



CHAPTER i.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Montrose Burgh and Harbour. A.D. 1927.
—

[29th March 1927.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by one of His Majesty's Principal Secretaries of State under the provisions of the Private Legislation Procedure (Scotland) Act 1899 as read with the Secretaries of State Act 1926 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict.
c. 47.

Be it therefore enacted by the King'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 shall be and the same is hereby confirmed. Confirma-
tion of
Order in
schedule.

2. This Act may be cited as the Montrose Burgh and Harbour Order Confirmation Act 1927. Short title.

A.D. 1927₈

SCHEDULE.

MONTROSE BURGH AND HARBOUR.

Provisional Order to authorise the provost magistrates and councillors of the burgh of Montrose to levy a special rate in respect of Montrose Harbour and for other purposes.

WHEREAS by Charter of His late Majesty King James IV. dated the twentieth day of September one thousand four hundred and ninety-three the predecessors of the provost magistrates and councillors of the burgh of Montrose (hereinafter referred to as "the Town Council") became the owners of the Pier Port and Harbour of Montrose with the right of levying dues within the precincts thereof:

And whereas by the Montrose Harbour Act 1837 (hereinafter referred to as "the Act of 1837") provision was made for the appointment of Trustees for carrying the same into execution and such Trustees were thereby incorporated under the name of "The Trustees of the Harbour of Montrose" (hereinafter referred to as "the Trustees"):

And whereas by virtue of the provisions of the Act of 1837 the said Pier Port and Harbour of Montrose and the privileges and rights of the predecessors of the Town Council were conveyed to the Trustees subject to the payment by the Trustees of a sum not exceeding six hundred pounds per annum in terms of the said Act:

And whereas the Trustees were authorised by the Act of 1837 by the Montrose Harbour Act 1850 by the Montrose Harbour Order 1878 by the Montrose Harbour Order 1894 and by the Montrose Harbour Order 1899 to borrow moneys for the purposes of their harbour undertaking amounting in all to the sum of seventy-eight thousand four hundred and thirty-four pounds:

And whereas the Trustees have borrowed and expended the whole of the moneys authorised to be raised by the said Acts and Orders and the indebtedness of the Trustees amounted as at the thirty-first day of

May one thousand nine hundred and twenty-six to the sum of thirty-six thousand three hundred and seventy-five pounds twelve shillings and fivepence : A.D. 1927.

And whereas by the Montrose Harbour Order 1924 the Trustees were authorised to borrow for the purposes of their harbour undertaking the sum of three thousand five hundred pounds and with the consent of the Minister of Transport such further sums as may from time to time be required for those purposes but owing to their aforesaid indebtedness and to their inability to offer sufficient security the Trustees have been unable to exercise the borrowing powers conferred by the said Order of 1924 :

And whereas the revenue of the harbour has for some years been insufficient for the payment of the necessary expenses of the management and maintenance thereof and the interest on the moneys borrowed and remaining due from the Trustees and the Trustees have not been in a position for several years to set apart the requisite amount for sinking fund and in addition thereto the payment by the Trustees to the Town Council of the sum of six hundred pounds per annum hereinbefore referred to has been in arrear since the eleventh day of November one thousand nine hundred and seventeen :

And whereas owing to their financial position the Trustees have been unable to carry out the necessary repairs at the harbour :

And whereas the Trustees have requested the Town Council to assist them financially in carrying on and developing their undertaking :

And whereas the Town Council are the municipal local and sanitary authority of the burgh of Montrose and the said burgh and its inhabitants are largely interested in the maintenance and proper development of the harbour facilities of the said burgh :

And whereas it is expedient having regard to the difficulty of carrying on the harbour by the Trustees and the importance to the said burgh of the maintenance and development of the harbour that the arrears of moneys due by the Trustees to the Town Council by virtue of the provisions of the Act of 1837 and under the bond granted by them in favour of the Town Council dated the twenty-sixth day of September one thousand eight

[Ch. i.] *Montrose Burgh and* [17 GEO. 5.]
Harbour Order Confirmation Act, 1927.

A.D. 1927. hundred and thirty-nine should be deemed to be discharged as hereinafter in this Order provided and that the Town Council should be authorised to raise and levy a rate to be called "the harbour guarantee rate" and to pay the proceeds thereof to the Trustees as hereinafter in this Order provided :

And whereas it is expedient that the other provisions in this Order contained 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 1899 :

Now therefore in pursuance of the powers contained in the last-mentioned Act as read with the Secretaries of State Act 1926 the Secretary of State orders as follows :—

Short title.

1. This Order may be cited as the Montrose Burgh and Harbour Order 1927 and shall commence and have effect from and after the date of the passing of the Act confirming the same.

