

Greenock Port and Harbours Order Confirmation Act, 1957

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CHAPTER xxii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Greenock Port and Harbours. [31st July 1957.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners 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:

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 Greenock Port and Harbours Order Confirmation Act 1957. Short title.

SCHEDULE

GREENOCK PORT AND HARBOURS

Provisional Order to confer power on the Trustees of the Port and Harbours of Greenock to acquire certain lands by agreement to repeal certain provisions of the Greenock Port and Harbours Order 1943 to authorise the Trustees to supply ships with electricity to make byelaws to make adjustments in the accounts of the Harbour Trust and for other purposes.

WHEREAS by the Greenock Port and Harbours Consolidation Act 1913 (hereinafter referred to as "the Act of 1913") the Acts relating to the Port and Harbours of Greenock were consolidated with amendments and the said Port and Harbours were vested in the Trustees of the Port and Harbours of Greenock (hereinafter referred to as the Trustees):

And whereas by virtue of the powers conferred on the Trustees by the Greenock Port and Harbours Acts 1913 to 1950 (hereinafter referred to as "the Harbour Acts") the Trustees manage maintain work and use the said Port and Harbours and levy charge and recover various rates and charges in respect of the use thereof as more particularly prescribed by the Harbour Acts:

And whereas it is expedient that the Trustees should be authorised to acquire by agreement certain lands forming river frontages and adjoining other lands belonging to the Trustees:

And whereas it is expedient that certain provisions relating to the reserve fund authorised by section 4 of the Greenock Port and Harbours Order 1943 should be repealed:

And whereas it is expedient that the Trustees should be authorised to supply electricity to ships:

And whereas it is expedient that the Trustees should be authorised to remove sunk stranded or abandoned vessels:

And whereas it is expedient that the Trustees should be authorised to make byelaws:

And whereas it is expedient that the Trustees should be authorised to make certain adjustments in the accounts of the Harbour Trust:

And whereas it is expedient that the other provisions contained in this Order should be enacted:

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:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

1.—(1) This Order may be cited as the Greenock Port and Harbours Order 1957 and shall except as otherwise expressly provided commence and have effect on and from the date of the passing of the Act confirming the same.

(2) The Greenock Port and Harbours Acts 1913 to 1950 and this Order may be cited together as the Greenock Port and Harbours Acts 1913 to 1957.

2. In this Order unless there be something in the subject or Interpretation. context inconsistent with or repugnant to such construction—

(a) The several words and expressions to which meanings are assigned by the Acts incorporated herewith or by the Harbour Acts or any of them have the same respective meanings; and

(b) The following words and expressions have the meanings assigned to them in this section (that is to say):—

“Act of 1847” means the Harbours Docks and Piers Clauses Act 1847;

“Act of 1894” means the Merchant Shipping Act 1894;

“Act of 1913” means the Greenock Port and Harbours Consolidation Act 1913;

“corporation” means the corporation of Greenock;

“Harbour Acts” means the Greenock Port and Harbours Acts 1913 to 1950;

“Order of 1943” means the Greenock Port and Harbours Order 1943;

“the Minister” means the Minister of Transport and Civil Aviation;

“the Port and Harbours” means the Port and Harbours of Greenock.

3. Subject to the provisions of this Order section 6 (Incorporation of provisions of Harbours Clauses Act) of the Act of 1913 shall so far as applicable and not varied by or inconsistent with this Order apply for the purposes of this Order as if it had been re-enacted herein: Incorporation of Acts.

Provided that nothing in the Act of 1847 or this Order shall in any circumstances require or authorise the harbour-master or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

4.—(1) Subject to the provisions of this Order the Trustees may in addition to the lands already acquired or authorised to be acquired and held by them purchase or feu by agreement and hold the lands shown coloured pink on the plan three copies of which have been signed by Commander C. E. M. Donaldson V.R.D. R.C.N.(R.) M.P. the chairman of the commissioners to whom this Order was referred and deposited as follows namely one copy at the Scottish Office London one copy at the office at Greenock of the principal sheriff clerk for the county of Renfrew and one copy at the office of the Trustees. Power to take lands by agreement.

