



CHAPTER lxxi.

An Act to confirm certain Provisional Orders made by the Board of Trade under the General Pier and Harbour Act 1861 relating to Cowes and Findochty. A.D. 1919.

[15th August 1919.]

WHEREAS a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 is not of any validity or force whatever until the confirmation thereof by Act of Parliament: 24 & 25 Vict.
c. 45.

And whereas it is expedient that the several Provisional Orders made by the Board of Trade under the said Act and set out in the schedule to this Act be confirmed by Act of Parliament:

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 several Orders as amended and set out in the schedule to this Act shall be and the same are hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force. Confirmation
of Orders in
schedule.

2. This Act may be cited as the Pier and Harbour Orders Confirmation Act 1919. Short title.

A.D. 1919.

The SCHEDULE of Orders.

1. COWES.—Revival of powers for construction of works authorised by the Cowes Harbour Order 1914 &c.
2. FINDOCHTY.—Transfer of harbour to the Town Council &c.

COWES HARBOUR.

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Order to revive the powers for the construction and to extend the time for the completion of the works authorised by the Cowes Harbour Order 1914 and for other purposes.

Cowes.

1. This Order may be cited as the Cowes Harbour Order 1919.

Short title.

2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as "the commencement of this Order."

Commencement of Order.

3. In this Order unless the context otherwise requires—

Interpretation.

"The Act of 1897" means the Cowes Harbour Act 1897;

"The Order of 1914" means the Cowes Harbour Order 1914;

"The Commissioners" mean the Cowes Harbour Commissioners incorporated by the Act of 1897.

4. The Commissioners shall be the undertakers for carrying this Order into execution.

Undertakers.

5. Section 12 (Commissioners may apply revenue or borrowed money to purposes of this Order) of the Order of 1914 shall be read and have effect as if the words "twelve thousand pounds" were substituted for the words "eight thousand pounds" contained therein.

Application of borrowing powers.

6. The powers conferred by the Order of 1914 upon the Commissioners with respect to the acquisition of lands and the construction of works and all the provisions of that Order in relation thereto shall be and the same are hereby revived with the variation contained in the last preceding section and may be exercised and enforced and shall have effect in like manner and subject to the like restrictions and with the same consequences whether as to commencement or cesser of powers execution or completion of works or otherwise as if such powers and provisions so varied as aforesaid had been contained in this Order.

Revival of powers for construction of works under Order of 1914.

7. All costs charges and expenses of and incident to the preparation and obtaining of this Order and otherwise incurred in reference thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Commissioners out of moneys received by them on revenue account or out of moneys borrowed under the authority of the Act of 1897 Provided that any moneys borrowed by the Commissioners for the purposes of this section shall be repaid within five years from the commencement of this Order.

Costs of Order.

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FINDOCHTY HARBOUR.

Findochty.

Provisional Order for the transfer to the Provost Magistrates and Councillors of the burgh of Findochty in the county of Banff of the undertaking of the Findochty Harbour Commissioners known as the Findochty Harbour and of the powers of the Commissioners with reference to the holding maintenance and management of the said harbour and the construction maintenance and regulation of piers and works in connexion therewith and for other purposes.

*Preliminary.*Short and
collective
titles.

1. This Order may be cited as the Findochty Harbour Order 1919 and the Findochty Harbour Order 1913 as varied and amended by this Order and this Order may be cited together as the Findochty Harbour Orders 1913 and 1919.

Commence-
ment of
Order.

2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as "the commencement of this Order."

Interpreta-
tion.

3. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction And in this Order unless the context otherwise requires:—

"The burgh" means the burgh of Findochty;

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

"The town clerk" means the town clerk of the burgh and includes any depute acting for him;

"The Police Acts" means the Burgh Police (Scotland) Acts 1892 to 1911 and any Act or Acts amending the same;

"The Order of 1893" means the Findochty Harbour Order 1893;

"The Order of 1913" means the Findochty Harbour Order 1913;

"The Orders of 1893 and 1913" means the Order of 1893 and the Order of 1913;

"The commissioners" means the Findochty Harbour Commissioners incorporated under the Order of 1893 and acting under the Orders of 1893 and 1913;

"The harbour" means and includes the existing harbour of Findochty together with all lands works powers privileges and things included within the limits defined by section 10

of the Order of 1913 and the whole rights powers and privileges conferred by the Orders of 1893 and 1913;

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“The harbour undertaking” means and includes the harbour and the conveniences connected therewith and the right to levy rates and tolls and all other rights conferred on or vested in the Town Council by this Order and the entire undertaking of the Town Council in connexion with the harbour;

“The harbour revenue” means and includes the rates tolls dues rents and other moneys and receipts which may be taken and received by way of income from or in respect of the harbour undertaking under the authority of the Order of 1913 and this Order.

Undertakers.

4. The Town Council shall be the Undertakers for carrying this Order into execution. Undertakers.

Transfer of the Harbour &c.

5.—(1) The agreement between the commissioners of the first part and the Town Council of the second part with the consent and concurrence of the trustees of the late the Right Honourable Caroline Countess Dowager of Seafield set forth in the schedule to this Order is hereby confirmed and made binding on the parties thereto and the commissioners and the Town Council are hereby respectively empowered to carry the said agreement into effect. Transfer of harbour &c. to Town Council and dissolution of commissioners.

(2) From and immediately after the commencement of this Order the harbour and all the property heritable and movable of every kind and all the powers authorities privileges rights jurisdictions obligations and exemptions at the commencement of this Order vested in or belonging to the commissioners in relation to or connexion with the harbour shall subject to all debts liabilities and obligations of the commissioners in relation to or connexion with the harbour at the commencement of this Order be transferred to and vested in the Town Council and shall subject to the provisions of this Order be held maintained used exercised and enjoyed by the Town Council and the commissioners shall as from the commencement of this Order be dissolved and cease to exist and be thenceforth freed and discharged from all liabilities claims demands actions suits or other proceedings present or future in relation to or connexion with the harbour undertaking pertainents property powers authorities privileges rights jurisdictions obligations and exemptions.

(3) For the purpose of completing the title of the Town Council to the harbour hereby transferred to them this Order shall be deemed to be a conveyance by the commissioners to the Town Council.

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(4) All powers duties and liabilities of the commissioners at the commencement of this Order shall as from the commencement of this Order be transferred to and attach to and be exercised undertaken and discharged by the Town Council and the Town Council shall keep the commissioners indemnified against all liabilities in relation to or connexion with the harbour existing at the commencement of this Order.

Pending
causes and
rights of
action pre-
served.

6.—(1) All causes and rights of action or suit accrued before the commencement of this Order which are at the commencement of this Order in any manner enforceable by or against the commissioners shall be and remain as good valid and effectual by or against the Town Council as they would have been by or against the commissioners if the Act confirming this Order had not been passed.

(2) Nothing in this Order shall cause the abatement discontinuance or determination of or in anywise prejudicially affect any action suit or other proceeding at law commenced by or against the commissioners either solely or jointly with any company body or person before the commencement of this Order and then pending but the same may be continued prosecuted or enforced by or against the Town Council in lieu of and in substitution for the commissioners.

Officers &c.
of commis-
sioners to
be officers of
Town
Council.

7. All officers and servants who at the commencement of this Order are in the employment of the commissioners in connexion with the harbour shall from and after the commencement of this Order become officers and servants as the case may be of the Town Council with the same rights and subject to the same obligations and incidents in respect of such employment as they had or were subject to as the officers and servants of the commissioners and shall so continue unless and until they respectively are duly removed from such employment by the Town Council or the terms of their employment are duly altered by the Town Council but the provisions of this section shall not apply to the clerk and the auditor of the commissioners whose terms of office and employment shall respectively come to an end and be determined at the commencement of this Order.

