



Harbours, Piers and Ferries (Scotland) Act 1937

1937 CHAPTER 28 1 Edw 8 and 1 Geo 6

PART IV

MISCELLANEOUS

21 Borrowing.

- (1)^{F1}
- (2) For the purpose of constructing any works authorised by a provisional order made on application under section four of this Act, or by or under section seven of this Act, or for the purpose of meeting the expense incurred in obtaining any such provisional order, or for any other purpose to which capital is properly applicable in connection with a marine work to which Part III of this Act applies, a harbour authority shall have power to borrow such sums as may be necessary not exceeding in the whole such amount as may be fixed by the [^{F2}Secretary of State for Scotland].
- (3) Any sums borrowed . . .^{F3} by a harbour authority in pursuance of this section shall be repaid by such method, subject to such conditions, and within such period as the [^{F2}Secretary of State for Scotland] may fix.

Textual Amendments

- F1** S. 21(1) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), s. 41, [Sch. 4](#)
- F2** Words substituted by virtue of S.I. 1970/1537, [art. 6 Sch. 2 para. 2](#)
- F3** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), s. 41, [Sch. 4](#)

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22 Returns regarding repayment of moneys borrowed.

- (1) The clerk to the harbour authority by whom any moneys have been borrowed under this Act shall, within one month after being requested so to do by the ^{F4}Secretary of State for Scotland], transmit to him a return showing the provision made by the authority for the repayment of the moneys so borrowed.
- (2) The return shall show such particulars, shall be made up to such date, and shall be in such form as the ^{F4}Secretary of State for Scotland] may require, shall be certified by the person whose duty it is to keep the accounts of the authority, and shall, if so required by the ^{F4}Secretary of State for Scotland], be verified by a statutory declaration made by that person.
- (3) If it appears to the ^{F4}Secretary of State for Scotland] from any return made under this section or otherwise that the authority—
 - (a) have failed to pay any instalment or to make any annual payment required to be paid or made; or
 - (b) have failed to appropriate to the discharge of any loan any sum required to be so appropriated; or
 - (c) have failed to set apart any sum required for a sinking fund; or
 - (d) have applied any portion of a sinking fund to a purpose other than those authorised;
 the ^{F4}Secretary of State for Scotland] may by order direct that such sum as is specified in the order, not exceeding the amount in respect of which default has been made, shall be paid or applied in the manner and by the date set out in the order, and the authority shall notify the ^{F4}Secretary of State for Scotland] as soon as the order has been complied with.
- (4) An order made under the last foregoing subsection may be enforced at the instance of the ^{F4}Secretary of State for Scotland] under section ninety-one of the ^{M1}Court of Session Act 1868, in like manner as if compliance with the order were a statutory duty.
- (5) If a return required to be made under this section is not made, the person in default shall be liable on summary conviction to a penalty not exceeding ^{F5}level 2 on the standard scale] and notwithstanding the recovery of any such penalty the making of the return may be enforced as aforesaid.

Textual Amendments

F4 Words substituted by virtue of [S.I. 1970/1537, art. 6 Sch. 2 para. 2](#)

F5 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Marginal Citations

M1 [1868 c. 100.](#)

23 ^{F6}

Textual Amendments

F6 [Ss. 17, 23 repealed by Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

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24 F7

Textual Amendments

F7 S. 24 repealed by [Statute Law Revision Act 1959 \(c. 68\)](#)

25 F8

Textual Amendments

F8 S. 25 repealed by [Harbours Act 1964 \(c. 40\)](#), [Sch. 6](#)

26 Works below highwater mark not to be carried out without approval of Board of Trade.

Nothing in this Act shall authorise the execution of any works on, over, or under tidal lands below highwater mark of ordinary spring tides except in accordance with such plans and sections, and subject to such restrictions and regulations, as, previous to such works being commenced, have been approved by the Board of Trade in writing . . .^{F9}

Textual Amendments

F9 Words repealed by [S.I. 1965/145](#), [Sch. 2](#)

27 Lights on works.

Where any part of any works authorised by a provisional order made on an application under section four of this Act or by or under section seven of this Act is situated below high-water mark of ordinary spring tides, the authority carrying out such works shall exhibit and keep burning on the works every night from sunset to sunrise such lights (if any) and take such other steps for the protection of navigation as may be from time to time required or approved during the construction, alteration or extension of the works by the Board of Trade and after the completion of the works by the Commissioners of Northern Lighthouses.

