



# Harbours, Piers and Ferries (Scotland) Act 1937

## 1937 CHAPTER 28

### PART IV

#### MISCELLANEOUS

#### 21 Borrowing

- (1) For the purpose of the acquisition under this Act of a marine work, or for the purpose of constructing any works authorised by a provisional order made on application under section four of this Act, or by or under section seven of this Act, or for the purpose of meeting the expense incurred in obtaining any such provisional order, or for any other purpose of this Act to which capital is properly applicable, a county or town council shall have power to borrow such sums as may be necessary, and the provisions of section twenty-three of the Local Government (Scotland) Act, 1929, shall apply to such power to borrow.
- (2) For the purpose of constructing any works authorised by a provisional order made on application Under section four of this Act, or by or under section seven of this Act, or for the purpose of meeting the expense incurred in obtaining any such provisional order, or for any other purpose to which capital is properly applicable in connection with a marine work to which Part III of this Act applies, a harbour authority shall have power to borrow such sums as may be necessary not exceeding in the whole such amount as may be fixed by the Secretary of State.
- (3) Any sums borrowed by a county or town council or by a harbour authority in pursuance of this section shall be repaid by such method, subject to such conditions, and within such period as the Secretary of State may fix,

#### 22 Returns regarding repayment of moneys borrowed

- (1) The clerk to the harbour authority by whom any moneys have been borrowed under this Act shall, within one month after being requested so to do by the Secretary of

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State, transmit to him a return showing the provision made by the authority for the repayment of the moneys so borrowed.

- (2) The return shall show such particulars, shall be made up to such date, and shall be in such form as the Secretary of State may require, shall be certified by the person whose duty it is to keep the accounts of the authority, and shall, if so required by the Secretary of State, be verified by a statutory declaration made by that person.
- (3) If it appears to the Secretary of State from any return made under this section or otherwise that the authority—
  - (a) have failed to pay any instalment or to make any annual payment required to be paid or made; or
  - (b) have failed to appropriate to the discharge of any loan any sum required to be so appropriated ; or
  - (c) have failed to set apart any sum required for a sinking fund; or
  - (d) have applied any portion of a sinking fund to a purpose other than those authorised;

the Secretary of State may by order direct that such sum as is specified in the order, not exceeding the amount in respect of which default has been made, shall be paid or applied in the manner and by the date set out in the order, and the authority shall notify the Secretary of State as soon as the order has been complied with.

- (4) An order made under the last foregoing subsection may be enforced at the instance of the Secretary of State under section ninety-one of the Court of Session Act, 1868, in like manner as if compliance with the order were a statutory duty.
- (5) If a return required to be made under this section is not made, the person in default shall be liable on summary conviction to a penalty not exceeding twenty pounds, and notwithstanding the recovery of any such penalty the making of the return may be enforced as aforesaid.

## **23 Marine work not to be taken over under 8 Edw. 7. c. 62**

A county council shall not take over, in pursuance of section eleven of the Local Government (Scotland) Act, 1908, any pier or ferry unless it has been certified by the Secretary of State not to be a marine work within the meaning of this Act, and the said section eleven shall not apply to any pier or ferry to which Part III of this Act applies.

## **24 Fixing and revision of dues on certain inland navigation undertakings**

- (1) Any direction given under subsection (1) of section three of the Ministry of Transport Act, 1919, by the Minister of Transport (in this section referred to as " the Minister ") as to the dues to be charged in the case of any canal or inland navigation undertaking, which is in force at the passing of this Act, shall, notwithstanding anything in the first mentioned Act or in any enactment amending or operating to continue in force paragraph (e) of the aforesaid subsection, remain operative after the thirty-first day of December nineteen hundred and thirty-seven, subject, however, to the provisions of the following subsections of this section.
- (2) A certified copy of any such direction as is referred to in the last foregoing subsection shall be kept open for public inspection at the principal office of the undertaking to which the direction relates.

- (3) If it appears to the Minister, or is represented by application in writing to the Minister by any chamber of commerce, shipping or agriculture or by any representative body of traders concerned or by a local authority, that under the circumstances then existing the dues or any of them for the time being authorised to be taken in pursuance of this section or of any order made thereunder should be revised, the Minister shall refer the matter to the rates advisory committee constituted under the Ministry of Transport Act, 1919, or any sub-committee thereof to which that committee may, under section two of the Harbours, Docks, and Piers (Temporary Increase of Charges) Act, 1920, have delegated their powers or, if the said advisory committee has ceased to exist, to a committee consisting of persons with similar qualifications to be appointed for the purpose by the Minister (any such committee or sub-committee being hereinafter referred to as " the committee "), and after considering any report of the committee the Minister may make an order revising the dues referred to in the application or any of them.
- (4) The Minister may fix the date as from which any order made under subsection (3) of this section shall have effect, and thenceforth such order shall remain in force until it is revoked or modified by a further order of the Minister made in pursuance of the said subsection.
- (5) Subsections (4), (5) and (6) of section twelve of this Act shall apply to applications under subsection (3) of this section in like manner as those subsections apply to applications under the said section twelve subject to the following and any other necessary modifications :—
- (a) references to the Minister shall be substituted for references to the Secretary of State, and
  - (b) references to the committee shall be substituted for references to a person appointed to hold an inquiry.

