ELIZABETH II

1972 CHAPTER xx

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Stromness (Vehicle Ferry Terminal) Pier &c.

[27th July 1972]

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 Stromness (Vehicle Ferry Terminal) Pier &c. Order Confirmation Act 1972. Short title.

SCHEDULE

STROMNESS (VEHICLE FERRY TERMINAL) PIER &c.

Provisional Order to authorise the Town Council of Stromness to carry out works for the improvement of the harbour of Stromness and to borrow money; and for other purposes.

1872 c. lxxvii. Whereas by the Orkney Piers and Harbours Act 1872 it was provided that Stromness Harbour should be placed under the control of a special Board of Commissioners:

1897 c. cxxxi. And whereas by the Stromness Harbour Act 1897 there was incorporated a body under the name or style of The Stromness Harbour Commissioners (in the said Act and hereinafter referred to as "the Commissioners") and the harbour undertaking and the property powers and jurisdictions of the Commissioners constituted by the said Act of 1872 were transferred to and vested in the Commissioners:

S.I. 1954/1083 (S. 106). And whereas by the Stromness Harbour Order 1954 the Commissioners were authorised to carry out certain works:

1937 c. 28. And whereas in pursuance of section 1 of the Harbours, Piers and Ferries (Scotland) Act 1937 and with the authority of the Secretary of State the Town Council of Stromness (hereinafter called "the Council") accepted transfer of the harbour undertaking of the Commissioners and of all property vested in them and forming part of the said undertaking as from 30th September, 1963:

And whereas it is expedient that the Council should be authorised to carry out the works hereinafter described for the purpose of providing a vehicle ferry terminal and for the improvement of the harbour and to borrow money for the purposes of the said works and of the harbour undertaking:

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

And whereas estimates have been prepared by the Council in relation to the following purposes in respect of which they are to be authorised to borrow money and such estimates are as follows:—

A fixed access bridge over the water and marshalling roadways ashore	£81,000
An adjustable steel bridge, linking the ship to the fixed access bridge, including all machinery for lifting and lowering the end adjoining the ferry ship	£60,000

Fixed structures for guiding the adjustable end of the said link bridge and supporting the jacks for lifting and lowering the link bridge ... £40,000

An extension of the existing North Pier £38,000

Renovation and strengthening of the existing North Pier £60,000

Dredging £15,000

And whereas plans and sections showing the lines, situations and levels of the works to be constructed under the powers of this Order were duly deposited with the Sheriff Clerk of the county of Orkney and such plans and sections are 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 last-mentioned Act the Secretary of State orders as follows:—

PART I

PRELIMINARY

1.—(1) This Order may be cited as the Stromness (Vehicle Ferry Terminal) Pier &c. Order 1972. Short title.

(2) Except so far as may be inconsistent with or repugnant to the purposes of this Order, the Stromness Harbour Act 1897, the Stromness Harbour Order 1954 and this Order shall be construed and read together as one Order. 1897 c. cxxxi. S.I. 1954/1083 (S. 106).

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

" Act of 1897 " means the Stromness Harbour Act 1897;

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

" Council " means the Town Council of Stromness;

" deposited plans and sections " means the plans and sections deposited in connection with this Order;

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

" existing North Pier " means the existing North Pier as shown on the deposited plans and sections;

" harbour " has the same meaning as in the Act of 1897 and includes the works authorised by and constructed under the Stromness Harbour Order 1954;

" harbour undertaking " means the undertaking of the Council in connection with the harbour and the works;

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

PART I —*cont.*

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

" 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; and

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

1889 c. 63.

(2) The Interpretation Act 1889 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) 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.

PART II

WORKS

Power to construct works.

3. Subject to the provisions of this Order, the Council may in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plans and sections in the burgh and parish of Stromness in the county of Orkney and on the foreshore and bed of the sea adjacent thereto construct and maintain the works hereinafter described, together with all necessary and proper works and conveniences connected therewith or incidental thereto, that is to say:—

Work No. 1 A fixed access bridge 354 feet (108 metres) in length consisting of a reinforced concrete deck 17 feet (5·2 metres) wide supported by openwork reinforced concrete piles commencing at a point 335 feet (102 metres) north of the existing North Pier head at the sea wall adjoining the top of the existing boatslip and terminating at the north east corner of the existing North Pier, together with road connection to the A965 roadway and 1,000 feet (305 metres) of 9 feet (2·74 metres) wide marshalling roadways located alongside and immediately behind the new sea wall retaining the A965 roadway:

Work No. 2 An adjustable steel link bridge measuring 20 feet (6·1 metres) wide commencing at the termination of Work No. 1 by a hinged connection with that work and extending southwards for a distance of 75·5 feet (23 metres) to form a link between any ferry ship and the fixed access bridge (Work No. 1) including all machinery for lifting and lowering the end adjoining the ferry ship.

Work No. 3 Fixed structures for guiding the adjustable end of the link bridge (Work No. 2) and supporting the jacks for lifting and lowering the link bridge, consisting of a 16·5 feet (5 metres) widening of openwork construction on the east face of the existing North Pier commencing at a point 16·5 feet (5 metres) south of the north east corner of the existing North Pier and terminating at a point 78·5 feet (24 metres) south of

PART II —*cont.*

said point, and on the east side of the bridge (Work No. 2) a 31·02 feet (9·5 metres) diameter circular dolphin of solid construction with the centre point of same located 58 feet (17·7 metres) east of the existing North Pier and 86·3 feet (26·3 metres) from the north east corner of the existing North Pier.

