

ELIZABETH II



1985 CHAPTER xxxii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Shetland Islands Council. [25th July 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 Shetland Islands Council Short title.
Order Confirmation Act 1985.

SCHEDULE

Shetland Islands Council

Provisional Order to extend the provisions of the Zetland County Council Act 1974 to certain areas in the Shetland Islands Area; to repeal enactments relating to piers and harbours in the said Area; and for other purposes.

Whereas—

1974 c. viii.

1979 c. v.
S.I. 1981/125.
1973 c. 65.

1847 c. 27.

(1) By the operation of the Zetland County Council Act 1974 (hereinafter called "the 1974 Act") (which Act has been amended and varied by the Shetland Islands Council Order 1979 and the Sullom Voe Harbour Revision Order 1980) and section 154 of the Local Government (Scotland) Act 1973, the Shetland Islands Council (hereinafter called "the Council") exercise harbour jurisdiction in respect of certain harbour areas as defined in the 1974 Act, and also have other powers and duties in respect of the coastal area as so defined and by section 4 of the 1974 Act certain provisions of the Harbours, Docks, and Piers Clauses Act 1847 are incorporated with modifications and accordingly apply within the said harbour areas:

(2) By the operation of the said section 154, the Council have succeeded to the property, and to the statutory and other rights, of the pier and harbour of Symbister Harbour in the Island of Whalsay:

1937 c. 28.

(3) By the transfer from the owners of certain marine works under section 1 of the Harbours, Piers and Ferries (Scotland) Act 1937 and by the operation of the said section 154, the Council have succeeded to the property, and to the statutory and other rights, of other piers and harbours in the areas defined in Schedule 1 to this Order:

(4) The local Orders referred to in Part I of Schedule 2 to this Order in so far as they relate to any of the aforesaid piers and harbours now have effect as if the Council were the undertakers referred to therein:

(5) By section 10 of the said Act of 1937 provisions of the Harbours, Docks, and Piers Clauses Act 1847 which are broadly similar to, but not identical with, those provisions referred to in paragraph (1) above are applied to the said piers and harbours:

(6) It is expedient for the more efficient administration of the said piers and harbours that—

- (a) the provisions of the 1974 Act be applied to them;
- (b) the areas of harbour jurisdiction in respect of those piers and harbours be extended;
- (c) the provisions of the said Act of 1847 be applied on a single and uniform basis throughout the areas within which the Council exercise harbour jurisdiction; and
- (d) the local Orders mentioned in Schedule 2 to this Order be repealed to the extent specified in the third column of that Schedule:

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

1. This Order may be cited as the Shetland Islands Council Order 1985, and shall come into operation on the expiration of three months after the commencement of the Act confirming it. Short title and commencement.
- 2.—(1) Section 3(1) of the 1974 Act is amended—
(a) by deleting the definition of “the coastal area” and substituting therefor the following definition:—
“‘the coastal area’ means the area of the territorial waters of the United Kingdom adjacent to the Shetland Islands; and includes any part thereof but does not include—
(a) the areas from time to time within the jurisdiction of the Lerwick Harbour Trust or the Broonies Taing Pier Trust;
(b) any marine work as defined in section 57 of the Harbours Act 1964 being outwith the harbour areas;” Application of 1974 Act to additional areas.
(b) by deleting the definition of “dangerous goods” and substituting therefor the following definition:—
“‘dangerous goods’ means any goods defined as dangerous goods by regulations for the time being in force under section 21 of the Merchant Shipping Act 1979;” 1964 c. 40.
1979 c. 39.
- (2) Schedule 1 to the 1974 Act is amended—
(a) by inserting after the words “AREAS OF HARBOUR JURISDICTION” the words “PART I”; and
(b) by adding thereto the particulars set out in Schedule 1 to this Order.
3. Section 4 of the 1974 Act is amended by adding thereto the following subsection:—
“(2) The application of provisions of the Harbours, Docks, and Piers Clauses Act 1847 to a harbour area shall be governed by paragraph (b) of subsection (1) of this section and accordingly section 10 of the Harbours, Piers and Ferries (Scotland) Act 1937 shall not have effect in relation to any marine work situated therein.” Marine works in harbour areas.
1847 c. 27
1937 c. 28.
4. Section 33(1) of the 1974 Act is amended by inserting after the words “are to be” where they appear first the words “or have been”.
5. Section 65 of the 1974 Act is amended by adding thereto the following subsection:—
“(4) The Council shall in preparing accounts in accordance with this section keep separate accounts relating—
(a) to that part of the harbour undertaking carried on in the areas specified in Part I of Schedule 1 to this Act; and
(b) to that part of the harbour undertaking carried on in the areas specified in Part II of the said Schedule.” Harbour jurisdiction in respect of works.
Accounts of harbour undertaking.

