



McDermott Scotland Order Confirmation Act 1975

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ELIZABETH II



1975 CHAPTER xxiv

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to
McDermott Scotland.

[7th August 1975]

WHEREAS the Provisional Order set forth in the schedule
hereunto annexed has after inquiry held before Com-
missioners 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 1936 c. 52.
confirmed by Parliament:

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 McDermott Scotland Order
Confirmation Act 1975.

Short title.

SCHEDULE

McDERMOTT SCOTLAND

Provisional Order to authorise Oceanic Contractors Incorporated to exercise harbour jurisdiction at Whiteness Head in the area of the Carse of Ardersier in the Highland Region and to construct works; and for other purposes.

Whereas—

(1) Oceanic Contractors Incorporated (hereinafter called “the Company”) are a company organised and existing under the laws of Panama, having their chief office and place of business in Scotland at the Carse of Ardersier, Ardersier in the Highland Region:

(2) Through a division of the Company known as McDermott Scotland, the Company carry on at the Carse of Ardersier the business of the manufacture, repair and servicing of drilling rigs and other structures necessary for the exploration of sea beds for oil or gas and in connection with the extraction of oil or gas:

(3) For the purposes of their said business the Company have purchased an area of land extending to approximately 823 acres in the parish of Ardersier, consisting in the main of a spit of land known as Whiteness Head and a partially enclosed channel in the Moray Firth, situated between Fort George and Nairn, and have constructed in accordance with a consent given by the Secretary of State to McDermott Contractors under section 34 of the Coast Protection Act 1949 certain pier facilities:

1949 c. 74.

(4) It is expedient that there should be conferred on the Company powers to maintain the said facilities, that for the proper control of the launching and shipping of the Company’s products and for the carrying on of their said business the Company should be authorised to exercise harbour jurisdiction and the powers of a harbour authority in respect thereof, and that the other provisions of this Order should be enacted:

(5) The purposes of this Order 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 Act of 1936 the Secretary of State orders as follows:—

Short title.

1. This Order may be cited as the McDermott Scotland Order 1975.

Interpretation.

2.—(1) In this Order—

“the Company” means Oceanic Contractors Incorporated;

“enactment” means any Act, any order (including this Order), scheme, byelaw or other instrument made under an Act, and any provision in an Act or in such order, scheme, byelaw or instrument;

“ the harbour ” means the areas referred to in section 4 (Limits of harbour) of this Order;

“ the harbourmaster ” means the harbourmaster appointed by the Company, and includes his authorised deputies and assistants;

“ hovercraft ” has the same meaning as in the Hovercraft Act 1968;

1968 c. 59.

“ hydrofoil vessel ” means a vessel, however propelled, designed to be supported on foils;

“ the level of high water ” means the level of mean high-water springs;

“ tidal work ” means so much of any work belonging to the Company as is on, under or over tidal waters or tidal lands below the level of high water;

“ vessel ” means every description of vessel however propelled or moved, and includes any thing constructed or used to carry persons or goods by water, and a seaplane on or in the water, a hovercraft and a hydrofoil vessel;

“ works ” means works of every description.

(2) Reference in this Order to any enactment shall be construed as reference to that enactment as reenacted, extended, amended or applied by or by virtue of any other enactment, including this Order.

3. The Harbours, Docks and Piers Clauses Act 1847 (except sections 6 to 13, 16 to 19, 22, 25, 26, 33, 50, 77 and 95 to 101), so far as applicable for the purposes and not inconsistent with the provisions of this Order, is hereby incorporated with and forms part of this Order:

Incorporation
of Harbours
Clauses Act.
1847 c. 27.

Provided that in construing the provisions so incorporated the expression “ the special Act ” shall mean this Order, and—

(i) the expressions “ the Promoters of the undertaking ” and “ the undertakers ” shall mean the Company, and the expression “ the harbour, dock or pier ” shall mean the harbour;

(ii) the meaning of the word “ vessel ” as defined in section 2 (Interpretation) of this Order shall be substituted for the meaning assigned to that word by section 3 of that Act;

(iii) section 15 shall be read and have effect as if for the words from “ shall forfeit ” to the end of the section there were substituted the words “ shall be liable on summary conviction to a fine not exceeding £100 ”;

(iv) section 23 shall be read and have effect as if the words “ provided that no such lease be granted for a longer term than 3 years ” were omitted, and there were added the words “ Provided that as from the commencement of any lease of a tidal work made under this section the lessee shall during the continuance of his lease be subject to all the liabilities and obligations to which the undertakers are subject and shall perform all the duties of the undertakers under the special Act in respect of that work. ”;

- (v) section 63 shall be read and have effect as if for the words from "penalty" to the end of the section there were substituted the words "penalty not exceeding £100";
- (vi) section 69 shall be read and have effect as if for the words from "sum" to the end of the section there were substituted the words "sum not exceeding £50";
- (vii) section 84 shall be read and have effect as if for the words "five pounds" there were substituted the figures "£100".