(2) Nothing in this section shall exonerate the Trustees from any interdict action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any lands acquired by them under this section.

5. With effect from the first day of July one thousand nine hundred and fifty-six paragraph (ii) of the proviso to section 4 of the Order of 1943 is hereby repealed. Partial repeal of section 4 of Order of 1943.

Power to
supply electricity
to shipping.

6.—(1) In addition to the powers contained in section 118 of the Act of 1913 the Trustees may supply ships or vessels resorting to the Port and Harbours and works sheds and warehouses at the Port and Harbours and any machinery or equipment used in connection with the said ships vessels works sheds and warehouses with electricity and for that purpose may lay pipes wires and cables and erect all necessary fittings on or near such parts of the piers quays and wharfs within the Port and Harbours as the Trustees think necessary:

Provided that any electricity supplied by the Trustees pursuant to this section shall be so supplied and any pipes wires or cables laid and any fittings erected pursuant to this section shall be so laid or erected and so maintained worked and used as to prevent interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

(2) The Trustees may make such reasonable charges for the electricity so supplied as they think fit:

Provided that the rate to be charged for such supply shall not exceed by more than one hundred and fifty per centum the rate charged to the Trustees for the same or an equivalent supply of electricity by any authority or person authorised to supply electricity.

(3) The Trustees may make such reasonable charges for the attendance of officers or servants and the provision of equipment engaged in affording such supply as they think fit.

(4) The Trustees may from time to time make such byelaws for regulating the supply of electricity to ships vessels works sheds and warehouses as to them seem proper.

Removal of
sunk stranded
or abandoned
vessels.

7.—(1) Whenever any vessel is sunk stranded or abandoned in any part of the Port and Harbours or in or near any approach thereto the Trustees may if they think fit take possession of and cause the vessel or any part thereof to be raised removed blown up or destroyed.

(2) The Trustees may recover from the owner of any such vessel all expenses incurred by the Trustees in respect of the taking possession of raising removal blowing up or destruction thereof or of any part thereof or in raising removing saving or storing any furniture tackle and apparel thereof or any cargo goods and effects raised removed or saved therefrom or in marking lighting watching buoing or otherwise controlling such vessel:

Provided always that the Trustees may if they think fit and shall if so required by the owner of the vessel cause such vessel and any furniture tackle apparel cargo goods and effects or any part of the same respectively so raised removed saved or stored as aforesaid to be sold in such manner as they think fit and out of the proceeds of the sale may after paying any duties of customs or excise purchase tax and surcharge in respect of sugar or molasses which are payable in respect of the said cargo goods and effects reimburse themselves for any such expenses and duties purchase tax and surcharge in respect of sugar and molasses and shall hold the surplus (if any) of those proceeds in trust for the persons entitled thereto and if such proceeds are insufficient to reimburse the Trustees in respect of such expenses and duties tax and surcharge the deficiency may be recovered by the Trustees in manner aforesaid.

(3) The Trustees shall (except in any case which in their opinion is a case of emergency) before raising removing blowing up or destroying any such vessel or part thereof under the provisions of this section give to the owner of the vessel twenty-four hours' notice of their intention so to do but if within twelve hours after the expiration of such notice the owner gives to the Trustees notice in writing of his intention himself to raise and remove the vessel or such part thereof he shall be at liberty to do so:

Provided that if the owner gives any such notice as last aforesaid—

(a) he shall in raising or removing the vessel or such part thereof comply with any directions which may from time to time be given to him by or on behalf of the Trustees for the purpose of preventing interference with navigation; and

(b) he shall forthwith after giving such notice commence and shall with all due diligence proceed with and complete the raising or removal of the vessel or such part thereof and if the raising or removal be not completed within seven days after the giving of such notice by the owner such notice shall be null and void and the Trustees shall be at liberty to cause the vessel or such part thereof to be raised or removed or blown up or otherwise destroyed in accordance with the provisions of this section as if the owner had not given notice.

