



# Pittenweem Harbour Order Confirmation Act 1992

## 1992 CHAPTER ix

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Pittenweem Harbour. [18th June 1992]

WHEREAS the Provisional Order set forth in the Schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said 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 Confirmation of Order in Schedule**

The Provisional Order contained in the Schedule hereunto annexed is hereby confirmed.

### **2 Short title**

This Act may be cited as the Pittenweem Harbour Order Confirmation Act 1992.

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## SCHEDULE

### PITTENWEEM HARBOUR

Provisional Order to make provision for the improvement of Pittenweem Harbour by the Fife Regional Council; and for connected purposes.

“WHEREAS—

- (1) Pittenweem Harbour (hereinafter referred to as “the harbour”) is, by virtue of section 154 of the Local Government (Scotland) Act 1973, vested in the Fife Regional Council (hereinafter referred to as “the Council”) and is administered by them as a marine work to which Part III of the Harbours, Piers and Ferries (Scotland) Act 1937 applies, under the Pittenweem Harbour Orders 1881 and 1967 and section 154 of the Local Government (Scotland) Act 1973:
- (2) The harbour is the recognised centre of the local fishing industry in the Pittenweem fishery district which comprises a number of ports on the south and east Fife coasts and, in order to improve the safety of sea access to the harbour and the operational efficiency of the harbour and the associated fish market, it is necessary to improve the approach channel to the harbour and improve the facilities for the marketing of fish and the services for fishing boats in the harbour:
- (3) It is accordingly expedient—
  - (a) that the Council should be authorised to carry out the works described in this Order for the improvement of the harbour; and
  - (b) that the limits of jurisdiction of the Council as the harbour authority for the harbour, and of the harbour master, should be redefined and extended as provided in this Order:
- (4) Estimates have been prepared of the cost of the construction of the works and associated operations amounting in total to £1,850,000:
- (5) Plans and sections showing the lines, situations and levels of the works to be constructed under the powers of this Order were, on or before 20th March 1989, deposited with the sheriff clerk of the sheriff court district of Cupar and with the Director of Corporate Services of the Council:
- (6) The purposes of this Order 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 said Act of 1936, the Secretary of State orders as follows:—

#### **Short and collective titles**

##### **1 Short and collective titles**

- (1) This Order may be cited as the Pittenweem Harbour Order 1992.
- (2) The Pittenweem Harbour Orders 1881 and 1967 and this Order may be cited together as the Pittenweem Harbour Orders 1881 to 1992.

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## **Interpretation**

### **2 Interpretation**

- (1) In this Order, unless the context otherwise requires—
- “authorised works” means works authorised by this Order;
  - “the Council” means the Fife Regional Council;
  - “the deposited plans” and “the deposited sections” mean the plans and sections deposited in connection with this Order;
  - “the harbour” means the area within the limits defined in section 20 of this Order, together with all docks, berths, wharves, landing places, quays, buildings and other premises, water and lands which are for the time being vested in, or occupied or administered by, the Council as harbour authority and which form part of the harbour undertaking;
  - “harbour master” means any person appointed as such and includes his deputed and assistants and any person for the time being authorised by the Council to act, either generally or for any specific purpose, in the capacity of harbour master;
  - “the harbour undertaking” means the Pittenweem Harbour undertaking of the Council as from time to time authorised;
  - “the level of high water” means the level of mean high-water springs;
  - “limits of deviation” means the limits of deviation shown on the signed plan;
  - “the signed plan” means the plan marked “Pittenweem Harbour Order: Limits of deviation of harbour work” of which five copies have been signed by Gavin Douglas Q.C., Senior Counsel to the Secretary of State for the purposes of the Private Legislation Procedure (Scotland) Act 1936, one of which copies has been deposited with the Sheriff Clerk of the Sheriff Court district of Cupar, one in the office of the Clerk of the Parliaments, House of Lords, one in the Private Bill Office of the House of Commons, one in the Scottish Office, London, and one in the Office of the Secretary of State, Edinburgh;
  - “tidal work” means so much of any authorised work as is on, under or over tidal waters or tidal lands below the level of high water.
- (2) Except in section 5 (Power to deviate) of this Order, all distances and lengths stated in any description of works, powers or lands, shall be construed as if the words “or thereby” were inserted after each such distance or length.
- (3) Any reference in this Order to a work identified by its number shall be construed as a reference to the work of that number authorised by this Order.