Documents
&c. to be
evidence.

8. All documents books and writings by the Orders of 1893 and 1913 or either of them directed or authorised to be kept and which if the Act confirming this Order had not been passed would have been receivable in evidence shall be admitted as evidence in all courts of law and equity and elsewhere.

Debts owing
to commis-
sioners to be
paid to Town
Council.

9. Any person who before the commencement of this Order owed any moneys to the commissioners or to any person on their behalf shall pay the same with all interest (if any) due or accruing in respect thereof to the Town Council.

Extension of Time for exercise of Powers under Order of 1913. A.D. 1919.

10.—(1) The period of three years shall be substituted for the period of two years mentioned in section 19 (Powers to cease in certain events) of the Order of 1913 and the said period of three years and the period of five years mentioned in that section shall respectively commence from the commencement of this Order and the Order of 1913 and this Order shall be read and have effect accordingly.

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Periods for
exercise of
powers under
Order of 1913
extended.

(2) The Order made by the Board of Trade by virtue and in exercise of the powers conferred on them by the Special Acts (Extension of Time) Act 1915 and dated the twenty-ninth day of June one thousand nine hundred and eighteen extending the said periods of two years and five years mentioned in the said section to the fifteenth day of August one thousand nine hundred and nineteen is hereby revoked.

Rates.

11. From and after the commencement of this Order the rates tolls dues and charges authorised to be levied received and recovered under the Order of 1913 in respect of which a limitation as to the amount thereof is imposed by that Order shall be and are hereby increased as follows (that is to say):—

Increase of
rates.

- (a) For a period of five years from the commencement of this Order such rates tolls dues and charges shall be increased by an amount equal to fifty per centum of the respective amounts thereof authorised by the Order of 1913; and
- (b) After the expiration of the said period of five years such rates tolls dues and charges shall be increased by an amount equal to twenty per centum of the respective amounts thereof authorised by the Order of 1913;

and the Order of 1913 and this Order shall be read and construed and have effect accordingly.

Finance.

12. The Town Council shall provide such moneys as may become necessary for the purposes of this Order or any of them and of the harbour undertaking and the maintenance management and improvement thereof and the payment of expenses in connexion therewith out of the harbour revenue or if that shall be insufficient out of moneys to be raised by means of the assessment by this Order authorised to be imposed and levied.

Power to
Town
Council to
provide
moneys for
purposes of
Order.

13.—(1) Subject to the provisions of this Order the Town Council shall as from and after the fifteenth day of May first occurring after the commencement of this Order if and so far as may be necessary for the purposes mentioned in the last preceding section of this

Power to
Town
Council to
impose and
levy special
rate.

A.D. 1919. Order or any of such purposes and for the purpose of paying any
Findochty. expense of and connected with the provision of the moneys therein referred to charge in equal proportion all owners and occupiers of lands or premises within the burgh with an assessment which shall be levied and recovered in the same manner as the general improvement rate authorised by the Police Acts is levied and recovered and all the provisions of those Acts 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.

(2) The said assessment so leviable shall be in addition to any assessments levied by the Town Council under the Police Acts but shall not except with the consent of the Secretary for Scotland exceed two shillings and sixpence in the pound of the rateable value of the burgh.

Power to
accept grants
of money.

14. The Town Council may accept and apply towards the purposes of this Order any moneys which may be granted or contributed to them for those purposes or any of them.

Power to
borrow.

15.—(1) The Town Council may from time to time borrow at interest—

(a) For the purposes of the harbour undertaking any sum or sums not exceeding twenty thousand pounds;

(b) With the consent of the Secretary for Scotland such further sum or sums as may from time to time be required for the purposes of this Order; and

(c) For paying the costs charges and expenses of this Order the sum requisite for that purpose.