Limits of
harbour.
1964 c. 40.

4.—(1) The Company shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Harbours Act 1964, and the powers of the harbourmaster shall be exercised, within—

1973 c. 65.

(a) the area delineated in red upon the signed plan, being an area covered by tidal waters (and any reclaimed land) within 1,500 metres in any direction from so much of Whiteness Head as immediately prior to the coming into operation of the Local Government (Scotland) Act 1973 lay within the county of Inverness, but excluding—

(i) so much of that area as lies to the west of an imaginary line drawn from the position at latitude 57 degrees 35 minutes 31 seconds North, longitude 4 degrees 1 minute 10 seconds West on a true bearing of 002 degrees;

(ii) so much of that area as lies to the east of longitude 3 degrees 58 minutes 27 seconds West, and to the north of the level of high water on the north side of Whiteness Head; and

(b) the area delineated in green upon the signed plan.

(2) In this section "the signed plan" means the plan signed in quadruplicate by the Right Honourable the Earl of Selkirk, the Chairman of the Commissioners to whom this Order was referred, one copy of which has been deposited at the office of the Secretary of State for Scotland in London, one at the office of the Clerk of the Parliaments in the House of Lords, one in the Private Bill Office of the House of Commons and one at the chief office of the Company in Scotland.

(3) Nothing in this section shall authorise the Company to charge any ship, passenger and goods dues, as defined in the Harbours Act 1964, in relation to any vessel passing through the harbour (other than any creek or inlet thereof) unless such vessel makes use by means of lighters, tenders, packet boats or otherwise of the facilities of the harbour.

Power to
dredge.

5.—(1) The Company may from time to time, as may appear to them to be necessary or proper for the safety or convenience of navigation, deepen, widen, dredge, scour and improve the bed and foreshore of the harbour and of the seaward approaches to the harbour, and blast any rock in the harbour or in such approaches.

1894 c. 60.

(2) Any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) taken up or collected in the course of such operations shall be the property of the Company and may be used, sold, removed, deposited or otherwise disposed of as the Company may think fit:

Provided that the Company shall not lay down or deposit any materials in a place 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.

6.—(1) The Company may execute or lay down in and over the harbour such works and equipment as are required by them for or in connection with the undertaking of the Company at the harbour. Works in the harbour.

(2) Subject to the provisions of any other enactment the Company shall have power to maintain and manage, and within the harbour to renew, enlarge and alter temporarily or permanently, all works now or hereafter constructed by them at the harbour.

7. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work or of the site upon which the Company propose to construct a tidal work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be a debt due from the Company to the Crown and shall be recoverable accordingly. Survey of tidal works.

8.—(1) In the case of injury to or destruction or decay of a tidal work or any part thereof the Company 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. Provision against danger to navigation.

(2) If the Company fail to comply in any respect with a provision of this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

9.—(1) Section 52 of the Harbours, Docks and Piers Clauses Act 1847 in its application to this Order shall extend to empower the harbourmaster to give directions prohibiting the mooring of vessels or other structures within the harbour. Directions of harbourmaster. 1847 c. 27.

(2) The powers conferred by section 52 of the said Act of 1847 as applied to this Order and as extended by this section shall not be exercised except—

- (a) in relation to vessels using the works for the time being vested in the Company at the harbour or coming to or departing from those works;
- (b) in relation to vessels within the harbour which shall obstruct the approaches to those works; or
- (c) (to the extent to which it is necessary so to do during the carrying out by the Company of any operation involving the use of vessels or structures which may impede navigation) in relation to vessels which shall threaten the safety of navigation within the harbour.

Confirmation
of byelaws.
1847 c. 27.

10.—(1) Byelaws made by the Company under section 83 of the Harbours, Docks and Piers Clauses Act 1847 shall not come into operation until they have been confirmed by the Secretary of State.

(2) At least one month before application for confirmation of byelaws is made by the Company to the Secretary of State, notice of the intention to apply for confirmation and of the place at which and the times during which a copy of the byelaws shall be open to inspection shall be published once in the Edinburgh Gazette and once in each of two successive weeks in some one and the same daily newspaper circulating in the Highland Region and Districts of Inverness and Nairn.

(3) Not later than the first date on which the notice under subsection (2) of this section is published the Company shall send a copy of the notice together with a copy of the byelaws to the Chief Executive of the Regional Council of the Highland Region, the Chief Executive of the District Council of Inverness District, the Chief Executive of the District Council of Nairn District, and the Clerk of the Inverness Harbour Trust.

(4) During a period of at least one month before application is made for confirmation of byelaws under this section a copy of the byelaws shall be kept at the chief office of the Company at the Carse of Ardersier and shall at all reasonable hours be open to public inspection without payment.

