Scottish Transport Group (Oban Quay) Order Confirmation Act 1974

CHAPTER xxxiv

ARRANGEMENT OF SECTIONS

Section

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

SCHEDULE

SCOTTISH TRANSPORT GROUP (OBAN QUAY)

PART I

PRELIMINARY

1. Short title.
2. Interpretation.
3. Incorporation of Act of 1847.

PART II

WORKS

4. Authorisation of works.
5. Subsidiary works.
6. Power to deviate.
7. Fine for obstructing work.
8. Tidal works not to be executed without approval of Secretary of State.
9. Survey of tidal works.
10. Provision against danger to navigation.
11. Abatement of works abandoned or decayed.
12. Lights on tidal works during construction.
13. Permanent lights on tidal works.

PART III

QUAY LIMITS

Section
14. Quay limits.

PART IV

CHARGES

15. Charges for quay facilities.
16. Exemption of lifeboat crew.

PART V

MISCELLANEOUS

17. Power to dredge.
18. Powers with respect to disposal of wrecks.
19. Protection of Crown interests in wrecks.
20. Crown rights.
21. For protection of Oban Town Council.
22. Saving for Commissioners of Northern Lighthouses.
23. Saving for Dumping at Sea Act 1974.
24. Saving for Town and Country Planning Acts.
25. Costs of Order.

ELIZABETH II



1974 CHAPTER xxxiv

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Scottish Transport Group (Oban Quay).

[19th December 1974]

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 Scottish Transport Group (Oban Quay) Order Confirmation Act 1974. Short title.

SCHEDULE

SCOTTISH TRANSPORT GROUP (OBAN QUAY)

Provisional Order to authorise certain works carried out by the Scottish Transport Group at their quay at Oban, to empower the Group to carry out further works and to confer further powers on the Group; and for other purposes.

1968 c. 73. Whereas by the Transport Act 1968 the Scottish Transport Group (hereinafter referred to as " the Group ") were constituted with power (inter alia) to operate harbours:

1878 c. clxvii. And whereas by the Callander and Oban Railway Act 1878 the Callander and Oban Railway Company were authorised to construct
1897 c. clxxix. a quay at Oban and by the Callander and Oban Railway Act 1897 were authorised to extend and enlarge the said quay and to exercise jurisdiction within the limits therein more particularly mentioned:

And whereas the said quay and certain lands and works are now vested in the Group:

And whereas with the passing of time the restoration and improvement of the facilities for the berthing of vessels at the said quay at Oban for the achievement of better sea communications with the Western Isles of Scotland became a matter of great urgency:

And whereas the Group have recently constructed the works hereinafter and in this Order described as Works Nos. 1, 2, 3 and 4 for the purpose of providing a vehicle ferry terminal at the said quay at Oban:

And whereas the Group desire to carry out certain other works in connection with the said quay and ferry terminal:

And whereas it is expedient that the Group should be authorised to carry out the work hereinafter described as Work No. 5 and other works as in the Order provided and it is further expedient that the works recently constructed by the Group hereinafter described as Works Nos. 1, 2, 3 and 4 should with the said Work No. 5 and the said other works be authorised and should be deemed always to have been duly authorised:

And whereas it is expedient that the limits of the quay should be extended as in this Order provided:

And whereas it is expedient that the further powers mentioned in this Order should be conferred upon the Group:

And whereas estimates have been prepared by the Group with respect to the following purposes and such estimates are as follows:—

	£
Construction of an approach ramp and adjustable steel link bridge with operating machinery and reinforced concrete support structure	200,000
Construction of extension to existing railway quay	30,000
Extension seawards of parapet wall, infilling and widening of approach road	30,000
Strengthening and reconstruction of existing timber quay	80,000
Electrical installations, new quay lighting and power to all buildings	40,000
Construction of fish sales hall, offices and stores ...	110,000
New pier office and ancillary buildings, car marshalling area and approaches, facilities for bulk storage, fuel oils and ice making	155,000
	£645,000

And whereas plans and sections showing the lines, situations and levels of the works to be authorised under the powers of this Order have been deposited with the sheriff clerk of the county of Argyll and such plans and sections are in this Order respectively called the deposited plans and the deposited sections:

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 said last-mentioned Act the Secretary of State orders as follows:—

PART I

PRELIMINARY

1.—This Order may be cited as the Scottish Transport Group (Oban Quay) Order 1974. Short title.

PART I —*cont.*

Interpretation.

2.—(1) In this Order the several words and expressions to which meanings are assigned by any Act wholly or partially incorporated with this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction; and in this Order unless the context otherwise requires—

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

1847 c. 27.

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

"the Group" means the Scottish Transport Group;

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

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

"quay" means the existing quay and sea wall at Oban belonging to the Group;

"quay limits" means the limits within which the Group exercise jurisdiction as defined in section 14 (Quay limits) of this Order;

"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;

"works" means the works 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.

Incorporation of Act of 1847.

