Paisley Corporation (Cart Navigation) Order Confirmation Act 1971

CHAPTER ii

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ELIZABETH II



1971 CHAPTER ii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Paisley Corporation (Cart Navigation).

[17th February 1971]

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 Paisley Corporation (Cart Navigation) Order Confirmation Act 1971. Short title.

SCHEDULE

PAISLEY CORPORATION (CART NAVIGATION)

Provisional Order to authorise the partial abandonment of the Cart Navigation by the provost, magistrates and councillors of the Burgh of Paisley; to extinguish rights of navigation over part of the said Navigation; and for purposes connected therewith.

Whereas by the Paisley Corporation (Cart Navigation) Order, 1938, the undertaking of the Cart Navigation Trustees (in that order and hereafter referred to as "the Navigation") was transferred to and vested in the Corporation and powers were conferred on the Corporation for the carrying on of the said undertaking:

And whereas by the Paisley Corporation Order, 1962, further powers were conferred on the Corporation with respect to the Navigation:

And whereas owing to the decrease in the annual tonnage of shipping using the Navigation the revenue accruing to the Corporation from the Navigation is no longer sufficient to maintain the same otherwise than at a loss:

And whereas heavy capital expenditure will be required in the near future to prevent deterioration of the Navigation and, owing to there being no prospect of such expenditure being recovered by the Corporation out of the revenue of the Navigation, such expenditure would constitute an unwarrantable burden on the ratepayers of the burgh:

And whereas it is expedient that the Corporation should be empowered to abandon so much of the Navigation as lies upstream of a line drawn between Ordnance Survey 10 metre grid reference points NS 4860 6658 and NS 4870 6652 and that over the aforementioned part of the Navigation all rights of navigation should be extinguished and that the powers and provisions with reference thereto which are contained in this Order should be conferred and enacted:

And whereas it is expedient that the other 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 citations.

1.—(1) This Order may be cited for all purposes as the Paisley Corporation (Cart Navigation) Order 1971.

1885 c. clxxiii.

(2) This Order and the Cart Navigation Act, 1885, the Paisley Corporation (Cart Navigation) Order, 1938, and the Paisley Corporation Order, 1962, may be cited together as the Paisley Corporation (Cart Navigation) Acts, 1885 to 1971.

Commencement of Order.

2.—(1) Except as provided in this section this Order shall come into operation on the date of the passing of the Act confirming this Order.

(2) The following provisions of this Order shall come into operation on such date as may be appointed by resolution of the Corporation (hereinafter referred to as the " appointed day "), viz.:—

Section 4 (Partial abandonment of Cart Navigation);

Section 5 (Power to dredge, etc.);

Section 11 (Repeal of Acts, etc.).

Interpretation.

3. The following words and expressions in this Order have, unless there is something in the subject or context repugnant to such construction, the meanings hereby assigned to them, that is to say:—

" appointed day " means the day appointed by the Corporation under section 2 (Commencement of Order) of this Order;

" burgh " means the Burgh of Paisley;

" Corporation " means the provost, magistrates and councillors of the burgh;

" Navigation " has the same meaning as in the Paisley Corporation (Cart Navigation) Order, 1938;

" repealed Acts " means the provisions of the Acts and Orders which are repealed by this Order;

" river " means so much of the White Cart Water as was within the limits of the Navigation at the commencement of this Order;

" tidal work " means so much of any work constructed by or vested in the Corporation as is on, under or over tidal waters or tidal lands below the level of mean high-water springs and downstream of the line referred to in section 4 (Partial abandonment of Cart Navigation) of this Order.

Partial abandonment of Cart Navigation.

4.—(1) Subject to the provisions of this Order, the Corporation may abandon and discontinue the maintenance and use of so much of the Navigation as lies upstream of a line drawn between Ordnance Survey 10 metre grid reference points NS 4860 6658 and NS 4870 6652 and in respect of the aforementioned part of the Navigation there shall be extinguished—

(*a*) any right of navigation thereon; and

(*b*) any obligation upon the Corporation (whether statutory or otherwise) to keep it open and to maintain it for purposes of navigation or to do anything for the furtherance of those purposes.

(2) Notwithstanding the provisions of the foregoing subsection and the repeal of the repealed Acts the whole property and assets vested in the Corporation for the purposes of the Navigation on the appointed day shall continue to be vested in the Corporation.

Power to dredge, etc.

5.—(1) Notwithstanding the provisions of section 11 (Repeal of Acts, etc.) of this Order the Corporation may from time to time carry out such works of dredging and excavation of the bed of the river, regrading of the river channel and removal of surplus materials as the Corporation may deem necessary for the purpose of preserving, maintaining and improving the flow of the river and for the maintenance of the amenity of the river:

Provided that—

(i) no materials excavated or dredged under the provisions of this section shall be deposited in any place below the level of mean high-water springs otherwise than in such position and under such restrictions as may be fixed by the Secretary of State; and

(ii) nothing in this section shall derogate from the provisions of subsection (1) of section 24 of the Rivers (Prevention of Pollution) (Scotland) Act, 1951.

1951 c. 66.