(5) The Company shall supply a copy of the byelaws or of part of the byelaws to any person who shall apply for it, on payment of a reasonable charge.

(6) During the period of one month after the completion of the publication of any notice required by subsection (2) of this section any person may make in writing to the Secretary of State an objection to or representation respecting the byelaws to which the notice relates.

(7) The Secretary of State may confirm the byelaws in the form submitted to him with such modifications as he thinks fit, or may refuse to confirm them:

Provided that where the Secretary of State proposes to make a modification which appears to him to be substantial he shall inform the Company and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Company and by other persons who have been informed of it.

(8) When confirmed the byelaws shall be published by the Company.

For protection
of North of
Scotland
Hydro-Electric
Board.

11. For the protection of the board the provisions of this section shall, unless otherwise agreed in writing between the Company and the board, apply and have effect:—

(1) In this section unless the subject or context otherwise requires—

“adequate alternative apparatus” means alternative apparatus adequate to enable the board to fulfil their statutory functions in a manner not less efficient than previously;

“ apparatus ” means electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the board and includes adequate alternative apparatus laid or constructed in pursuance of this section; 1882 c. 56.

“ the board ” means the North of Scotland Hydro-Electric Board;

“ in ” in a context referring to apparatus includes under, over, across, along or upon;

“ plan ” includes section and description;

“ position ” includes depth.

(2) (a) If the Company, for the purpose of the execution of any works constructed under the powers of this Order, require the alteration, protection or removal of any apparatus, they shall give to the board written notice of such requirement with a plan of the proposed work and, if it is agreed between the Company and the board, or in default of agreement determined by arbitration, that the removal of the apparatus is reasonably required and that it should be removed, the following provisions of this paragraph shall have effect;

(b) If it is so agreed or determined that any apparatus should be removed, or if in consequence of the execution of any such works the board shall require to remove any apparatus the Company shall, to the satisfaction of the board, afford to the board the necessary facilities and rights including rights of access for the laying or construction of adequate alternative apparatus in other lands of the Company and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that if the alternative apparatus or any part thereof is to be laid or constructed elsewhere than in other lands of the Company and the Company are unable to afford such facilities and rights as aforesaid the board shall make every reasonable effort to obtain the necessary facilities and rights.

(3) (a) Any alternative apparatus to be laid or constructed in lands of the Company in pursuance of paragraph (2) of this section shall be laid or constructed in such manner and in such line or situation as may be agreed between the board and the Company or, in default of agreement, settled by arbitration;

(b) The board shall, after the manner of laying or construction and the line and situation of any alternative apparatus have been agreed, or settled by arbitration as aforesaid, and after the grant to the board of any such facilities and rights including rights of access as are referred to in paragraph (2) of this section, proceed with all reasonable dispatch to lay or construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required to be removed under the provisions of this section.

- (4) Where in accordance with the provisions of this section the Company afford to the board facilities and rights for the laying or construction, maintenance, repair, renewal and inspection on lands of the Company of alternative apparatus in substitution for apparatus to be removed as aforesaid, such facilities and rights shall be granted upon such terms and conditions as may be agreed between the Company and the board or, in default of agreement, determined by arbitration:

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be laid or constructed across or through any of the works referred to in paragraph (2) (a) of this section the arbiter shall—

(i) give effect to all reasonable requirements of the Company for ensuring the safety and efficient operation of the said works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with such works and also to all requirements of the board for ensuring the safety and efficient operation of the alternative apparatus; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to any terms and conditions applicable to the apparatus laid or constructed through the lands of the Company for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the Company in respect of any alternative apparatus, and the terms and conditions subject to which they are to be granted are, in the opinion of the arbiter, less favourable on the whole to the board than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbiter shall make such provision for payment of compensation by the Company to the board in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case.

- (5) (a) Not less than twenty-eight days before commencing to execute any works constructed under the powers aforesaid which are near to, or are likely to affect, any apparatus the alteration, protection or removal of which has not been required by the Company under paragraph (2) of this section or the maintenance of any such apparatus the Company shall submit to the board a plan of the work to be executed;
- (b) Such works shall be executed only in accordance with the plan submitted as aforesaid and in accordance with such reasonable requirements as may be made by the board for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the board shall be entitled by their officer to watch and inspect the execution of such works:

Provided that—

(i) if the board within twenty-eight days after the submission to them of any such plan shall, in consequence of the works proposed by the Company, require the alteration, protection or removal of any apparatus and give written notice to the Company of such requirement, the foregoing provisions of this section shall apply and have effect as if the alteration, protection and removal of such apparatus had been required under paragraph (2) of this section; and

(ii) nothing in this sub-paragraph shall preclude the Company from submitting at any time, or from time to time, but in no case less than twenty-eight days before commencing the execution of any such works, a new plan in lieu of the plan previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan;

(c) The Company shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but in such a case they shall forthwith give notice to the board and shall furnish the board with a plan of the works as soon as is reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as is reasonably practicable in the circumstances.

