Inverness Harbour (Citadel Quay &c.) Order Confirmation Act 1976

CHAPTER iii

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ELIZABETH II

1976 CHAPTER iii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Inverness Harbour (Citadel Quay &c.).

[4th March 1976]

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 Inverness Harbour (Citadel Quay &c.) Order Confirmation Act 1976. Short title.

SCHEDULE

INVERNESS HARBOUR (CITADEL QUAY &c.)

Provisional Order to authorise the Trustees of the Harbour of Inverness to carry out works for the improvement of the harbour; to make amendments with respect to the amount of the fines which may be imposed for breach or non-observance of byelaws; and for other purposes.

Whereas by the Inverness Harbour Order 1911 the Trustees of the Harbour of Inverness (hereinafter referred to as "the Trustees") were constituted for the purpose of the management, maintenance and regulation of the Harbour of Inverness:

And whereas it is expedient that the Trustees should be authorised to carry out the works hereinafter described for the improvement of the harbour:

And whereas an estimate has been prepared by the Trustees in relation to the work authorised by this Order and such estimate is as follows:—

	£
Construction of retaining sea wall in sheet steel piling with all anchorages	152,000
Reclamation with gravel of area impounded by retaining sea wall and decking in reinforced concrete	54,000:

And whereas a plan and section showing the lines, situations and levels of work to be constructed under the powers of this Order were in March 1975 duly deposited with the sheriff clerk of the County of Inverness and such plan and section are in this Order respectively called the deposited plan and section:

And whereas it is expedient that further provision should be made with respect to the fines for contravention of certain byelaws which the Trustees are authorised to make:

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 provisions of the Private Legislation Procedure (Scotland) Act 1936: 1936 c. 52.

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

Short title and citation.

1. This Order may be cited as the Inverness Harbour (Citadel Quay &c.) Order 1976 and this Order may be included among the Acts and Orders which may be cited together as the Inverness Harbour Acts 1808 to 1976.

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

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

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

"deposited plan and section" means the plan and section deposited in connection with this Order;

"enactment" means any Act whether general, local or personal and any Order (including this Order) or other instrument made thereunder and any provisions in any such Act, order or instrument;

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

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

"limits of deviation" means the limits of deviation shown on the deposited plan;

"Order of 1911" means the Inverness Harbour Order 1911;

"tidal work" means so much of any work authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;

"Trustees" means the trustees of the Harbour of Inverness;

"undertaking" means the undertaking of the Trustees as for the time being authorised;

"work" means the work authorised by this Order or as the case may require any part thereof.

(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.

3.—(1) Subject to the provisions of this Order the Trustees may in the district and parish of Inverness and in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and section construct and maintain the work hereinafter described, together with all necessary and proper works and conveniences connected with or incidental thereto, that is to say:— Power to construct work.

A quay wall of sheet steel piling commencing at the north-west corner of the existing Citadel Quay and thence proceeding north-westwards in prolongation of the south-west wall of the said existing quay for a distance of 100 metres (328 feet) or thereabouts, thence turning through 90 degrees and proceeding in a north-easterly direction for a distance of 12 metres (39 feet) and terminating at high-water mark on the existing north-east shore of the river Ness, together with a gravel infilling of the bed of the river Ness and the existing steps of the Citadel Quay as impounded by the said wall and the provision of a deck of reinforced concrete thereover to form an extension of the existing Citadel Quay.

(2) The Trustees may within the limits of deviation reconstruct, renew, enlarge and alter temporarily or permanently the work.

Work to form part of undertaking and application of byelaws.

4.—(1) The work shall for all purposes form part of the undertaking.

(2) All byelaws and regulations of the Trustees for the time being in force relating to the undertaking shall as far as applicable apply to the work and may be enforced by the Trustees accordingly.

(3) The work shall be deemed for all purposes to be within the Inverness district of the Highland Region.

Subsidiary works.