Interpretation.

2. In this Order unless there be something in the subject or context inconsistent with or repugnant to such construction the following words and expressions shall have the meanings hereby respectively assigned to them (namely) :—

"The burgh" means the burgh of Montrose;

"The Town Council" means the provost magistrates and councillors of the burgh;

"The Act of 1837" means the Montrose Harbour Act 1837;

"The Harbour Acts" means the Act of 1837 the Montrose Harbour Act 1850 the Montrose Harbour Act 1866 the Montrose Harbour Order 1878 the Montrose Harbour Order 1894 the Montrose Harbour Order 1899 and the Montrose Harbour Order 1924;

"The Trustees" means the Trustees of the harbour of Montrose incorporated by the Act of 1837;

"The harbour" means and includes the harbour of Montrose together with all harbours docks locks works yards lands property houses streets roads ways jetties wharves piers quays warehouses sheds slipways harbour rails and premises

whatsoever for the time being belonging to the Trustees and the whole harbour undertaking of the Trustees; A.D. 1927.
—

“Lands and heritages” means and shall include lands and heritages as defined in the Acts in force for the time being relating to the valuation of lands and heritages;

“Valuation roll” means and includes the valuation roll made up in pursuance of the Acts in force for the time being relating to the valuation of lands and heritages and any supplementary valuation roll made up in accordance with the said Acts.

3. All arrears of moneys due by the Trustees to the Town Council by virtue of the provisions of the Act of 1837 and under the bond granted by them in favour of the Town Council dated the twenty-sixth day of September one thousand eight hundred and thirty-nine outstanding and unpaid at the term of Whitsunday one thousand nine hundred and twenty-six shall be deemed to be discharged and extinguished. Discharge of arrears due by Trustees.

4. In order to assist the Trustees to make due and regular payment of the interest on moneys borrowed or to be borrowed by the Trustees in virtue of the powers conferred by the Harbour Acts and the sum annually payable to the sinking fund and the instalments of principal and interest for the repayment of the moneys so borrowed as aforesaid it shall be lawful subject to the provisions of this Order for the Town Council and they are hereby authorised to guarantee subject to such terms and conditions and for such period as they think fit the said interest and annual payments and instalments on the security of the guarantee rate by this Order authorised to be levied by the Town Council. Town Council may guarantee instalments &c. on security of guarantee rate.

5.—(1) If in any year there shall be a deficiency in the revenues of the harbour (after providing for the necessary expenses of working management and maintenance) to meet the charge for interest and the instalments of principal annually payable to the sinking fund and for the redemption of moneys borrowed as aforesaid (all such interest being calculated at a rate not exceeding four per centum per annum and such instalments being calculated at the minimum amounts paid or payable to Payment by Town Council under the guarantee to be made on requisition by the Trustees.

A.D. 1927. — the sinking fund under the Harbour Acts) the Trustees may (in the event of the Town Council having granted the said guarantee authorised by this Order) by writing under the hand of the clerk to the Trustees require payment from the Town Council of such a sum as may represent the amount of such deficiency which deficiency shall subject to the provisions of this Order be based upon the abstract of accounts of the Trustees (as audited and certified by the auditor appointed under the provisions of the Harbour Acts) and shall be ascertained and certified by the said auditor. Provided that the said auditor shall not in ascertaining and certifying the said deficiency take into account (1) any interest paid or payable by the Trustees in excess of four per centum per annum and (2) any amounts paid or payable to the sinking fund in excess of the minimum amounts paid or payable under the Harbour Acts.

(2) The Town Council shall within nine months after receipt of the requisition referred to in subsection (1) of this section pay to the Trustees the amount of such deficiency or an amount equivalent to that produced by the imposition of the harbour guarantee rate hereinafter authorised at the rate of four pence in the pound whichever is the smaller and the Trustees shall (subject as hereinafter provided) apply the money so received from the Town Council towards such deficiency.

Provisions
relating to
annuity.

6. The following provisions with respect to the annuity shall have effect notwithstanding anything contained in the Harbour Acts or in the bond granted by the Trustees in favour of the Town Council dated the twenty-sixth day of September one thousand eight hundred and thirty-nine :—

(1) The annuity payable in respect of the year from the first day of June one thousand nine hundred and twenty-six to the thirty-first day of May one thousand nine hundred and twenty-seven shall be a first charge on the revenue of the harbour for that year (other than any money which may be received by the Trustees from the Town Council under their guarantee) but only after providing for the necessary expenses of working management and maintenance and the annuity payable in respect of each subsequent year shall in like manner be a first charge

on the said revenue after providing as aforesaid but if and in so far as the said revenue for any year after providing as aforesaid shall be insufficient to meet the annuity payable in respect of that year such annuity or the part thereof not so met shall not be preferable in any subsequent year to the harbour debt charges but shall be payable only if and so far as the revenue of the harbour (other than any money which may be received by the Trustees from the Town Council under their guarantee) may suffice for that purpose after providing for the necessary expenses of working management and maintenance and for harbour debt charges:

A.D. 1927.