Work No. 4 An extension of the existing North Pier in open-work construction commencing by a junction with the existing southern extremity of the said pier and extending southwards for a distance of 44 feet (13·5 metres) and there terminating, consisting of a reinforced concrete deck, supported by reinforced concrete piles and the whole surrounded by a system of greenheart fendering together with a renovation and strengthening of the whole of the existing North Pier consisting of low level horizontal bracings embracing all existing pier head piles at the level of Ordnance Datum (Orkney), regrading and waterproofing the whole of the existing deck and repairing the deck beams and slabs of the whole of the pier.

Subsidiary works.

4.—(1) Subject to the provisions of this Order the Council in connection with the works may within the limits of deviation construct or place and maintain and use all such permanent or temporary quays, wharves, stairs, dolphins, piles, transit sheds, silos, warehouses, buildings, offices, washrooms, sanitary conveniences, dock yards, cranes, transporters, elevators, conveyors, lifts, gantries, weighing facilities, lighting and other masts, approaches, roads, road junctions, railways, tramways, sidings, viaducts, bridges, storage places, parking places, caissons, gates, wind, sand and other screens, sewers, drains, culverts, sluicing apparatus, pumping arrangements, tanks, mains, pipes, cables, wires, electricity substations, fences, boundary, river and other walls and embankments, staithes, jetties, stages, slips, graving docks, pontoons, floating and other fenders, booms, moorings, mooring and other chains, shipping-places, landing-places, buoys, beacons, landmarks, lights, radio and radar stations and other works and conveniences as may be expedient or desirable.

(2) Any electrical works or equipment constructed or placed and maintained and used pursuant to the powers conferred by this section shall be so constructed or placed and so maintained and used as to prevent interference with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line.

Maintenance and improvement of works.

5. Subject to the provisions of this Order, the Council may from time to time maintain, renew, enlarge, alter and reconstruct temporarily or permanently the works or any part thereof:

Provided that nothing in this section shall authorise the Council to deviate laterally beyond the limits of deviation.

Power to deviate.

6. Subject to the provisions of this Order, in constructing the works the Council 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 upwards and to such extent downwards as may be found necessary or convenient.

PART II —*cont.*

Fine for obstructing work.

7.—(1) Any person who wilfully obstructs any person acting under the authority of the Council in setting out the lines of the works 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 five pounds and shall in addition be liable to repay to the Council any expenses incurred by them in making good such damage.

(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, reconstructed, 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, reconstructed, 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 Council 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 Council 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 Council 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 Council 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 Council 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 Council 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 Council fail to comply in any respect with the provisions 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 Council 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 Council 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 Council to the Crown and shall be recoverable accordingly.

Lights on tidal works during construction.

12.—(1) The Council shall at or near a tidal work during the whole time of the construction, reconstruction, 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 Council 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 Council shall at the outer extremity 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 Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Council 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.

Power to dredge.

14. The Council may from time to time deepen, dredge, scour, cleanse, alter and improve the bed and foreshore within the limits of deviation and any material taken up or collected in the course of such operations shall be the property of the Council and may be used, sold, removed, deposited or otherwise disposed of as the Council may think fit:

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

Works to form part of harbour undertaking and application of byelaws.

15.—(1) The works shall for all purposes form part of the harbour undertaking.

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

PART II —*cont.*

(3) The works shall be deemed for all purposes to be within the burgh and parish of Stromness and in the county of Orkney.

PART III

BORROWING

Power to borrow money for purposes of works, etc. 1937 c. 28.

16. The power to borrow money conferred on county and town councils by section 21 of the Harbours, Piers and Ferries (Scotland) Act 1937 shall extend and apply with respect to the works, and with regard to the exercise by the Council of the powers conferred on them by this Order, in the same way as if the works were works authorised by a Provisional Order made under section 4 of the said Act of 1937, and as if the exercise of the powers conferred on the Council by this Order were purposes of the said Act of 1937.

Further borrowing powers.

17. The Council in addition to any other powers of borrowing which they now have may, with the sanction of the Secretary of State, borrow such sums of money as may be necessary for—

(*a*) the general purposes of the harbour undertaking;

(*b*) the payment of the costs, charges and expenses of, and incidental to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto:

Provided that money so borrowed for purpose (*a*) shall be repaid within such period as the Secretary of State may determine and that money so borrowed for purpose (*b*) shall be repaid within five years from the commencement of this Order.

Application of moneys borrowed.

18. All moneys borrowed by the Council under this Order shall be applied only to the purposes for which such sums are authorised to be borrowed and to which capital is properly applicable.

Saving for control on borrowing.

19. It shall not be lawful to exercise the powers of borrowing conferred by this Order, other than the power of borrowing to pay the costs, charges and expenses of this Order, except in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946, or of section 259 of the Local Government (Scotland) Act 1947.

1946 c. 58.
1947 c. 43.

PART IV

MISCELLANEOUS

Repeals.

20. The provisions of the Acts and Orders specified in the Schedule to this Order are hereby repealed to the extent specified in relation thereto in the third column thereof.

Crown rights.

21. 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 Council 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.

22. The provisions of the Town and Country Planning (Scotland) Acts 1947 to 1969, 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.

Costs of Order.

23. 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 Council.

SCHEDULE

ACTS AND ORDERS REPEALED

Session and chapter	Title of Act	Extent of repeal
1872 c. lxxvii ...	The Orkney Piers and Harbours Act 1872	Sections 28 to 32 inclusive.
1897 c. cxxxi ...	The Stromness Harbour Act 1897	The whole Act except sections 3, 21, 26, 28, 29, 31, 54 to 59 and 64.
1954 S.I. No. 1083 (S.106)	Stromness Harbour Order 1954	The whole Order except sections 1, 2, 4, 13, 16 and 19.
1955 c. iv	Stromness Harbour (Guarantee) Order Confirmation Act 1955	The whole of the Order scheduled thereto.

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Stromness (Vehicle Ferry Terminal) Pier &c. Order Confirmation Act 1972

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