3. The following sections of the Act of 1847, that is to say, sections 1 to 5, 21, 23, 27 to 29, 34 to 46, 48, 51 to 76, 79 to 83, 97 to 100, 102 and 103 are hereby incorporated with this Order and shall apply to the quay undertaking of the Group subject to the following modifications, that is to say:—

(*a*) for any reference in any of the said sections to the special Act, the undertakers and the prescribed limits there shall be substituted references to this Order, the Group and the quay limits respectively;

(*b*) in section 23, there shall be omitted the words from "provided that" to the end of the section;

(*c*) in section 63, for the words from "penalty" to the end of the section there shall be substituted the words "a penalty not exceeding £20";

(*d*) in section 69, for the words from "the sum" to the end of the section there shall be substituted the words "not exceeding £10".

PART II

WORKS

Authorisation of works.

4.—(1) Subject to the provisions of this Order—

(*a*) the following works constructed by the Group in the burgh of Oban and parish of Kilmore and Kilbride in the situations and lines shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections shall for all purposes be included among the works which by virtue of this Order the Group is authorised to construct and maintain, namely:—

Work No. 1 A fixed ramp of 70 feet (21·3 metres) or thereabouts in width at its commencement and narrowing to 16 feet (5 metres) at its termination in reinforced concrete construction on open piled supports commencing on the face of the railway quay at a point 220 feet (67·5 metres) or thereabouts north-north-eastwards from the top of the slipway at the southern end of the said quay and extending on a descending line in a generally northerly direction for a distance of 75 feet (22·8 metres) or thereabouts and there terminating and including necessary road connections and marshalling roadways for traffic approaching the said work;

Work No. 2 An adjustable steel link bridge commencing at a width of 15 feet (4·5 metres) or thereabouts at the termination of Work No. 1 by hinged connection with that work and extending north-north-eastwards for a distance of 70 feet (21·3 metres) or thereabouts and to a width of 25 feet (7·6 metres) to form a link between any ferry ship and the fixed ramp Work No. 1 and including all machinery for lifting and lowering the end adjoining the ferry ship;

Work No. 3 Fixed structures of reinforced concrete construction on open piled supports for guiding the adjustable end of the link bridge Work No. 2 and supporting the cables for lifting and lowering the link bridge commencing at a point 8 feet (2·4 metres) or thereabouts landward of the north-west face of the railway quay 120 feet (37 metres) or thereabouts north-north-eastwards of the commencement of Work No. 1 and terminating at a point at right angles to the face of the railway quay at the point of commencement and distant 67 feet (20·4 metres) or thereabouts therefrom and consisting of an extension by a distance of 12 feet (3·6 metres) or thereabouts of the north-west face of the railway quay and on the north-west side of a dolphin of 20 feet (6·0 metres) in length and 20 feet (6·0 metres) or thereabouts in width;

Work No. 4 An extension in a north-north-easterly direction from the existing face of the railway quay of reinforced concrete construction on open piled supports commencing at a point on the said quay 220 feet (67 metres) north-north-east of the commencement of Work No. 1 and extending in prolongation of the said north-west face of the said quay for a distance of 75 feet (22·8 metres) or thereabouts and there terminating;

PART II —*cont.*

and the Group shall be deemed always to have had power to construct the said works;

(*b*) the Group may in the burgh of Oban and parish of Kilmore and Kilbride and in the situations and lines shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections construct and maintain Work No. 5 hereinafter described together with all necessary and proper works and conveniences connected therewith or incidental thereto, namely:—

Work No. 5 An extension to seaward of the parapet wall of the road leading from Alma Crescent Road past Cawdor House to the railway quay on a line 15 feet (4·5 metres) or thereabouts northward of the existing parapet wall and commencing at a point on the existing parapet wall opposite the eastern boundary of Cawdor House and continuing for a distance of 135 feet (44 metres) or thereabouts and terminating at the existing parapet wall at a point opposite the north-west corner of Alma Crescent Road together with the demolition of the existing parapet wall between those points, infilling as a solid structure the area of the foreshore and levelling over to form a widened approach road to the railway quay.

(2) The Group shall in addition have power to strengthen and partially reconstruct the remainder of the existing timber quay belonging to them and to construct thereon all necessary ancillary works including a fish sales hall, pier offices, stores and other buildings.

(3) The Group may within the limits of deviation renew, enlarge and alter temporarily or permanently the works.

Subsidiary works.

5. Subject to the provisions of this Order, the Group 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 works.

Power to deviate.

6. Subject to the provisions of this Order, in constructing Work No. 5 the Group may deviate laterally from the lines or situations thereof shown on the deposited plans 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 10 feet (3 metres) 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 Group in setting out the lines of Work No. 5 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.

PART II —*cont.*

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

PART II —*cont.*

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 Group 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 Group to the Crown and shall be recoverable accordingly.

Lights on tidal works during construction.

12.—(1) The Group 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 Group 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 Group 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 Group 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.

PART III

QUAY LIMITS

Quay limits. 1897 c. clxxix.