5. Subject to the provisions of this Order, the Trustees may within the limits of deviation from time to time erect, construct and maintain, whether temporarily or permanently, all such necessary works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance and use of the work.

Power to deviate.

6. Subject to the provisions of this Order, in constructing the work the Trustees may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres (10 feet) upwards and to such extent downwards as may be found necessary or convenient.

Fine for obstructing work.

7.—(1) Any person who wilfully obstructs any person acting under the authority of the Trustees in setting out the lines of the work or who damages, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out shall for every such offence be liable to a fine not exceeding fifty pounds.

(2) Proceedings for any offence under this section or for the recovery of any fine thereunder may be brought in any court of summary criminal jurisdiction.

Tidal works not to be executed without approval of Secretary of State.

8.—(1) A tidal work shall not be constructed, renewed, enlarged or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, renewed, enlarged or altered in contravention of this section or of any condition or restriction imposed under this section—

(*a*) the Secretary of State may by notice in writing require the Trustees at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if on the expiration of thirty days from the date when the notice is served upon the Trustees they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(*b*) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be a debt due from the Trustees to the Crown and shall be recoverable accordingly.

Survey of tidal works.

9. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work constructed by the Trustees or of the site upon which it is proposed to construct the work and any expenditure incurred by the Secretary of State in any such survey and examination shall be a debt due from the Trustees to the Crown and shall be recoverable accordingly.

Provision against danger to navigation.

10.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Trustees 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 Trustees fail to comply in any respect with any provision of this section, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Abatement of works abandoned or decayed.

11.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Trustees at their own 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 authorised by this Order and 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 or to cause reasonable apprehension that it may 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 thirty days from the date when a notice under this section is served upon the Trustees they have failed to comply with the requirements of the notice, 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 Trustees to the Crown and shall be recoverable accordingly.

Lights on tidal works during construction.

12.—(1) The Trustees shall at or near a tidal work during the whole time of the construction, renewal, enlargement or alteration thereof exhibit, every night from sunset to sunrise, such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Trustees fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Permanent lights on tidal works.

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

(2) If the Trustees fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Saving for Dumping at Sea Act 1974.
1974 c. 20.

14. Nothing in this Order shall affect the operation of the Dumping at Sea Act 1974.

Byelaws.

15.—(1) Byelaws made by the Trustees under section 115 of the Order of 1911 or under section 83 of the Act of 1847 and in force at the commencement of this Order shall have effect as if the maximum amount of the fine which may be imposed in respect of a non-observance of such byelaws were, instead of the sum of five pounds fixed by the said section 115 of the Order of 1911 or section 84 of the Act of 1847, the sum of fifty pounds.

(2) Subsection (3) of section 115 of the Order of 1911 shall have effect as if for the words " five pounds and to a daily penalty of not exceeding forty shillings " there were substituted the words " fifty pounds and to a daily penalty not exceeding twenty pounds " and section 84 of the Act of 1847 shall have effect as if for the words " five pounds " there were substituted the words " fifty pounds ".

(3) Byelaws made with respect to navigation within any part of the seaward limits of the harbour as defined in section 107 of the Order of 1911 may provide for imposing on persons offending against them fines not exceeding five hundred pounds.

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 Trustees 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, or 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 town and country planning. 1972 c. 52.

17.—(1) Section 274 of the Town and Country Planning (Scotland) Act 1972 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session of Parliament held during the regnal years 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Order as if it had been passed during that session; and accordingly the Town and Country Planning (Scotland) Act 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Order.

(2) In their application to development authorised by this Order, article 3 of, and Class X in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1975 (which permit development authorised by any local or private Act or by any order approved by both Houses of Parliament, being an Act or order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Order were limited to development begun within five years after the passing of the Act confirming this Order.

(3) In this section the reference to article 3 of, and Class X in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1975 includes a reference to corresponding provisions of any general order superseding that order made under section 21 of the Town and Country Planning (Scotland) Act 1972 or any corresponding provision of an Act repealing that section.

Costs of Order.

18. 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 Trustees.

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