(2) In order to secure the repayment of money borrowed under this section and the payment of interest thereon the Town Council may mortgage or charge the assessment by this Order authorised to be levied or the harbour revenue or both of them subject always as to the harbour revenue to any existing mortgage or charge thereon Provided that no higher rate of interest than five per centum per annum shall be paid by the Town Council without the consent of the Secretary for Scotland in respect of any moneys borrowed by the Town Council under the provisions of this Order and secured as aforesaid.

Power to
take credit
from bank.

16. The Town Council for the purpose of raising any money by this Order authorised to be borrowed may accept and take from any bank or banking company credit to such amount as they think expedient on a cash account to be opened and kept with such bank or banking company in the name of the Town Council according to the usage of bankers in Scotland.

17. All moneys borrowed by the Town Council under this Order shall be repaid within the respective periods following (in this Order referred to as "the prescribed periods") (that is to say):—

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*Fíndochty.*Periods for
repayment of
borrowed
money.

(a) As to the moneys borrowed for the purposes (a) mentioned in the section of this Order the marginal note whereof is "Power to borrow" within forty years from the date or dates of borrowing the same;

(b) As to moneys borrowed for the purposes (b) mentioned in the same section within such period from the date of borrowing the same as the Secretary for Scotland may prescribe;

(c) As to the money borrowed for the purpose (c) mentioned in the same section within five years from the commencement of this Order.

18. All money borrowed under this Order shall be applied only for the purposes of this Order for which capital money may properly be applied and not otherwise.

Application
of borrowed
money.

19. Any money borrowed under the provisions of this Order which shall be discharged otherwise than by means of a sinking fund or instalments may be re-borrowed by the Town Council from time to time if required for the purposes of this Order.

Power to
re-borrow.

20. The provisions of the Police Acts as to the borrowing of money for the general purposes of those Acts shall in so far as applicable and not inconsistent with the provisions of this Order be incorporated with this Order and shall so far as aforesaid apply to the borrowing by the Town Council of the money which they are by this Order authorised to borrow and the mortgages or bonds to be granted by the Town Council for the purposes of this Order shall refer to the title of this Order. Provided always that in the event of repayment of money borrowed being made by way of instalments the annual instalments shall be sufficient to pay off the whole of such money so borrowed within the prescribed periods.

Incorporation of provisions of
Police Acts.

21. Any person advancing money to the Town Council under this Order shall not be bound to require any further or other evidence of the power of the Town Council to borrow the money advanced by such person than such as is afforded—

Protection of
lenders.

(a) by a certificate signed by the town clerk that the Town Council are not exceeding the powers of borrowing conferred on them by this Order; and

(b) by an inspection of the register of mortgages by section 76 of the Commissioners Clauses Act 1847 required to be kept by commissioners which section shall be incorporated with this Order but so that the expression "commissioners" therein used shall mean the Town Council.

A.D. 1919. 22.—(1) If the Town Council determine to repay by means of a
Findochty. sinking fund any moneys borrowed under this Order the sinking fund
Sinking fund. shall be formed or maintained either—

(a) by payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is hereinafter called a non-accumulating sinking fund; or

(b) by payment to the fund throughout the prescribed period of such equal annual sums as with accumulations by way of compound interest at a rate not exceeding three pounds per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is hereinafter called an accumulating sinking fund.

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest trust moneys or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority other than the Town Council or be deposited in a bank and the Town Council shall be at liberty from time to time to vary and transpose the investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Town Council towards the equal annual payments to the fund.

(4) The Town Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the moneys for the repayment of which the fund is formed. Provided that in the case of an accumulating sinking fund the Town Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by the sinking fund or the part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Town Council.

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(6) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(7) Any expenses connected with the formation maintenance investment application or management of or otherwise in relation to any sinking fund under this Order shall be paid by the Town Council in addition to the payments provided for by this Order.

(8) If it appears to the Secretary for Scotland or to the Town Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Order together with (in the case of an accumulating sinking fund) the probable accumulations thereon will not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Town Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided that if it appears to the Secretary for Scotland that any such increase is necessary the Town Council shall increase the payments to such extent as he may direct.