14. As from the commencement of this Order section 28 (Limits of quay and sea wall) of the Callander and Oban Railway Act 1897 shall be read and have effect as if—

(*a*) for the words " fifty yards from any part of the quay and sea wall " there were substituted the words " 100 yards (91·4 metres) from any part of the quay and sea wall for the time being existing ";

(*b*) for the words " at the North Pier at Oban defined in " there were substituted the words " at the South Pier or at the North Pier at Oban as those limits are respectively defined in section 18 and "; and

(*c*) for references therein to the Company there were substituted references to the Group.

PART IV

CHARGES

Charges for quay facilities.

15.—(1) The Group may demand, take and recover such reasonable charges for services and facilities provided by them at or in connection with the quay as they may from time to time determine.

(2) A list showing the charges payable from time to time under subsection (1) of this section shall be open during reasonable hours for inspection by any person without charge at the harbour office of the Group and copies of the list shall be kept for sale at that office at a price not exceeding ten pence for each copy.

(3) Section 38 of and the Schedule to the Callander and Oban Railway Act 1878 and sections 26 and 27 of the Callander and Oban Railway Act 1897 are hereby repealed.

1878 c. clxvii.
1897 c. clxxix.

Exemption of lifeboat crew.

16. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and all persons brought ashore from any vessel in distress shall at all times have free ingress, passage and egress to, along and from the quay.

PART V

MISCELLANEOUS

Power to dredge.

17.—(1) The Group may deepen, widen, dredge, scour, cut and improve the sea bed within the quay limits and for such purpose may blast any rock.

(2) Any materials, other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894, taken up or collected in the exercise of the powers of this section shall become the property of the Group and may be used, sold, deposited or otherwise disposed of as the Group think fit:

1894 c. 60.

Provided that no such materials shall be deposited below the level of high water except in such position as the Secretary of State may approve and subject to such conditions and restrictions as he may impose.

Powers with respect to disposal of wrecks.

18.—(1) In their application to the Group sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the Group with respect to, and with respect to anything in or on, any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto) shall have effect—

(*a*) subject to the provisions of the next following section; and

(*b*) in relation to a vessel sunk, stranded or abandoned before, as well as after, the passing of this Order.

PART V —*cont.*

(2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting his liability, the Group may recover from the owner of any vessel in relation to which they have exercised their powers under the said section 530 any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the Group a case of emergency, subsection (2) of this section shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying, the Group have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so; and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under paragraph (*b*) of subsection (2) of the next following section, he shall be at liberty to do so, and the Group shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Group.

(4) Notice under the last foregoing subsection to the owner of any vessel may be served by the Group either by delivering it to him or by sending it to him by the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom, or, if the owner or any such place of business or abode is not known to the Group, by displaying the notice at the offices of the Group for the period of its duration.

(5) In this section the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof.

Protection of Crown interests in wrecks.
1894 c. 60.
1906 c. 48.

19.—(1) Without prejudice to section 741 of the Merchant Shipping Act 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906, the powers conferred on the Group by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

(*a*) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;

(*b*) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in paragraph (*b*) of subsection (2) of this section, in relation to any vessel which is not excluded from the

PART V —*cont.*

exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—

(i) had been required to be placed at the disposal of Her Majesty or of a government department; and

(ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The Group shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Trade of any decision of the Group to exercise in relation to any vessel any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of the Group a case of emergency, shall not proceed with the exercise thereof—

(*a*) except with the consent of the Secretary of State for Defence and the Secretary of State for Trade before the expiration of a period of fourteen days from the giving of the notice; or

(*b*) if before the expiration of the said period there is served on the Group a direction by the Secretary of State for Defence or the Secretary of State for Trade that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where in any such case as aforesaid the Group proceed to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (*a*) of this subsection or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if before the expiration of the period aforesaid such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of the last foregoing section:

Provided that—

(i) the Group shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (*b*) of the foregoing subsection, but any direction such as is referred to in paragraph (*b*) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the last foregoing section to have been duly served under paragraph (*b*) of this subsection;

(ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Secretary of State for Trade for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Group by the said section 530 the Group shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised, removed or recovered under that section, and any surplus proceeds of sale

PART V —*cont.*

within the meaning of that section, in accordance with such directions, if any, as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property the Group shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Group under that section.

(4) Any limitation on the powers of the Group in relation to any vessel arising by virtue of subsection (1) or subsection (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Commissioners of Northern Lighthouses by section 531 of the said Act of 1894.

Crown rights.

20. 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 Group 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.

For protection of Oban Town Council.

21. Nothing in this Order shall prejudice or affect the powers and jurisdiction exercisable by the provost, magistrates and councillors of the burgh of Oban as harbour undertakers in respect of the harbours known as the South Pier and the North Pier at Oban authorised by the Oban Piers and Harbour Orders 1862 to 1896.

Saving for Commissioners of Northern Lighthouses.

22. 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 Dumping at Sea Act 1974.
1974 c. 20.

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

Saving for Town and Country Planning Acts.
1972 c. 52.

24.—(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.

PART V —*cont.*

(2) In their application to development authorised by this Order, article 3 of, and Class XI in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1950 (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 XI in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1950 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. 1972 c. 52.

Costs of Order.

25. 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 Group.

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