(2) Before exercising any of the powers conferred on them by this section within a distance of 50 yards of any submarine cable which is placed or maintained by the Post Office in the river in a position and at a depth of which notice has been given to the Corporation by the Post Office, the Corporation shall give in writing to the Post Office as long notice as possible (and in any case not less than 28 days' notice) of their intention to exercise such powers.

Saving for Clyde Port Authority.

6. Nothing in this Order shall prejudice, alter or affect the statutory or other rights, powers or privileges conferred on or vested in the Clyde Port Authority at the appointed day and the provisions of section 23 (For protection of Clyde Navigation Trustees) of the Cart Navigation Order 1938 shall, with any necessary modifications and adaptations, apply and have effect for the protection of the Clyde Port Authority with respect to the exercise by the Corporation of the powers conferred on them by section 5 (Power to dredge, etc.) of this Order as if the said powers had been conferred on them by the said Order of 1938.

Provision against danger to navigation.

7.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Corporation 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 said commissioners shall from time to time direct.

(2) If the Corporation fails to notify the said commissioners as required by this section or to comply in any respect with a direction given under this section it shall be 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.

8.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Corporation at its 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 he thinks proper.

(2) Where a work constructed by or vested in the Corporation and consisting partly of a tidal work and partly of works on or over land above the level of mean high-water springs is abandoned or suffered to fall into decay and that part of the work on or over land above the level of mean high-water springs 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 Corporation, it has 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 Corporation 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 and any expenditure incurred by him in any such survey and examination shall be a debt due from the Corporation to the Crown and shall be recoverable accordingly.

Permanent lights on tidal works.

10.—(1) The Corporation shall at the outer extremity of every tidal work 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 Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Corporation fails to comply in any respect with a direction given under this section it shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Repeal of Acts, etc.

11. Subject to the provisions of this Order, the Acts and Orders specified in Part I of the Schedule to this Order (so far as not already repealed) are hereby repealed to the extent specified in relation thereto in the third column thereof and the Acts and Orders specified in Part II of the said schedule shall, in respect of the provisions thereof specified in the third column of the said Part II, cease to have effect in relation to so much of the Navigation as is referred to in section 4 (Partial abandonment of Cart Navigation) of this Order.

Crown rights.

12. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown or shall subject to the provisions of this Order any lands, buildings or works vested in or occupied by the Crown or any department of Her Majesty's Government, except to such extent as Her Majesty or such department may voluntarily agree, and in particular nothing herein contained shall authorise the Corporation 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 the said commissioners on behalf of Her Majesty first had and obtained for that purpose.

Costs of Order.

13. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Corporation out of any funds (not being in the nature of capital), rates or revenues belonging to them or under their control or out of moneys borrowed by them under this Order for that purpose.

SCHEDULE

PART I

ACTS AND ORDERS REPEALED

Session and chapter	Title of Act	Extent of repeal
27 Geo. 3 c. lvi	An Act for enabling the Magistrates and Town Council of Paisley to improve the Navigation of the River Cart, and to make a navigable Cut or Canal across the Turnpike Road leading from Glasgow to Greenock.	The whole Act so far as not already repealed.
5 Will. 4 c. xxxii	An Act to amend an Act for improving the Navigation of the River Cart, and for deepening and extending the Harbour of Paisley in the County of Renfrew.	Sections II to XI, XIII, XV, XVI, XVII, XXXV, XXXVI, XXXVII, XLIV, XLV, XLVII and LIX.
35 & 36 Vict. c. xxxii	The Paisley Burgh and Cart Navigation Act, 1872.	Sections 4, 127 and 128.
44 & 45 Vict. c. civ	Pier and Harbour Orders Confirmation Act, 1881.	The whole of the Cart Navigation Order 1881 scheduled thereto so far as not already repealed.
48 & 49 Vict. c. clxxiii	The Cart Navigation Act, 1885.	Subsections (1), (5), (6) and (7) of section 12, sections 13, 14, 15, 22, 23, 25, 26, 28, 33 to 36, 51, and 69.
2 & 3 Geo. 6 c. ii	Paisley Corporation (Cart Navigation) Order Confirmation Act, 1938.	Sections 10 to 14, and the First, Second, Third, Fourth and Fifth Schedules to the Order scheduled thereto.
10 & 11 Geo. 6 c. xxxvii	Paisley Corporation Order Confirmation Act, 1947.	Section 103 of the Order scheduled thereto.

SCH. —*cont.*

PART II

SECTIONS OF ACTS AND ORDERS TO CEASE TO HAVE EFFECT IN RELATION TO THAT PART OF THE NAVIGATION OVER WHICH NAVIGATIONAL RIGHTS ARE EXTINGUISHED BY SECTION 4 OF THE FOREGOING ORDER

Session and chapter	Title of Act	Sections
5 Will. 4 c. xxxii	An Act to amend an Act for improving the Navigation of the River Cart, and for deepening and extending the Harbour of Paisley in the County of Renfrew.	XL, XLVI, LVIII, LXVII, LXIX.
48 & 49 Vict. c. clxxiii	The Cart Navigation Act, 1885.	Section 12 so far as not repealed under Part I of this Schedule, sections 27, 37 and 40 to 48.
2 & 3 Geo. 6 c. ii	Paisley Corporation (Cart Navigation) Order Confirmation Act, 1938.	Sections 15, 16, 17, 20 and 22 of the Order scheduled thereto.

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