(9) If the Town Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(10) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with (in the case of an accumulating sinking fund) the probable accumulations thereon will in the opinion of the Town Council be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Town Council may with the consent of the Secretary for Scotland reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(11) If the amount in any sinking fund at any time together with (in the case of an accumulating sinking fund) the probable accumulations thereon will in the opinion of the Town Council be sufficient to repay the loan in respect of which it is formed within the prescribed period the Town Council may with the consent of the Secretary for Scotland discontinue the annual payments to the sinking fund until the Secretary for Scotland shall otherwise direct.

(12) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was

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Annual
return to
Secretary for
Scotland
with respect
to sinking
fund

23.—(1) The town clerk shall within two months after the expiration of each year during which any sum is required to be paid as an instalment or to be appropriated or paid to a sinking fund in pursuance of the provisions of this Order transmit to the Secretary for Scotland a return in such form as may be prescribed by him and verified by statutory declaration if so required by him showing the amount which has been paid as an instalment or deposited or invested for the purposes of the sinking fund during the year preceding the making of such return and the description of the securities upon which the amount has been invested, and also showing the purposes to which any portions of the moneys invested for the sinking fund and the interest thereon have been applied during the same period and the total amount remaining deposited or invested at the end of the year.

(2) The town clerk in the event of any default in making the return under this section shall be liable to a penalty not exceeding twenty pounds and that penalty shall be paid to the Secretary for Scotland and shall be recoverable by him by action on behalf of the Crown in either division of the Inner House of the Court of Session in Scotland.

(3) If it appears to the Secretary for Scotland by the return under this section or otherwise that the Town Council have failed to pay any instalment or to appropriate and set apart the sum required for the sinking fund or to make any increased payment thereto under this Order or have applied any portion of the moneys appropriated and set apart to and for that fund or any interest thereon to any purposes other than those authorised by this Order the Secretary for Scotland may by order direct that a sum not exceeding double the amount in respect of which the default has been made shall be appropriated set apart and deposited or invested as part of the sinking fund and that order shall be enforceable by decree of either division of the Inner House of the Court of Session in Scotland in a summary application presented for that purpose.

Proceeds of
sale of sur-
plus lands to
be treated as
capital.

24. The proceeds of sale of any surplus lands of the Town Council under the powers of this Order, and all other moneys received on capital account not being borrowed moneys shall be distinguished as capital in the accounts of the Town Council and shall be applied in discharge of moneys borrowed by the Town Council under this Order. Provided that such proceeds when used to pay off borrowed moneys shall not be applicable to the payment of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Secretary for Scotland.

[9 & 10 GEO. 5.] *Pier and Harbour Orders* [Ch. lxxi.]
Confirmation Act, 1919.

25.—(1) The holders of any security given in respect of money borrowed under this Order may enforce payment of arrears of interest or principal or principal and interest due on their securities by the appointment of a judicial factor.

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Appoint-
ment of
judicial
factor.

(2) In order to authorise the appointment of a judicial factor in respect of arrears of principal or principal and interest the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than one thousand pounds in the whole.

(3) Sections 86 and 87 of the Commissioners Clauses Act 1847 shall be incorporated with this Order and in those sections the expression "commissioners" shall mean the Town Council and the expression "receiver" shall mean judicial factor and the expressions "mortgage" and "mortgagee" shall respectively include any security for money borrowed under this Order and the holder of any such security.

26. The Town Council may if they think fit for the purpose of forming and maintaining a contingency fund not exceeding at any time the sum of one thousand pounds to meet any extraordinary claim or demand or any unforeseen accident or extraordinary damage which may happen to be caused to the harbour appropriate and set apart subject to the provisions of this Order as to the application of the harbour revenue any amount which they think fit in any year out of the harbour revenue and shall deposit any such amount in some joint stock bank to be increased by accumulation in the way of compound interest or otherwise or shall invest the same in securities upon which trust moneys may be invested (other than securities of the Town Council) until required for any of the aforesaid purposes.