(4) The Trustees shall (except in any case which in their opinion is a case of emergency or when required by the owner to sell) before selling any such vessel or part thereof under the provisions of this section give to the owner seven days' notice of their intention so to do.

(5) Any notice given by the Trustees pursuant to subsection (3) or subsection (4) of this section shall be given by delivering the same to the owner or by posting a prepaid letter addressed to the owner at the place in the United Kingdom where he carries on business or at his last known place of abode in the United Kingdom or if the owner or his place of business or abode is not known to the Trustees then by exhibiting such notice at the office of the Trustees for twenty-four hours in the case of a notice given under the said subsection (3) or for seven days in the case of a notice given under the said subsection (4).

(6) In this section the expression—

“owner” in relation to any vessel sunk stranded or abandoned as aforesaid means the owner of the vessel at the time the said expenses were incurred by the Trustees or if there was not then an owner of the vessel the owner of the vessel at the time of the sinking stranding or abandonment thereof;

“vessel” includes a seaplane and other aircraft.

(7) The powers conferred on the Trustees by this section shall be in addition to and not in derogation of any other powers exercisable by them for or in respect of the removal of wrecks.

(8) Except for the purpose of removing any obstruction to the harbours nothing in this section shall entitle the Trustees to remove any wreck (as defined in section 510 of the Act of 1894) to the

prejudice or in derogation of the rights with respect to such wreck of the receiver of wreck under the provisions of Part IX of the said Act and if the Trustees for any such purpose as aforesaid remove any such wreck they shall (without prejudice to the rights of sale conferred upon them by the foregoing provisions of this section) hold and dispose of the same or any such surplus of the proceeds of sale thereof as is referred to in subsection (2) of this section in accordance with such directions (if any) as may be given to them by the said receiver.

(9) For the removal of doubt it is expressly provided that nothing in this section shall apply to any vessel belonging to Her Majesty or held by any person on behalf of or for the benefit of the Crown nor shall any of the powers conferred by this section be exercised if by such exercise the Crown would become liable directly or indirectly otherwise than as an insurer or reinsurer under a contract of insurance or reinsurance for any expenses incurred by the Trustees except where such consent is given as is provided for in the section of this Order of which the marginal note is "As to vessels in which the Crown have an interest" and the vessel was not such a vessel as aforesaid at any such time as is mentioned in subsection (6) of this section:

Provided that in any case which in the opinion of the Trustees is a case of emergency the Trustees may without obtaining such consent as aforesaid exercise the powers conferred by this section other than the powers conferred by subsection (2) of this section.

(10) Before any explosive substance is used in exercise of the provisions of this section within one hundred and fifty yards of a submarine cable placed and maintained by the Postmaster-General the Trustees shall (except in any case which is in their opinion a case of emergency) give at least seven days' notice in writing marked "urgent" (which may be served by posting by registered post) of the intention to use an explosive substance to the telephone manager for the west of Scotland area.

8.—(1) The Trustees shall before taking possession of raising removing blowing up or destroying any vessel sunk stranded or abandoned under the powers conferred upon them by this Order or by any other enactment give to the Admiralty and to the Minister notice in writing of their intention so to do and if within fourteen days after the receipt of such notice the Admiralty or the Minister gives the Trustees—

- (a) a certificate that the vessel was sunk stranded or abandoned by a person acting on behalf of Her Majesty or otherwise by an officer or servant of the Crown acting in the course of his duty as such and that it is not in the national interest that the Trustees should take possession of the vessel or that the vessel should be raised removed or blown up or destroyed; or
- (b) a notice that the exercise by the Trustees of the rights of recovery conferred by subsection (2) of the section of this Order of which the marginal note is "Removal of sunk stranded or abandoned vessels" would render the Crown liable directly or indirectly otherwise than as an insurer or

As to vessels
in which the
Crown have
an interest.

reinsurer under a contract of insurance or reinsurance for all or a substantial proportion of the expenses incurred by the Trustees;

the Trustees shall not without the consent in writing of the authority by whom the certificate was issued or the notice given take possession of raise remove blow up or destroy such vessel:

Provided that in any case which in their opinion is a case of emergency the Trustees may take possession of raise remove blow up or destroy any vessel without giving notice of their intention so to do to the Admiralty or to the Minister and in that event the Trustees shall not be entitled to recover from any person the expenses incurred by them in so doing if the effect of such recovery would be to render the Crown so liable.