For protection
of British
Telecommunica-
tions plc.

6. For the protection of British Telecommunications plc (hereafter in this section called "the Company") the following provisions shall, except as may be otherwise agreed in writing between the Council and the Company, apply and have effect in and in relation to the areas defined in Schedule 1 to this Order:—

(1) In this section—

"relevant undertaker" has the meaning given by paragraph 23 of the telecommunications code;

"telecommunication apparatus" has the same meaning as in the telecommunications code; and

"telecommunications code" means the code contained in Schedule 2 to the Telecommunications Act 1984:

1984 c. 12.

(2) Any electrical works or equipment constructed, placed, maintained or operated under the powers conferred by section 7 (Works in coastal areas) of the 1974 Act shall be so constructed, placed, maintained and operated that any electricity generated or conveyed by or used in connection with such works or equipment does not cause interference (whether by induction or otherwise) with any telecommunication apparatus belonging to or used by the Company or with telecommunication by means of any such apparatus:

(3) As early as possible, and in any event not less than 28 days, before any exercise of the powers—

(a) contained in section 10 (Power to dredge) of the 1974 Act; or

(b) conferred by a licence granted pursuant to section 12 (Licence to dredge) of that Act;

within a distance of 50 metres (or in the case of blasting operations 150 metres) of any subaqueous telecommunication apparatus belonging to or used by the Company, the Council, or as the case may be, the licensee, shall give notice in writing to the Company of the intended exercise:

(4) For the purposes of paragraph 23 of the telecommunications code any work proposed to be carried out in exercise of the powers of a works licence granted under section 11 (Licensing of works) of the 1974 Act shall be deemed to be a work proposed to be executed as undertaker's works by a relevant undertaker, and the provisions of paragraph 23 of the telecommunications code shall apply to the said work:

(5) Nothing in section 14 (Restriction of works and dredging) of the 1974 Act shall affect the powers of the Company under the telecommunications code:

(6) Except in a case which is, in the opinion of the Council, a case of emergency, the Council shall before raising, removing or destroying any vessel sunk, stranded or abandoned in any of the areas defined in Schedule 1 to this

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Order or in or near any approach thereto and within a distance of 200 metres from any subaqueous telecommunication apparatus belonging to or used by the Company give to the Company in writing as long notice as is practicable of their intention so to do:

- (7) For the purposes of section 18 (Removal of obstructions other than vessels) of the 1974 Act the Company shall be deemed to be statutory undertakers.

7. The enactments mentioned in Parts I and II of Schedule 2 to this Order are hereby repealed to the extent specified in the third column of that Schedule. Repeals.

SCHEDULES

Section 2(2).

SCHEDULE 1

PARTICULARS ADDED TO SCHEDULE 1 TO 1974 ACT

"PART II

CULLIVOE AREA

The area bounded as follows:—

Commencing at low-water mark on the eastern extremity of the point of Grimsetter on the island of Yell (latitude 60°41.433'N, longitude 00°59.617'W);

Thence in a generally north-easterly direction in a straight line to low-water mark on the south-eastern extremity of the Ness of Cullivoe (latitude 60°41.950'N, longitude 00°59.183'W);

Thence in a generally north-westerly, south-westerly and then south-easterly direction by the line of low water to the point of commencement.

MID YELL VOE AREA

The tidal waters of Mid Yell Voe, the seaward boundary whereof is a straight line due north (true) from low-water mark on the north-eastern extremity of Ness of Lussetter on the island of Yell (latitude 60°35.867'N, longitude 01°01.717'W) to low-water mark on the southern shoreline of Ness of Kaywick (latitude 60°36.333'N, longitude 01°01.717'W).

OUT SKERRIES (WEST VOE) AREA

The area bounded as follows:—

Commencing at low-water mark on the south-western tip of The Hogg on the island of Housay (latitude 60°25.467'N, longitude 00°46.883'W);

Thence in a straight line due south (true) to low-water mark on Queyin Ness (latitude 60°25.380'N, longitude 00°46.883'W);

Thence in a generally north-easterly and south-westerly direction by the line of low water to the point of commencement.