28 Power of Board of Trade to require removal of works.

Where any part of a marine work vested in a local authority or harbour authority under this Act or of a marine work as regards which a resolution under section twenty of this Act has taken effect is situated on, over or under tidal lands below high-water mark of ordinary spring tides and is in such a condition as to cause danger to, or to interfere with, or to cause reasonable apprehension of danger to or interference with, the right of navigation or any other public right over such tidal lands, the Board of Trade may, by notice in writing, require the authority in whom the work is vested or by whom the resolution was passed, as the case may be, to remove such part of the work and restore to the satisfaction of the Board of Trade the site thereof to a condition free from obstruction to navigation or danger to the public, and if, within thirty days after the service of such notice, the authority shall not have complied therewith, the Board of

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Trade may themselves carry out such removal and restoration and may recover from the authority the expense thereby incurred.

29 Crown rights.

Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown or authorise the use of or interference with any land (including tidal lands below high-water mark of ordinary spring tides) belonging to His Majesty in right of his Crown or to any Government Department, except with the consent of His Majesty or the Government Department, as the case may be.

30 Modification of local Acts to provide for seaplanes.

The [^{F10}Secretary of State for Scotland] may, by order, make such adaptations or modifications of the provisions of any local Act applying to a marine work as may be necessary to enable the use thereof by seaplanes.

Textual Amendments

F10 Words substituted by virtue of S.I. 1970/1537, art. 6 Sch. 2 para. 2

31 Interpretation.

(1) In this Act unless the context otherwise requires—

“Act” includes a provisional order confirmed by Act of Parliament;

... ^{F11}

“dues” includes tolls and charges;

... ^{F12}

“harbour,” “pier” and “boatslip” include the whole undertaking and the works, plant, apparatus and other property used in connection therewith;

“harbour authority” means any person or body of persons (other than a local authority) authorised by or under any Act to carry on a harbour, [^{F13}or pier] undertaking;

“local authority” means a [^{F14}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] council, and includes any two or more such councils, who have combined for any of the purposes of this Act;

[^{F15}“marine work” means a marine work as defined in the ^{M2}Harbours Act 1964]

“owner” includes any person holding under a ^{F16}... limited title;

“seaplane” includes a flying boat and any other aircraft designed to man^uuvre on the water, and a seaplane taking off from, or alighting on, the water shall be deemed to be on the surface of the water while in contact therewith;

“vessel” shall include a seaplane when on the surface of the water.

(2) For the purposes of this Act any assistance by way of grant or loan given under the Public Works Loans Acts 1875 to 1882, or under the ^{M3}Development and Road Improvement Funds Act 1909, or by any Government Department shall (except where such assistance was given under Part II of the said Act of 1909 as amended by any

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subsequent enactment) be deemed to have been given out of moneys provided by Parliament.

Textual Amendments

- F11** Definition of “appropriate Department” repealed by [S.I. 1939/782](#) (Rev. XV, p. 178; 1939 II, p. 2933), Sch.
- F12** Definition of “ferry” repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)
- F13** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 19 para. 12](#)
- F14** Words in s. 31(1) substituted (1.4.1996) by [1994 c.39, s.180\(1\)](#), [Sch.13 para.20](#); [S.I. 1996/323](#), art. 4(1)(c), [Sch.1](#)
- F15** Definition substituted by [Harbours Act 1964 \(c. 40\)](#), [s. 51\(1\)](#)
- F16** Words in s. 31(1) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); [S.S.I. 2003/456](#), art. 2

Marginal Citations

- M2** [1964 c. 40](#).
- M3** [1909 c. 47](#).

32 Repeal of 54 & 55 Vict. c. 58.

The ^{M4}Western Highlands and Islands (Scotland) Works Act 1891, is hereby repealed: Provided that, without prejudice to the provisions of the ^{M5}Interpretation Act 1889, any table of rates fixed, any lease of rates granted, any byelaw, or any appointment made or any other thing done under the first-mentioned Act, shall, if in force at the commencement of this Act, continue in force, and shall, so far as it could have been fixed, granted, made or done under or in pursuance of this Act, be deemed to have been so fixed, granted, made or done.

Marginal Citations

- M4** [1891 c. 58](#).
- M5** [1889 c. 63](#).

33 Citation and extent.

This Act may be cited as the Harbours, Piers and Ferries (Scotland) Act 1937, and shall extend to Scotland only.

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