

**ELIZABETH II**



**1974 CHAPTER xxx**

An Act to authorise the county council of the county of Orkney to exercise harbour jurisdiction and powers in respect of development, including powers to license the construction of works and dredging, in certain areas of and adjacent to the county, and in connection therewith to acquire lands compulsorily; and for other purposes.

[31st July 1974]

**WHEREAS—**

(1) The county council of the county of Orkney (hereinafter respectively referred to as “the Council” and “the county”) are the local authority for that county entrusted under the Local Government (Scotland) Act 1947 with the management of the 1947 c. 43. administrative and financial business of the county:

(2) As a result of its physical characteristics and location the county enjoys a stable agricultural economy with little or no unemployment, and has a low rate income, but is now threatened for the first time with potential industrial development on an extensive scale:

(3) In view of growing indications of such development it is necessary that steps be taken to avoid any such development

producing a harmful imbalance in the economy of the county and affecting adversely the utilisation of labour, and to ensure—

- (a) the best use of land and natural resources;
- (b) that adequate services can be provided within the limits of the county's available finances; and
- (c) that the community as a whole benefits from such development as aforesaid:

(4) The types of development anticipated will for the most part be dependent upon proper communications, mainly by way of marine facilities:

(5) The foregoing and other anticipated effects render it expedient that powers be conferred upon the Council for the improvement, conservancy and development of certain areas of and adjacent to the county, for the exercise of harbour jurisdiction in respect of those areas, and for the acquisition of lands for and in connection with such development:

1865 c. 125.

(6) The said areas of and adjacent to the county include Scapa Flow which is, to the extent defined in an Order in Council dated 27th May, 1971, and made pursuant to the Dockyard Ports Regulation Act 1865, under the superintendence and protection of the Queen's Harbour Master of the dockyard port of Scapa Flow:

(7) A plan showing the lines and situations of the aforesaid lands, and a book of reference to the plan showing the names of the owners or reputed owners, and of the occupiers, of the lands which may be acquired compulsorily for the purposes of or under the powers of this Bill, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the sheriff-clerk of the county, which plan and book of reference are in this Act referred to respectively as the deposited plan and the deposited book of reference:

(8) The objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it 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:—

## PART I

### PRELIMINARY

Short title.

1. This Act may be cited as the Orkney County Council Act 1974.

2. This Act shall be divided into Parts as follows:—

Part I.—Preliminary.

Part II.—General duties and powers.

Part III.—Lands.

Part IV.—Regulation of harbour areas.

Part V.—Financial.

Part VI.—Miscellaneous.

PART I  
—cont.

Division of  
Act into  
Parts.

3.—(1) In this Act, except so far as the context otherwise Interpretation.  
requires—

“the appropriate authority” means—

(a) in relation to works of the Council, the Council;

(b) in relation to works of a licensee, the licensee;

“charges” includes charges, rates, tolls and dues of every description for the time being payable under any enactment to the Council in relation to the harbour undertaking;

“the Council” means the county council of the county;

“the county” means the county of Orkney;

“daily fine” means a fine for each day on which an offence is continued after conviction;

“dangerous goods” means any goods declared by the rules made under section 23 of the Merchant Shipping (Safety Convention) Act 1949 to be dangerous in their 1949 c. 43.  
nature;

“dredging licence” means a licence granted under section 12 (Licence to dredge) of this Act;

“enactment” means any Act, whether general, local or personal (including this Act), and any order or other instrument made thereunder and any provision in such Act, order or instrument;

“the gas undertakers” means the British Gas Corporation;

“gas work” means any main, pipe, apparatus, building, structure or other work required for or in connection with the supply or transmission of gas and wholly owned or operated by the gas undertakers, for the execution of their statutory duties, in respect of which the gas undertakers have given to the Council in writing particulars of its location and such further information as the Council may reasonably require;

“general direction” means a direction given under section 40 (General directions to vessels) of this Act;

“goods” includes corporeal movables of any kind whatsoever;



PART I  
—cont.