OUT SKERRIES (SOUTH AND NORTH-EAST MOUTH) AREA

The area bounded as follows:—

Commencing at low-water mark on the south-western tip of The Calf on the island of Grunay (latitude 60°25.117'N, longitude 00°44.900'W);

Thence in a generally northerly direction following the line of low water on the western shoreline of The Calf of Grunay;

Thence in a generally north-easterly direction by the line of low water to low-water mark on the north-west tip of the Head of Grunay (latitude 60°25.551'N, longitude 00°44.100'W);

Thence in a generally west by north direction in a straight line to low-water mark on the tip of Head of Bloshin on the island of Bruray (latitude 60°25.635'N, longitude 00°44.300'W);

- Thence in a generally west-south-westerly direction following the line of low water on the southern shoreline of Bruray to low-water mark on the eastern side of Skerries Bridge connecting the islands of Bruray and Housay (latitude $60^{\circ}25.467'N$, longitude $00^{\circ}45.334'W$);
- Thence in a westerly direction in a straight line to low-water mark on the island of Housay on the western side of Skerries Bridge (latitude $60^{\circ}25.450'N$, longitude $00^{\circ}45.400'W$);
- Thence in a generally south-easterly direction by the line of low water to low-water mark on the north-east tip of Bessi Holm (latitude $60^{\circ}25.267'N$, longitude $00^{\circ}45.100'W$);
- Thence in a generally south-easterly direction in a straight line to the point of commencement.

SYMBISTER/NORTH VOE AREA

The area bounded as follows:—

- Commencing at low-water mark on the north-western extremity of Symbister Ness on the island of Whalsay (latitude $60^{\circ}20.500'N$, longitude $01^{\circ}02.100'W$);
- Thence in a generally north-easterly direction by the line of low water on the boundaries of Symbister Bay, Salt Ness and North Voe to Outer North Point (latitude $60^{\circ}21.100'N$, longitude $01^{\circ}01.233'W$);
- Thence in a generally south-westerly direction in a straight line to the point of commencement.

VAILA SOUND/GRUTING VOE AREA

The tidal waters of Vaila Sound (including Lera Voe, Wester Sound, Easter Sound) and Gruting Voe (including the Voes of Olas, Seli, Scutta and Browland), the seaward boundaries whereof are—

- (a) on the south-west, a straight line in a generally south-easterly direction between low-water mark on the eastern extremity of Head of Gilgow in the district of Walls on Mainland (latitude $60^{\circ}12.517'N$, longitude $01^{\circ}36.583'W$) and low-water mark on the south-western extremity of Muclabery on the island of Vaila (latitude $60^{\circ}12.267'N$, longitude $01^{\circ}36.200'W$);
- (b) on the south, a straight line in a generally east by south direction between low-water mark on the southern tip of Green Head on the island of Vaila (latitude $60^{\circ}11.667'N$, longitude $01^{\circ}33.800'W$) and low-water mark on the northern extremity of Taing of Keolkifield in the district of Sandsting on Mainland (latitude $60^{\circ}11.533'N$, longitude $01^{\circ}32.683'W$).

WEST BURRA (HAMNA VOE) AREA

The tidal waters of Hamna Voe, the seaward boundary whereof is a straight line in a generally east-north-easterly direction from low-water mark on the northern extremity of Fugla Ness on the island of West Burra (latitude $60^{\circ}06.467'N$, longitude $01^{\circ}20.717'W$) to low-water mark on the south-western tip of Scarva Taing (latitude $60^{\circ}06.567'N$, longitude $01^{\circ}20.400'W$)."

Section 7.

SCHEDULE 2

ENACTMENTS REPEALED

PART I

| Chapter or number | Short title | Extent of repeal |
|---------------------------|---|---|
| 8 Edw. 7. c. cxxxvi. | Pier and Harbour Orders Confirmation (No. 2) Act 1908. | The scheduled Order relating to Vaila except sections 2, 64 and 65. |
| S.I. 1951/ 1154. | Linkshouse Pier Order 1951. | The whole Order. |
| 9 & 10 Eliz. 2. c. iv. | Zetland County Council (Sym-bister Harbour) Order 1961. | The whole Order except sections 1, 3, 25, 26, 28 and 29. |
| S.I. 1968/ 2058. | Zetland County Council (Sym-bister Harbour) Order 1968. | The whole Order. |

PART II

| Chapter | Short title | Extent of repeal |
|-----------|--------------------------------------|-------------------------|
| 1979 c.v. | Shetland Islands Council Order 1979. | Sections 3(1)(b) and 4. |

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Shetland Islands Council Order Confirmation Act 1985

CHAPTER xxxii

ARRANGEMENT OF SECTIONS

Section

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

SCHEDULE

SHETLAND ISLANDS COUNCIL

1. Short title and commencement.
2. Application of 1974 Act to additional areas.
3. Marine works in harbour areas.
4. Harbour jurisdiction in respect of works.
5. Accounts of harbour undertaking.
6. For protection of British Telecommunications plc.
7. Repeals.

SCHEDULES—

Schedule 1—Particulars added to Schedule 1 to 1974 Act.

Schedule 2—Enactments repealed.