(2) If the Trustees mark light watch buoy or control any vessel in respect of which the Admiralty or the Minister have refused their consent under subsection (1) of this section or give warning to shipping of the presence thereof the Trustees shall not be entitled to recover the expenses of so doing from the owner of the vessel.

9. In addition to the powers of making byelaws contained in the Act of 1847 or in any other enactment enabling the Trustees to make byelaws the Trustees may subject to the provisions of this Order from time to time make such byelaws as they think fit for all or any of the following purposes:—

Power to
make general
byelaws.

For regulating the management and superintendence of the Port and Harbours and of the works constructed and to be constructed for the improvement thereof and of the harbour lights palls and landfasts placed thereon:

For preventing and removing obstructions or impediments within the Port and Harbours and at the harbours docks piers and other works:

For berthing or removing vessels lying in any part of the Port and Harbours:

For regulating the conveyance of rafts of timber and the discharge and removal of timber within the Port and Harbours:

For regulating the conduct of the owners masters and crews of vessels propelled by steam or other mechanical power with regard to the rate of speed at which they may proceed within the Port and Harbours the keeping of the advertised times of sailing the taking on board and landing or putting off passengers and the towing of vessels and the size and number of vessels towed at one time in one train:

For regulating the conduct of boatmen and others in landing passengers from and putting them on board of all vessels including vessels propelled by steam and the sufficiency of the boats employed for that purpose:

For regulating and parking omnibuses coaches carriages carts motors and other vehicles as well public as private coming or resorting to the Port and Harbours or the approaches thereto and the drivers conductors and persons in charge thereof or attendant thereon:

For regulating the wages conduct and behaviour of porters boatmen lumpers jobbers stevedores and others resorting to the harbours quays docks or other works and for prohibiting persons from acting as such within the Port and Harbours without previously obtaining a licence to that effect from the corporation:

For licensing persons to act as master lumpers master stevedores boatmen master porters or barrowmen at the Port and Harbours regulating their conduct and the remuneration to be received by them:

For prohibiting and preventing betting or the making or settling of bets of any kind within the Port and Harbours:

The penalty for breach of any byelaws made under the Act of 1847 or this section shall not exceed five pounds and in the case of a continuing offence a fine not exceeding forty shillings for each day on which the offence is continued after conviction thereof.

Power to make byelaws as to lights and signals.

10. The Trustees may subject to the provisions of this Order from time to time make such byelaws as they think fit for all or any of the following purposes:—

(1) For prescribing the lights and signals to be carried exhibited or made by vessels while being used navigated or moored within or intending to enter or leave the Port and Harbours:

For prescribing the lights and signals to be exhibited or made by wreck-marking vessels or by other devices used for the purposes of marking obstructions within the Port and Harbours:

For prescribing the lights and signals to be exhibited or made by vessels aground within the Port and Harbours:

For prescribing steering and sailing rules for the regulation of vessels used or navigated within or intending to enter or leave the Port and Harbours:

(2) In this section the word "signals" includes sound signals:

(3) Different byelaws may be made under this section in relation to different classes of vessels:

(4) The penalty for breach of any byelaws made under this section shall not exceed twenty pounds and in the case of a continuing offence a fine not exceeding five pounds for each day on which the offence is continued after conviction thereof.

For protection of Trustees of Clyde Lighthouses.