## **25 Fixing and revision of dock dues and charges in certain cases**

- (1) Any order made under the Harbours, Docks, and Piers (Temporary Increase of Charges) Acts, 1920 to 1922, which is in force at the commencement of this Act shall, notwithstanding anything in those Acts or in the order contained, remain operative after the thirty-first day of December nineteen hundred and thirty-seven, subject, however, to the provisions of the next succeeding subsection.
- (2) The provisions of section twelve of this Act with regard to the fixing and revision of dues shall apply as regards any undertaking to which any such order as aforesaid relates in like manner as those provisions apply as regards the marine works referred to in the said section.

## **26 Works below high-water mark not to be carried out without approval of Board of Trade**

Nothing in this Act shall authorise the execution of any works on, over, or under tidal lands below high-water mark of ordinary spring tides except in accordance with such plans and sections, and subject to such restrictions and regulations, as, previous to such works being commenced, have been approved by the Board of Trade in writing under the hand of one of the secretaries, undersecretaries or assistant secretaries of the Board of Trade.

**27 Lights on works**

Where any part of any works authorised by a provisional order made on an application under section four of this Act or by or under section seven of this Act is situated below high-water mark of ordinary spring tides, the authority carrying out such works shall exhibit and keep burning on the works every night from sunset to sunrise such lights (if any) and take such other steps for the protection of navigation as may be from time to time required or approved during the construction, alteration or extension of the works by the Board of Trade and after the completion of the works by the Commissioners of Northern Lighthouses.

**28 Power of Board of Trade to require removal of works**

Where any part of a marine work vested in a local authority or harbour authority under this Act or of a marine work as regards which a resolution under section twenty of this Act has taken effect is situated on, over or under tidal lands below high-water mark of ordinary spring tides and is in such a condition as to cause danger to, or to interfere with, or to cause reasonable apprehension of danger to or interference with, the right of navigation or any other public right over such tidal lands, the Board of Trade may, by notice in writing, require the authority in whom the work is vested or by whom the resolution was passed, as the case may be, to remove such part of the work and restore to the satisfaction of the Board of Trade the site thereof to a condition free from obstruction to navigation or danger to the public, and if, within thirty days after the service of such notice, the authority shall not have complied therewith, the Board of Trade may themselves carry out such removal and restoration and may recover from the authority the expense thereby incurred.

**29 Crown rights**

Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown or authorise the use of or interference with any land (including tidal lands below high-water mark of ordinary spring tides) belonging to His Majesty in right of his Crown or to any Government Department, except with the consent of His Majesty or the Government Department, as the case may be.

**30 Modification of local Acts to provide for seaplanes**

The Secretary of State may, by order, make such adaptations or modifications of the provisions of any local Act applying to a marine work as may be necessary to enable the use thereof by seaplanes.

**31 Interpretation**

(1) In this Act unless the context otherwise requires—

" Act " includes a provisional order confirmed by Act of Parliament;

" appropriate Department " means, as regards any marine work, the Fishery Board for Scotland or the Department of Agriculture for Scotland according as the Secretary of State may nominate the said Board or the said Department for the purposes of this section as regards that marine work;

" dues " includes tolls and charges;

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" ferry " includes all rights pertaining thereto (including rights of access) and all boats, vessels, landing stages, plant and apparatus used in connection with the ferry;

" harbour, " " pier " and " boatslip " include the whole undertaking and the works, plant, apparatus and other property used in connection therewith;

" harbour authority " means any person or body of persons (other than a local authority) authorised by or under any Act to carry on a harbour, pier or ferry undertaking;

" local authority " means a county or a town council, and includes any two or more such councils, who have combined for any of the purposes of this Act:

" marine work " means any harbour, pier, ferry or boatslip which in the opinion of the Secretary of State and the Minister of Transport is principally used or required for the fishing or agricultural industries or is reasonably required for the maintenance of communications between the various parts of Scotland, but shall not include any harbour, pier or ferry vested in or worked by any railway company or any of the harbour or dock authorities or companies specified in the Third Schedule to this Act;

" owner " includes any person holding under a deed of entail or other limited title;

" seaplane " includes a flying boat and any other aircraft designed to manoeuvre on the water, and a seaplane taking off from, or alighting on, the water shall be deemed to be on the surface of the water while in contact therewith;

" vessel " shall include a seaplane when on the surface of the water.

- (2) For the purposes of this Act any assistance by way of grant or loan given under the Public Works Loans Acts, 1875 to 1882, or under the Development and Road Improvement Funds Act, 1909, or by any Government Department shall (except where such assistance was given under Part II of the said Act of 1909 as amended by any subsequent enactment) be deemed to have been given out of moneys provided by Parliament.

### **32 Repeal of 54 & 55 Vict. c. 58**

The Western Highlands and Islands (Scotland) Works Act, 1891, is hereby repealed :

Provided that, without prejudice to the provisions of the Interpretation Act, 1889, any table of rates fixed, any lease of rates granted, any byelaw, or any appointment made or any other thing done under the first-mentioned Act, shall, if in force at the commencement of this Act, continue in force, and shall, so far as it could have been fixed, granted, made or done under or in pursuance of this Act, be deemed to have been so fixed, granted, made or done.

### **33 Citation and extent**

This Act may be cited as the Harbours, Piers and Ferries (Scotland) Act, 1937, and shall extend to Scotland only.