Contingency
fund.

27. The harbour revenue and all moneys received for or in respect of the assessment by this Order authorised to be made shall be applicable for the purposes and in the order following and not otherwise (that is to say):—

Application
of harbour
revenue.

(1) In payment of the costs of and connected with the preparation and making of this Order so far as those costs are not paid out of money borrowed under this Order:

(2) In payment of any feuduties and rents payable in respect of any lands or property (if any) belonging to or leased by the Town Council in connexion with the harbour undertaking and in payment of the expense properly chargeable to revenue of the maintenance repair and management of the harbour undertaking:

(3) In payment year by year of the interest accruing on money borrowed under the Order of 1893:

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- (4) In payment of the instalments of principal from time to time becoming due in respect of moneys borrowed under the Order of 1893 :
- (5) In payment year by year of the interest accruing on money borrowed under the Order of 1913 :
- (6) In payment of the instalments of principal from time to time becoming due in respect of moneys borrowed under the Order of 1913 :
- (7) In payment year by year of the interest accruing on money borrowed under this Order :
- (8) In payment of the instalments as they become due of any money borrowed under this Order and repayable by instalments and in forming a sinking fund in accordance with this Order for payment of principal moneys borrowed under this Order and not repayable by instalments :
- (9) In making such payments (if any) as the Town Council think fit into a contingency fund established under the provisions of this Order :
- (10) In repaying to the burgh all sums which have been provided by means or out of the assessment authorised by this Order to be levied and have been applied for the purposes of the harbour undertaking whether in respect of money borrowed or otherwise.

The surplus (if any) after providing for the purposes aforesaid shall be applied by the Town Council in the improvement of the harbour undertaking.

Separate
account for
harbour
undertaking.

28.—(1) The Town Council shall keep an account of the harbour undertaking separate from the other accounts of the burgh showing all moneys received on account of the harbour undertaking and all moneys expended thereon or in connexion therewith.

(2) In the application of section 96 of the Town Councils (Scotland) Act 1900 to such separate account as forming part of the yearly account of the Town Council each of the expressions "person assessed" "ratepayer" and "elector" occurring therein shall be deemed to include any person interested in such separate account.

Annual
account to
be sent to
Board of
Trade.

29.—(1) The Town Council shall within one month after the date when a copy of their annual account or an abstract thereof is under section 96 of the Town Councils (Scotland) Act 1900 to be sent to the Secretary for Scotland send to the Board of Trade a copy of the separate account by the last preceding section of this Order required to be kept and section 16 of the General Pier and Harbour Act 1861 Amendment Act shall apply to and include any such account.

(2) The Town Council shall as from the expiration of the said period of one month be liable to a penalty not exceeding twenty pounds for each week or part of a week during which they refuse or neglect to comply with this section.

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*Findochty.**Miscellaneous.*

30.—(1) The Order of 1893 is hereby repealed.

Repeal of
Order of
1893.

(2) Notwithstanding that repeal all byelaws made by the commissioners before the commencement of this Order shall continue in force until repealed or altered by the Town Council and may be enforced by the Town Council.

(3) The repeal of the said Order shall not affect any penalty forfeiture or punishment in respect of any offence against the said Order committed before the commencement of this Order.

31.—(1) Sections 33 to 44 inclusive and section 60 of the Order of 1913 are hereby repealed.

Repeal of
certain sec-
tions of
Order of
1913.

(2) The Order of 1913 as varied and amended by this Order is hereby incorporated with this Order and shall be construed and have effect as if the Town Council were therein referred to instead of the commissioners.

32. All costs charges and expenses of and incident to the preparing obtaining and confirmation of this Order and otherwise incurred in reference thereto shall be paid by the Town Council.

Costs of
Order.

The SCHEDULE to which the foregoing Order refers.

