

ELIZABETH II



1985 CHAPTER x

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Glensanda Harbour. [23rd May 1985]

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 1936 c. 52. Order should be 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 Glensanda Harbour Order Confirmation Act 1985. Short title.

SCHEDULE

GLENSANDA HARBOUR

Provisional Order to empower Foster Yeoman Limited to construct works at Glensanda in the district of Lochaber in the Highland Region and to exercise harbour jurisdiction in the area adjoining such works; and for other purposes.

Whereas—

(1) Foster Yeoman Limited (hereinafter referred to as “the Company”) are a Company within the meaning of the Companies Acts 1948 to 1981 and are the proprietors of a quarry known as Glensanda Quarry and other land adjoining the said quarry which formed part of the Glensanda Estate in the district of Lochaber in the Highland Region:

(2) For the purpose of transporting the products of the said quarry to other parts of the United Kingdom and overseas it is expedient that the Company should be authorised to construct the harbour works and facilities hereinafter described:

(3) It is expedient that the Company should be authorised to exercise harbour jurisdiction and the powers of a harbour authority in respect of the said harbour works and facilities:

(4) Estimates have been prepared by the Company in relation to the following purposes and such estimates are as follows:—

Reclamation	£
Construction of slipway	1,300,000
Berthing dolphins	100,000
Construction of mooring bollard	1,000,000
	25,000
	<u>£2,425,000</u>

(5) In the month of March 1984 a plan and sections, showing the lines, situations and levels of the works to be constructed under this Order were deposited with the sheriff clerk of the sheriff court district of Fort William and with the clerk to the Lochaber District Council:

(6) It is expedient that the further provisions contained in this Order should be enacted:

(7) 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 Act the Secretary of State hereby orders as follows:—

PART I

PRELIMINARY

1. This Order may be cited as the Glensanda Harbour Order 1985. Short title.

2. In this Order, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:—

“Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847; 1847 c. 27.

“Company” means Foster Yeoman Limited;

“deposited plan” and “deposited sections” mean respectively the plan and sections deposited in connection with this Order;

“harbour” means the area referred to in section 15 (Limits of harbour) of this Order;

“harbour master” means the harbour master 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;

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

“limits of deviation” means the limits of deviation shown on the deposited plan;

“standard scale” has the meaning assigned to it in section 289 G of the Criminal Procedure (Scotland) Act 1975; 1975 c. 21.

“statutory maximum” means the prescribed sum within the meaning of section 289 B of the Criminal Procedure (Scotland) Act 1975;

“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;

“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;

“the works” means the works authorised by this Order or as the case may be any part thereof and “works” means works of any description.

3. The following sections of the Act of 1847, that is to say, sections 1 to 5, 21, 23, 27 to 29, 33 to 46, 51 to 76, 79 to 83, 97, 98, 100, 102 and 103, are hereby incorporated with and form part of this Order: Incorporation of Act of 1847.

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

PART I
—cont.

- (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 23 shall be read and have effect as if the words “provided that no such lease be granted for a longer term than three 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.”;
- (iv) section 63 shall be read and have effect as if for the words “five pounds” there were substituted the words “level 2 on the standard scale” and for the words “twenty shillings” there were substituted the words “level 1 on the standard scale”;
- (v) section 69 shall be read and have effect as if for the words “forty shillings” there were substituted the words “level 2 on the standard scale”.

PART II
WORKS

Power to

construct works.

4.—(1) Subject to the provisions of this Order, the Company may in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and sections 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 rubble mound or embankment to form a foreshore reclamation 8 metres or thereby above the level of high water commencing at the southerly edge of the inlet point of Rubha ‘A’ Chamais Bhain to Loch Linnhe (Ordnance Survey National Grid reference NM 8309047370) in the parish of Ardgour, in the district of Lochaber and extending in a southerly direction for 32 metres or thereby, thence proceeding and extending in a west-south-westerly direction for a distance of 218 metres or thereby, thence proceeding and extending in a south-westerly direction for a distance of 180 metres or thereby, thence proceeding and extending in a west-north-westerly direction for a distance of 97 metres or thereby and there terminating:

Work No. 2 A 12-metre wide slipway of solid construction commencing at the foreshore 1 metre or thereby above the level of high water at a point Ordnance Survey National Grid reference NM 8266547125 or thereby, proceeding and

extending in a south-easterly direction for a distance of 65 metres or thereby and there terminating 3 metres or thereby below the level of high water:

PART II
—cont.