(6) If in consequence of the exercise of the powers of this Order the access to any apparatus is materially obstructed, the Company shall provide such alternative means of access to that apparatus as is required by the board for the effective discharge of their statutory functions.

(7) The Company shall repay to the board the reasonable costs, charges and expenses incurred by the board in or in connection with—

(a) the removal and relaying or replacing, alteration or protection of apparatus or the provision and laying or construction of any new apparatus under any provision of this section;

(b) the cutting off of apparatus from any other apparatus; and

(c) any other work or thing reasonably necessary in consequence of any operation referred to in this paragraph.

(8) (a) Any difference which may arise between the Company and the board under this section shall be referred to and determined by an arbiter to be mutually agreed upon between the Company and the board, or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Electrical Engineers;

- (b) In settling any difference under this section the arbiter shall have regard to the statutory duties and obligations of the board in relation to any apparatus and may require the Company to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

For protection
of Inverness
Harbour
Trust.

1911 c. cxxi.

12.—(1) In this section “the trustees” means the trustees of the harbour of Inverness as constituted by the Inverness Harbour Order 1911.

1934 c. 36.

(2) If at any time in the future the Company propose that their business at the harbour shall comprise activities other than the manufacture, repair and servicing of platforms, rigs and other structures for use on land or in or under the sea in connection with the exploration for or exploitation of petroleum as defined by the Petroleum (Production) Act 1934 or the construction, repair and servicing of vessels or other structures in connection therewith, not less than three months before commencing such other activities they shall give notice in writing to the trustees of the proposals and shall provide such information as the trustees may require, other than information of a financial nature:

Provided that if within one month of the service of such notice by the Company the trustees give notice in writing to the Company that in their opinion such activities can and will better be performed by the trustees as a part of their undertaking, the Company will not seek to undertake those activities except in so far as may be agreed in writing between the trustees and the Company.

(3) If within two months after the giving of a counter-notice under the foregoing subsection no agreement is reached between the Company and the trustees the Company shall not seek to undertake such other activities as aforesaid unless the Secretary of State has after giving the Company and the trustees an opportunity of being heard intimated his approval, which may be given subject to such modifications and conditions as he shall think fit.

For protection
of Nature
Conservancy
Council.

13. For the protection of the Nature Conservancy Council (hereinafter called “the council”) the following provisions shall, except as may be otherwise agreed in writing between the Company and the council, apply and have effect:—

1972 c. 52.

- (1) At least six weeks before exercising any of the powers conferred by section 5 (Power to dredge) or section 6 (Works in the harbour) of this Order the Company shall consult the council and shall furnish to the council such plans, sections and particulars as they may reasonably require:
- (2) The Company shall not make application under Part III of the Town and Country Planning (Scotland) Act 1972 for planning permission in respect of any development authorised by this Order except after notification by the Company to the council of the intention so to do, and in that event will, as soon as is practicable, furnish to the council a copy of the application.

14. Nothing in this Order shall exempt the Company from the provisions of sections 9 and 10 of the Harbours Act 1964.

Saving for
Harbours Act.
1964 c. 40.

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

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

16. Nothing in this Order shall exempt the Company from the provisions of Part I of the Coast Protection Act 1949 nor affect the application to any operation of sections 34 to 36 of that Act (which require the consent of the Board of Trade or the Secretary of State to certain operations and contain other provisions for the safety of navigation):

Saving for
Coast Protection
Act.
1949 c. 74.

Provided that notwithstanding the provisions of section 35 (1) (c) of that Act, section 34 (1) thereof shall apply in respect of operations carried out in the seaward approaches to the harbour under section 5 (Power to dredge) of this Order.

17.—(1) The provisions of the Town and Country Planning (Scotland) Act 1972 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.

Saving for
town and
country
planning.
1972 c. 52.

(2) Development authorised by this Order shall not be deemed to be development permitted by virtue of Class VII or XV B in Schedule 1 to the Town and Country Planning (General Development) (Scotland) Order 1975 or of the corresponding provision of any general order superseding that Order made under section 21 of the Town and Country Planning (Scotland) Act 1972.

18. Nothing in this Order shall affect prejudicially any estate, right, power, privilege, or exemption of the Crown, and in particular nothing in this Order shall authorise the Company to take, use or interfere with any land or rights—

Crown rights.

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners on behalf of Her Majesty; 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 the Crown Estate Commissioners or, as the case may be, that department.

19. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order, and otherwise in relation thereto, shall be paid by the Company.

Costs of
Order.

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