## **Power to construct works**

### **3 Power to construct works**

- (1) Subject to the provisions of this Order, the Council may, in the lines or situations shown for Work No. 1 on the deposited plans and according to the levels shown for that work on the deposited sections, make and maintain the work hereinafter described, with all necessary works and conveniences connected therewith or incidental thereto, in the Parish of Pittenweem in the North East Fife District and on the adjoining foreshore and bed of the sea:—

An extension of the existing harbour breakwater forming a solid structure, commencing by a junction with the existing breakwater at a point 35 metres landward from its

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seaward head and terminating at a point 135 metres south-west of the point of commencement.

- (2) The Council may, within the limits of deviation, from time to time alter, reconstruct or renew the authorised works.

### **Subsidiary works**

#### **4 Subsidiary works**

Subject to the provisions of this Order, the Council may within the limits of deviation from time to time erect, construct and maintain, whether temporarily or permanently, all such subsidiary or incidental works and conveniences as may be necessary or expedient for the purposes of the harbour undertaking.

### **Power to deviate**

#### **5 Power to deviate**

Subject to the provisions of this Order, in the construction of the authorised works the Council may deviate laterally from the lines or situations thereof shown for Work No. 1 on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown for that work on the deposited sections to any extent not exceeding 2 metres upwards and to such extent downwards as may be found necessary or convenient.

### **Power to dredge**

#### **6 Power to dredge**

- (1) The Council may from time to time deepen, dredge, scour, cleanse, alter or improve the bed of the sea and foreshore within the harbour and in the vicinity thereof, including the approach thereto, or blast any rock therein, for the purpose of constructing or maintaining the authorised works, improving the said approach, and obtaining, preserving or improving uninterrupted access to and from or within the harbour or any part of the harbour.
- (2) The Council may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) from time to time dredged by them, but no materials so dredged, other than those used for the purposes of constructing or filling works or reclaiming lands within the harbour, shall be deposited below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved by the Secretary of State.
- (3) The foregoing provisions of this section shall have effect subject to section 21 of this Order.

### **Application of provisions of Order of 1967**

#### **7 Application of provisions of Order of 1967**

- (1) The following provisions of the Pittenweem Harbour Order 1967 shall have effect as if for any reference therein to that Order or to the works authorised by that Order there were substituted reference to this Order or, as the case may be, to the authorised works:
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section 3 (Incorporation of Act of 1937);  
section 4 (Application of Act of 1847);  
section 7 (Temporary closure of harbour);  
section 8 (Removal of vessels from harbour);  
section 9 (As to vessels entering harbour after date of closure);  
section 11 (Power to maintain and improve harbour undertaking); and  
section 12 (Penalty for obstructing works).

(2) (a)

In the application to this Order of the Harbours, Docks, and Piers Clauses Act 1847 by virtue of the said section 4, the expression “the special Act” shall mean this Order and the word “vessel” shall be construed in accordance with the Pittenweem Harbour Order 1967.

(b) In the said section 12, for the words “five pounds” there shall be substituted the words “level 3 on the standard scale”.

### **Temporary stoppage of roads, etc**

#### **8 Temporary stoppage of roads, etc**

- (1) During and for the purpose of the execution of the authorised works the Council may temporarily stop up and divert and interfere with any road or footpath, and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the road or footpath from passing along and using the same.
- (2) The Council shall provide reasonable access for foot passengers bona fide going to or from any such land, house or building.
- (3) The exercise by the Council of the powers of this section in relation to any road or footpath shall not prejudice or affect the right of any operator of any telecommunications code system (within the meaning of Schedule 4 to the Telecommunications Act 1984) to maintain, inspect, repair, renew or remove telecommunications apparatus (within the meaning of paragraph 1 of Schedule 2 to that Act) or to break open that road or footpath for any of those purposes.

### **Tidal works not to be executed without approval of Secretary of State**

#### **9 Tidal works not to be executed without approval of Secretary of State**

- (1) A tidal work shall not be constructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.
- (2) If a tidal work is constructed in contravention of this section—
  - (a) the Secretary of State may by notice in writing require the Council to remove the work or any part thereof and restore the site to its former condition: and if, on the expiration of 30 days from the date when the notice is served upon the Council, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
  - (b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;