Work No. 3 A concrete capped berthing dolphin with a surface area of 15 metres by 9 metres or thereby at 3 metres or thereby above the level of high water at a point Ordnance Survey National Grid reference NM 8292347200 or thereby:

Work No. 4 A concrete capped berthing dolphin with a surface area of 15 metres by 9 metres or thereby at 3 metres or thereby above the level of high water at a point Ordnance Survey National Grid reference NM 8298047238 or thereby:

Work No. 5 A concrete capped berthing dolphin with a surface area of 15 metres by 9 metres or thereby at 3 metres or thereby above the level of high water at a point Ordnance Survey National Grid reference NM 8304047278 or thereby:

Work No. 6 A mooring bollard of reinforced concrete and steel construction with a surface area of 3 metres × 3 metres or thereby at 2 metres or thereby above the level of high water at a point on the foreshore Ordnance Survey National Grid reference NM 8314047485 or thereby.

(2) The Company may within the limits of deviation reconstruct, renew and alter temporarily the works.

5. The Company may reclaim so much of the foreshore or bed of the sea as lies between the existing shore line shown on the deposited plan and the lines of Work No. 1 as described in this Order, such area being shown on the deposited plan as the area of land to be reclaimed. Power to reclaim lands.

6. Subject to the provisions of this Order, the Company 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. Subsidiary works.

7. Subject to the provisions of this Order, in constructing the works the Company may deviate laterally from the lines or situations thereof shown on the deposited plan 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 3 metres upwards and to such extent downwards as may be found necessary or convenient. Power to deviate.

8.—(1) A tidal work shall not be constructed, reconstructed, renewed 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. Tidal works not to be executed without approval of Secretary of State.

PART II
—cont.

(2) If a tidal work is constructed, reconstructed, renewed 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 Company 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 30 days from the date when the notice is served upon the Company 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 recoverable by him from the Company.

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 Company 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 recoverable by him from the Company.

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 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.

(2) If the Company fail to notify the Commissioners of Northern Lighthouses as required by this section or to comply in any respect with a direction given under this section, they shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding the statutory maximum 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 Company 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 30 days from the date when a notice under this section is served upon the Company 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 recoverable by him from the Company.

PART II
—cont.

12.—(1) The Company shall at or near a tidal work during the whole time of the construction, reconstruction, renewal 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.

Lights on works during construction.

(2) If the Company fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

13.—(1) After the completion of a tidal work the Company shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

Permanent lights on works.

(2) If the Company fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on conviction in a court of summary jurisdiction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

14. The works shall be deemed for all purposes to be within the parish of Ardgour and in the district of Lochaber and the Highland region.

Works to be in parish of Ardgour.

PART III

HARBOUR JURISDICTION

15.—(1) The limits within which the Company shall exercise jurisdiction as a harbour authority and within which the powers of the harbour master may be exercised shall comprise the area of the sea in Loch Linnhe bounded (a) to the south-west, south-east and north-east by an imaginary straight line commencing on the line of the level of high water at the point near Rubha na Moch-thra with Ordnance Survey National Grid reference NM 7934543380 (56°31.839'N, 05°35.312'W approximately), and thence in a south-easterly direction to the point with Ordnance Survey National Grid reference NM 8065042060 (56°31.165'N, 05°33.975'W approximately), and thence in a north-easterly direction to the point with Ordnance Survey National Grid reference NM 8719548528 (56°34.826'N, 05°27.922'W approximately), and thence in a north-westerly direction to the line of the level of high water at the point with Ordnance Survey National Grid reference NM 8518550556 (56°35.862'N, 05°29.982'W approximately), and (b) to the north-west by the line of the level of high water thence in a south-westerly direction to the point of commencement near Rubha na Moch-thra, as is delineated by a broken red line on the harbour limits map.

Limits of harbour.

PART III
—cont.
1964 c. 40.

(2) Nothing in subsection (1) of this section shall empower the Company to levy ship, passenger or goods dues (as defined in section 57 of the Harbours Act 1964) in respect of any craft which—

- (a) is under 24 metres overall in length; and
- (b) is not plying for hire or reward.