MINUTE OF AGREEMENT between the FINDOCHTY HARBOUR COMMISSIONERS incorporated under the Findochty Harbour Order 1893 as confirmed by the Pier and Harbour Orders Confirmation (No. 4) Act 1893 and acting under and in virtue of the said Order and the Findochty Harbour Order 1913 as confirmed by the Pier and Harbour Orders Confirmation (No. 3) Act 1913 of the first part (hereinafter called the "First Parties") and the PROVOST MAGISTRATES AND

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COUNCILLORS OF THE BURGH OF FINDOCHTY of the second part (hereinafter called the "Second Parties") with the consent and concurrence of the trustees of the late the Right Honourable Caroline Countess Dowager of Seafield for any right title or interest they have or may have as within mentioned.

It is contracted and agreed between the first and second parties as follows namely:—

First The First Parties hereby agree to transfer to the Second Parties all and whole the Findochty Harbour the Findochty Harbour pertinents and the whole harbour undertaking vested in them by the above-mentioned Orders or by any other deed document or title together with the assets including without prejudice to the foresaid generality all lands rights securities moneys debts books and plans belonging or addebted or which may belong or be addebted as at the date as after mentioned of the coming into effect of the agreement to the First Parties and that without any price or consideration being paid therefor and to execute and deliver all deeds documents and titles necessary for carrying this provision into effect.

Second The Second Parties hereby agree to take over from the First Parties the whole Findochty Harbour Findochty Harbour pertinents and Findochty Harbour undertaking and assets all as above mentioned from the First Parties as at the date hereinafter mentioned and to execute and deliver all deeds documents and titles necessary for the carrying of this provision into effect.

Third The Second Parties hereby agree to procure at their own expense if necessary a Provisional Order authorising the First Parties to transfer and transferring to the Second Parties the said Findochty Harbour Findochty Harbour pertinents and Findochty Harbour undertaking and assets all as above mentioned the terms of which Order shall be agreed on between the First and Second Parties hereto and which Provisional Order shall include all usual and necessary clauses and inter alia (1) a provision that all debts liabilities obligations incurred undertaken or resting owing by the First Parties shall be transferred to and undertaken by the Second Parties and the First Parties as a body and individually freed and relieved therefrom.

Fourth The Second Parties hereby agree to pay all costs charges and expenses of and incident to the preparation and obtaining of the foresaid Provisional Order and the transfer of the said harbour and others or otherwise incurred in relation thereto.

Fifth This agreement shall come into effect upon the day on which the Royal Assent is obtained to the necessary Act for confirming the proposed Provisional Order.

Sixth. In the event of the Provisional Order not being obtained this agreement shall be held to have been departed from and no penalty shall be payable by either party.

A.D. 1919.

Findochty.

And we Alfred Donald Mackintosh of Mackintosh Garden Alexander Duff Esquire of Hatton Evan James Cuthbertson writer to the signet Edinburgh Sir David Baird of New Byth Baronet M.V.O.D.L. and Sir Reginald MacLeod of MacLeod K.C.B. the trustees acting under the trust disposition granted by the Right Honourable Caroline Countess Dowager of Seafield now deceased widow of the Right Honourable Sir John Charles Grant Ogilvie of Grant Baronet Earl of Seafield K.T. etc. etc. etc. dated the nineteenth day of December eighteen hundred and ninety-one and with ten relative additions and a direction registered in the Books of Council and Session on the twenty-first day of October nineteen hundred and eleven do hereby for all or any right title or interest which we as trustees foresaid have or may have in the subjects hereby agreed to be transferred hereby consent to and concur in the foregoing agreement.

