's Naval Service.

Repeals.

16. The provisions specified in columns (2) and (3) of Schedule 2 to this Order, of the enactments specified in column (1) thereof, and the Forth Ports Authority Order 1972, are hereby repealed.

Costs of Order.

17. 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.

Section 11.

SCHEDULES

SCHEDULE 1

INCREASE OF FINES FOR CERTAIN OFFENCES

Section	Offence	Old maximum fine	New maximum fine
(1)	(2)	(3)	(4)
11	Use or employment of tug or other vessel for towing without licence.	£50	£200
12	Acting as weigher, measurer or timber measurer except under licence.	£100	£200
13	Acting as boatman except under licence.	£20	£50
26	Executing works or dredging except under licence.	£100	£200
54	Taking unauthorised benefit of exemption from harbour charges.	£10	£50
66	Causing or allowing articles or matter to fall into the docks or the Forth.	£100	£200
67	Bringing in forbidden goods or failing to observe published terms or conditions in respect of goods.	£100	£200
68	Failure to notify entry of dangerous goods.	£100	£200
81	Offences against byelaws.	£50	£200
89	Non-compliance by occupier of premises with requirement to state owner's name and address.	£5	£50

SCHEDULE 2

Section 16.

REPEALS

Scheme or Order (1)	Article or section (2)	Marginal note or heading (3)	
Forth Harbour Reorganisation Scheme 1966	17	Repayment of loan charges to Corporation.	
	30	Recovery and apportionment of debts.	1967 c. xli.
	38	Continuance of proceedings.	
	39	National Ports Council Levy.	
Forth Ports Authority Order 1969	80	Confirmation of byelaws.	1969 c. xxxiv

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