1968 c. 59.

- “harbour area” means the Scapa Flow area or the Wide Firth, Shapinsay Sound area, the respective limits of which are described in the Schedule to this Act, and includes port premises adjacent to either of those areas;
- “harbour master” means a person appointed by the Council to be a harbour master and includes the deputies and assistants of a person so appointed;
- “harbour undertaking” means the harbour undertaking for the time being of the Council authorised by this Act;
- “hovercraft” has the meaning assigned to that expression by the Hovercraft Act 1968;
- “hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;
- “land” includes land covered by water, and includes any rights in or over land;
- “landing places” means wharves and other waterside landing places, piers, jetties and similar installations and includes approaches from land to such installations;
- “the level of high water” means the level of mean high-water springs;
- “licensee” means a person in whose favour a works licence has been granted and is in operation;
- “master” in relation to a vessel means any person for the time being having or taking the command, charge or management of a vessel;
- “mooring” includes anchoring;
- “owner” in relation to a vessel includes a charterer;
- “port premises” means landing places and all other works and land for the time being belonging to or administered by the Council for the purpose of the harbour undertaking;
- “special direction” means a direction given under section 41 (Special directions to vessels) of this Act;
- “tidal work” means so much of any work constructed under the powers of this Act as is on, under or over tidal waters or tidal lands below the level of high water;
- “the tribunal” means the Lands Tribunal for Scotland;
- “the undertaking” means the undertaking for the time being carried on by the Council in exercise of their functions under this Act;
- “vessel” means every description of vessel however propelled or moved and includes any thing constructed or used to carry persons or goods by water, and includes a seaplane on or in the water, a hovercraft and a hydrofoil vessel;

“ works ” means works of every description;

“ works licence ” means a licence granted under section 11 (Licensing of works) of this Act.

PART I  
—cont.

(2) Reference in this Act to any enactment shall be construed as reference to that enactment as re-enacted, extended or amended by or by virtue of any other enactment.

4. The following enactments, so far as they are applicable for Incorporation the purposes and are not inconsistent with the provisions of this of enactments. Act, are hereby incorporated with and form part of this Act:—

(a) the Lands Clauses Acts, except sections 120 to 124 and 127 of the Lands Clauses Consolidation (Scotland) Act 1845; 1845 c. 19.

(b) the Harbours, Docks and Piers Clauses Act 1847 (except 1847 c. 27. sections 6 to 13, 16 to 19, 22, 25, 26, 28, 41, 43, 48 to 53, 77 and 83 to 101):

Provided that in construing the provisions so incorporated the expression “ the special Act ” shall mean this Act:

Provided further that in construing the provisions of the Harbours, Docks and Piers Clauses Act 1847 so incorporated—

- (i) the expressions “ the promoters of the undertaking ” and “ the undertakers ” shall mean the Council and the expression “ the harbour, dock or pier ” shall mean a harbour area;
- (ii) the meaning of the word “ vessel ” as defined in section 3 (Interpretation) of this Act shall be substituted for the meaning assigned to that word by section 3 of that Act;
- (iii) section 15 shall be read and have effect as if for the words from “ shall forfeit ” to the end of the section there were substituted the words “ shall be liable to a fine not exceeding one hundred pounds ”;
- (iv) section 23 shall be read and have effect as if the words “ provided that no such lease be granted for a longer term than three years ” were omitted;
- (v) section 63 shall be read and have effect as if for the words from “ penalty ” to the end of the section there were substituted the words “ penalty not exceeding one hundred pounds ”;
- (vi) section 69 shall be read and have effect as if for the words from “ sum ” to the end of the section there were substituted the words “ sum not exceeding fifty pounds ”.

## PART II

### GENERAL DUTIES AND POWERS

5.—(1) It shall be the duty of the Council, subject to the General provisions of this Act, to take all such action as they consider duties and powers.