In witness whereof these presents written on this and the two preceding pages are executed by the parties hereto as follows By William Smith net barker residing at One A Findochty chairman David Anderson shoemaker residing at thirty-two Findochty commissioner and Alexander Smith fisherman residing at one hundred and twenty-six Findochty commissioner for and on behalf of and as authorised by the said Findochty Harbour Commissioners (the Findochty Harbour Commissioners' seal being at the same time adhibited) at a meeting of the said Findochty Harbour Commissioners held at number seventeen Main Street Findochty upon the thirty-first day of August nineteen hundred and seventeen before these witnesses Catherine Munro or Calder widow residing at seventeen Main Street Findochty and James Lorimer solicitor Buckie by the said Alfred Donald Mackintosh of Mackintosh Garden Alexander Duff Evan James Cuthbertson and Sir Reginald MacLeod of Macleod being a majority and quorum of the trustees of the late the Right Honourable Caroline Countess Dowager of Seafield at the Seafield Estates Office Cullen on the twelfth day of September and year last above mentioned before these witnesses John Adam Thomson Mills and William Cameron Davidson both clerks Seafield Estates Office Cullen and by John Wesley McKee minister United Free Church Findochty provost and Augustus Contarini Winter Lowe solicitor Buckie town clerk for and on behalf of and as authorised by the provost magistrates and councillors of the burgh of Findochty (the burgh seal being at the same time adhibited) at a meeting of the said provost magistrates and councillors in the Town Hall Findochty upon the seventeenth day of the said month of

A.D. 1919. September and year last above mentioned before these witnesses Ogilvie Dawson builder Buckie and Alexander Johnston reporter "Banffshire Advertiser" Buckie.
Findochty.

CATHERINE CALDER
Witness.

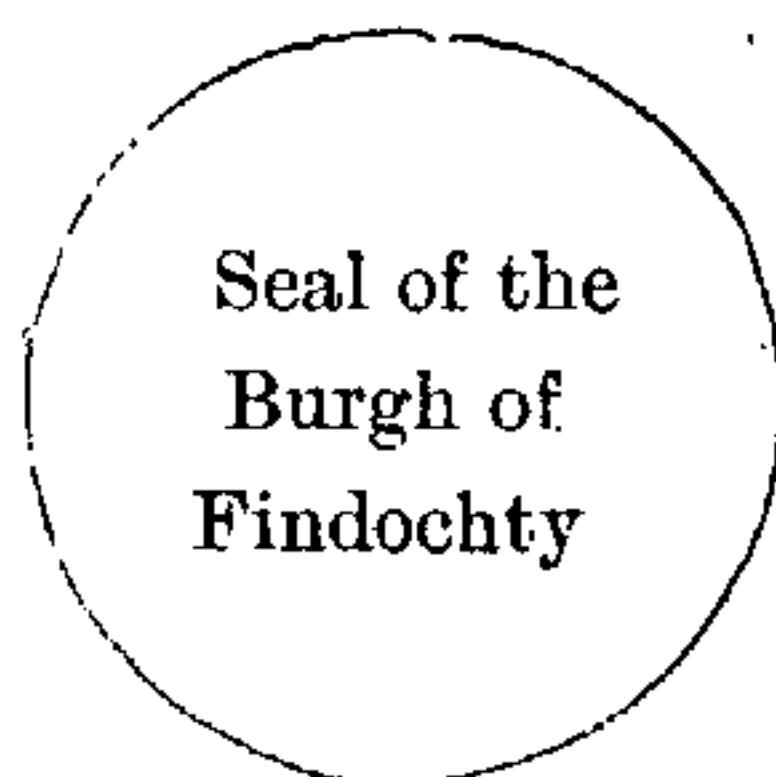
JAMES LORIMER
Witness.

OGILVIE DAWSON
Witness.

ALEX. JOHNSTON
Witness.

JOHN A. T. MILLS
Witness.

WM. C. DAVIDSON
Witness.



WILLIAM SMITH
Chairman.

DAVID ANDERSON
Commissioner.

ALEXR. SMITH
Commissioner.

J. WESLEY MCKEE
Provost.

AUGUSTUS C. W. LOWE
Town Clerk.

A. MACKINTOSH OF MACKINTOSH.

GARDEN A. DUFF.

EVAN J. CUTHBERTSON.

REGINALD MACLEOD.

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