(3) Within one month after the commencement of this Order copies of the harbour limits map shall be deposited as follows, that is to say, one in the office of the Clerk of the Parliaments, one in the Private Bill Office in the House of Commons, one copy with the Department of Transport, one copy with the Secretary of State for Scotland in London, one copy at the offices of the Company at Torr Works, East Cranmore, Shepton Mallet, Somerset and one copy at the offices of the Lochaber District Council.

1936 c. 52.

(4) For the purposes of this section “the harbour limits map” means the map marked “Glensanda Harbour Limits Map” of which six copies have been signed by Gavin Douglas, Q.C.; Senior Counsel to the Secretary of State for Scotland under the Private Legislation Procedure (Scotland) Act 1936.

Directions of
harbour master.

16. Section 52 of the Act of 1847 in its application to this Order shall extend to empower the harbour master to give directions prohibiting the mooring of vessels or other structures within the harbour.

Byelaws
respecting
harbour.

17.—(1) In addition to the powers of making byelaws contained in the Act of 1847 the Company may, subject to the provisions of this Order, make such byelaws as they think fit for all or any of the following purposes, that is to say:—

- (a) for the protection of the harbour and the buildings, accommodation, machinery and appliances connected therewith and for regulating the use thereof and the conduct of persons frequenting or using the same;
- (b) for the regulation and control of vessels within the harbour;
- (c) for the regulation of the embarking, loading and unloading of any goods or traffic at or within the harbour.

(2) Byelaws to be made by the Company under the Act of 1847 or this Order may provide for imposing a penalty not exceeding level 2 on the standard scale for the breach or non-observance of any byelaw.

1973 c. 65.

(3) Byelaws made under this section shall not have effect until confirmed by the Secretary of State, and the provisions of sections 202, 202A, 202B, 202C, 203 and 204 of the Local Government (Scotland) Act 1973 shall have effect in relation to such byelaws as if they were byelaws made under section 201 of that Act:

Provided that the maximum penalty which may be imposed under the said section 203 in relation to such byelaws shall be a fine not exceeding level 2 on the standard scale.

PART IV
MISCELLANEOUS

18. Nothing in this Order shall exempt the Company or any other person from the provisions of sections 9 and 10 of the Harbours Act 1964. Saving for Harbours Act 1964. 1964 c. 40.
19. Nothing in this Order shall exempt the Company or any other person from the provisions of Part I of the Coast Protection Act 1949. Saving for Coast Protection Act 1949. 1949 c. 74.
20. Nothing in this Order shall affect the operation of the Dumping at Sea Act 1974. Saving for Dumping at Sea Act 1974. 1974 c. 20.
21. The Town and Country Planning (Scotland) Act 1972 and any orders, regulations, rules, schemes and directions made or given thereunder and any restrictions of 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; save that the provisions of article 3 of and Classes X and XV in Schedule 1 to the Town and Country Planning (General Development) (Scotland) Order 1981 shall not apply to any works authorised by this Order. Saving for Town and Country Planning Acts. 1972 c. 52. S.I. 1981/830 (S. 86).
22. The powers conferred on the Company by this Order shall not be exercised by the Company for any purpose other than the development and operation of their Glensanda quarry and for the purpose of transporting the products of the said quarry. Limitation of powers.
- 23.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this Order authorises the Company to take, use, enter upon or in any manner interfere with any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)— Crown rights.
- (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; 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.
- (2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.
24. 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 Company. Costs of Order.

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Glensanda Harbour Order Confirmation Act 1985

CHAPTER x

ARRANGEMENT OF SECTIONS

Section

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

SCHEDULE

GLENSANDA HARBOUR

PART I

PRELIMINARY

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

PART II

WORKS

4. Power to construct works.
5. Power to reclaim lands.
6. Subsidiary works.
7. Power to deviate.

Section

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 works during construction.
13. Permanent lights on works.
14. Works to be in parish of Ardgour.

PART III

HARBOUR JURISDICTION

15. Limits of harbour.
16. Directions of harbour master.
17. Byelaws respecting harbour.

PART IV

MISCELLANEOUS

18. Saving for Harbours Act 1964.
19. Saving for Coast Protection Act 1949.
20. Saving for Dumping at Sea Act 1974.
21. Saving for Town and Country Planning Acts.
22. Limitation of powers.
23. Crown rights.
24. Costs of Order.