11. The following provisions shall unless otherwise agreed in writing between the Trustees and the trustees of the Clyde Lighthouses (in this section referred to as "the lighthouses trustees") apply and have effect for the protection of the lighthouses trustees (that is to say):—

(1) Nothing in this Order contained shall prejudice take away diminish alter or abridge any statutory or other rights powers privileges jurisdictions or authorities conferred on vested in or enjoyed by the lighthouses trustees and in

particular but without prejudice to the foregoing generality the powers conferred on the lighthouses trustees by the Clyde Lighthouses Consolidation Order 1940 with respect to the removal of wrecks or other obstructions within the limits of the lighthouses trustees as defined in the said Order of 1940:

- (2) If in consequence of the exercise by the Trustees of the powers conferred on them by section 7 (Removal of sunk stranded or abandoned vessels) of this Order any obstruction or injury by silting deposit or otherwise is caused to the navigation of the river or Firth of Clyde within the said limits of the lighthouses trustees or to the works or operations of the lighthouses trustees the lighthouses trustees may require the Trustees to remove such obstruction or to remedy such injury or to take such steps as may be necessary to remove the silt or obstruction as the case may be:

Provided that in the event of any failure on the part of the Trustees to comply with any requirements of the lighthouses trustees as aforesaid the lighthouses trustees may themselves carry out the works at the expense of the Trustees but before doing so they shall except in case of emergency give to the Trustees not less than seven days' notice in writing of their intention:

- (3) The Trustees shall also free and relieve the lighthouses trustees of and from all claims damages or compensation which may be made against or recovered from the lighthouses trustees arising out of or in consequence of the exercise by the Trustees of the powers conferred on them by section 7 (Removal of sunk stranded or abandoned vessels) of this Order:
- (4) In the event of any dispute arising between the Trustees and the lighthouses trustees under subsections (2) or (3) of this section (including without prejudice to the foregoing generality any dispute as to whether or not any obstruction or injury caused to the navigation of the river or Firth of Clyde within the said limits of the lighthouses trustees has resulted from the operations of the Trustees) such dispute shall be determined by an arbiter to be appointed by the Sheriff of Renfrew and Argyll or his substitute at Greenock whose decision shall be final.

12. Notwithstanding the provisions of the Act of 1847 relating to the procedure for the making and confirmation of byelaws by the Trustees the provisions of subsections (4) (5) (7) (8) (9) (11) and (12) of section 301 and section 303 of the Local Government (Scotland) Act 1947 shall after the commencement of this Order apply to all byelaws to be made by the Trustees under section 83 of the Act of 1847 or in the exercise of any powers in that behalf conferred on the Trustees by any other enactment or by this Order (except such as relate solely to the Trustees or their officers or servants) as if the Trustees were a local authority and in the application of the provisions of the Local Government (Scotland) Act 1947 the Minister shall be the confirming authority.

Confirmation
of byelaws.

Inquiries by
Minister.

13. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Order and section 355 of the Local Government (Scotland) Act 1947 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Trustees were a local authority.

Repeal.

14. Section 189 of the Act of 1913 is hereby repealed.

Power for
Trustees
to make
adjustments
between
accounts.

15. It shall be lawful for the Trustees in making up the different accounts of the Harbour Trust of Greenock to transfer and apply any balance of money or any part thereof standing to the credit of an account described "Damages for breach of agreement" (and arising from the cancellation of the lease of ground at James Watt Dock) to an account providing for future taxation.

Costs of
Order.

16. All costs charges and expenses preliminary to and of and incidental to the preparing for and obtaining of this Order and the confirming Act or otherwise in relation thereto shall be paid by the Trustees out of the revenues of the Port and Harbours.

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Table of Statutes referred to in this Act

Short title	Session and chapter
Harbours Docks and Piers Clauses Act 1847	10 & 11 Vict. c. 27.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Merchant Shipping Act 1894	57 & 58 Vict. c. 60.
Greenock Port and Harbours Consolidation Act 1913	3 & 4 Geo. 5 c. xlii.
Private Legislation Procedure (Scotland) Act 1936	26 Geo. 5 & 1 Edw. 8 c. 52.
Local Government (Scotland) Act 1947 ...	10 & 11 Geo. 6 c. 43.

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