- (2) The harbour guarantee rate shall not in any case be imposed or levied nor shall the produce of that rate in any case be applied for or towards the payment of the annuity:
- (3) The annuity or any part thereof or any unpaid arrears thereof payable out of the revenue of the harbour for any year shall be paid by the Trustees to the Town Council within ten days after the abstract of the accounts of the Trustees for that year has been certified by the auditor:
- (4) In this section the expression "the annuity" means the sum of six hundred pounds per annum payable by the Trustees to the Town Council by virtue of the Act of 1837 and under the bond granted by the Trustees in favour of the Town Council dated the twenty-sixth day of September one thousand eight hundred and thirty-nine.

7.—(1) For the purposes of and in security of the guarantee given by the Town Council under the authority of this Order it shall be lawful for the Town Council from time to time to fix impose and levy a rate to be termed "the harbour guarantee rate" in order to pay the amount of the deficiency or the alternative amount in terms of the section of this Order the marginal note of which is "Payment by Town Council under the guarantee to be made on requisition by the Trustees."

Harbour
guarantee
rate.

(2) The said rate so leviabie shall be in addition to any other assessment levied by the Town Council under

A.D. 1927. — statutory authority but shall not exceed four pence in the pound of the rateable value within the meaning of the Rating (Scotland) Act 1926 of lands and heritages in the burgh.

Assessment and levying of rate.

8. The harbour guarantee rate shall be imposed levied and recovered by the Town Council on and from the owners and occupiers of all lands and heritages within the burgh according to the valuation roll in equal proportions in the same manner as the general improvement rate authorised by the Burgh Police (Scotland) Acts 1892 to 1911 is imposed levied and recovered and all the provisions of these Acts (other than the limitation of rate) as read with the Rating (Scotland) Act 1926 with respect to the mode of imposing levying and recovering the general improvement rate shall mutatis mutandis extend and apply to the said assessment hereby authorised.

For protection of railway companies.

9. The London and North Eastern Railway Company and the London Midland and Scottish Railway Company shall not be called upon to pay in any one year for the period of five years from and after the commencement of this Order in respect of the harbour guarantee rate a sum greater than one penny in the pound calculated upon the amount of the rateable value within the meaning of the Rating (Scotland) Act 1926 of the lands and heritages belonging to them within the burgh.

Amendment of Montrose Harbour Order 1924.

10. From and after the commencement of this Order section 10 (Return as to sinking fund &c. to be made to Ministry of Transport) of the Montrose Harbour Order 1924 shall be and the same is hereby amended as follows:—

(A) Subsection (2) of the said section 10 shall be read and construed as if the words “by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of mandamus to be obtained by that Ministry out of the High Court” were omitted therefrom and the words “as a debt to the Crown is recoverable” were inserted therein in lieu thereof; and

(B) Subsection (3) of the said section 10 shall be read and construed as if the words “writ of

“ mandamus to be obtained by the Ministry
 “ of Transport out of the High Court ” were
 omitted therefrom and the words “ decree of
 “ either division of the Inner House of the Court
 “ of Session pronounced in a summary applica-
 “ tion presented for that purpose ” were inserted
 therein in lieu thereof. A.D. 1927.

11. Any sums paid by the Town Council under or in
 virtue of the provisions of this Order in respect of the
 guarantee given by the Town Council under the authority
 of this Order shall not be recoverable by the Town
 Council. Payments
by Town
Council not
to be re-
coverable.

12. All costs charges and expenses of and incident
 to the preparing for obtaining and confirming this Order
 or otherwise in relation thereto shall be paid by the Town
 Council out of any rates or assessments which they are
 authorised to levy and the same shall be paid by the
 Town Council within a period not exceeding five years
 after the commencement of this Order. Costs of
Order.

Printed by EYRE and SPOTTISWOODE, LTD.,

FOR

WILLIAM RICHARD CODLING, Esq., C.B., C.V.O., C.B.E., the King's Printer of
 Acts of Parliament.

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses :
 Adastral House, Kingsway, London, W.C. 2 ; 120, George Street, Edinburgh ;
 York Street, Manchester ; 1, St. Andrew's Crescent, Cardiff ;
 15, Donegall Square West, Belfast ;
 or through any Bookseller.

1911

1912

1913

1914