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SCOTTISH STATUTORY INSTRUMENTS

2002 No. 294

HARBOURS, DOCKS, PIERS AND FERRIES

The Peterhead Bay Authority (Constitution) Revision Order 2002

Made - - - -	*5th June 2002*
Coming into force - -	*10th June 2002*

Whereas the Peterhead Bay Authority have applied for a harbour revision order under section 14 of the Harbours Act 1964(**1**) (hereinafter called "the Act"):

And whereas objections to the application made pursuant to paragraph 3(2)(a) of Schedule 3 to the Act have been withdrawn:

Now therefore the Scottish Ministers in exercise of the powers conferred upon them by section 14 of the Act(**2**) and of all other powers enabling them in that behalf, hereby make the following Order:–

Citation and commencement

1.—(1) This Order may be cited as the Peterhead Bay Authority (Constitution) Revision Order 2002 and shall come into force on 10th June 2002.

(2) The Peterhead Bay Harbour Trust and Transfer Order 1983(**3**) and this Order may be cited together as the Peterhead Bay Authority Orders 1983 and 2002.

Incorporation of section 60 of the Commissioners Clauses Act 1847

2. Section 60 of the Commissioners Clauses Act 1847 shall be incorporated with this Order.

Interpretation

3. In this Order—

"the 1983 Order" means the Peterhead Bay Harbour Trust and Transfer Order 1983;

"the Authority" means the Peterhead Bay Authority;

(**1**) 1964 c. 40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4, 12 and 14; and by the Transport and Works Act 1992 (c. 42), section 63 and Schedule 3, paragraphs 1 and 10.

(**2**) Section 14(7) contains a definition of "the appropriate Minister" relevant to the exercise of the powers under which this Order is made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**3**) S.I. 1983/316.

"the new constitution date" means 1st April 2002.

Constitution of Authority

4.—(1) On and after the new constitution date, the Authority shall consist of—

(a) 45 eight persons appointed by the Authority; and

(b) the Chief Executive of the Authority.

(2) Each member appointed under paragraph (1)(a) above shall be a person who appears to the Authority to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Authority of their functions including in particular (but without prejudice to the generality of the foregoing) special knowledge, experience or ability in one or more of the following matters—

(a) management of harbours;

(b) shipping or other forms of transport;

(c) usage of port facilities;

(d) industrial, commercial and financial matters including, in particular, but without prejudice to the foregoing, matters relating to the oil industry;

(e) administration;

(f) the organisation of employees;

(g) the fishing industry;

(h) financial management;

(i) the laws relating to Scotland;

(j) safety management;

(k) commercial marketing;

(l) information technology;

(m) environmental matters affecting harbours;

(n) civil engineering;

(o) local government and local community interests;

(p) any other skills and matters considered from time to time by the Authority to be relevant to the discharge by them of their functions;

and the Authority shall secure, so far as reasonably practicable, that the members appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by them of their functions.

(3) In making an appointment under paragraph (1) above or article 8(1) below, the Authority shall act in accordance with any guidance issued by the Scottish Ministers from time to time with respect to the exercise of such functions.

Appointment and terms of office of first members

5.—(1) Subject to paragraph (3) below, the first appointments under article 4(1)(a) above shall be made on, or as soon as reasonably practicable after, 31st March 2002.

(2) Of the first members appointed by the Authority—

(a) three shall hold office from the new constitution date until 31st March 2003;

(b) two shall hold office from the new constitution date until 31st March 2004;

(c) three shall hold office from the new constitution date until 31st March 2005;

as the Authority shall specify when they make each of those appointments.

(3) Any person appointed before the new constitution date by the Scottish Ministers—

(a) on the nomination of Aberdeenshire Council to hold office as a member until 30th June 2002 shall, if he is a member immediately before the new constitution date, be deemed to have been appointed by the Authority as a member under paragraph 2(a) above;

(b) on the nomination of the Trustees of the Harbour of Peterhead to hold office as a member until 31st March 2003 shall, if he is a member immediately before the new constitution date, be deemed to have been appointed by the Authority as a member under paragraph 2(a) above;

(c) to hold office as a member for three years from 1st September 2001 shall, if he is a member immediately before the new constitution date, be deemed to have been appointed by the Authority as a member under paragraph 2(b) above.

Terms of office of subsequent members

6. A member appointed under article 4(1)(a) above (other than a member appointed under article 5 above) shall, unless appointed to fill a casual vacancy and, subject to articles 7 and 9 of, and paragraph 10 of, Schedule 2 to, this Order, hold office for the period of three years from 1st April next following his appointment.

Declaration to be made by members

7. No person shall act as a member until he has made the declaration set out in Schedule 1 to this Order (or a declaration to that effect); and a person shall cease to be a member if he fails to make that declaration within three months of the date of his appointment.

Casual vacancies

8.—(1) A casual vacancy arising in the office of a member appointed by the Authority shall, unless it is not reasonably practicable to do so, be filled by the appointment of a member by the Authority in accordance with article 4(2) and (3) above.

(2) A member appointed to fill a casual vacancy under this article shall, subject to articles 7 and 9 of, and paragraph 10 of Schedule 2 to, this Order, hold office during the remainder of the term for which the member whom he replaces was appointed.

Disqualification of members

9. If the Authority are satisfied that a member—

(a) has without the permission of the Authority been absent from meetings of the Authority –

(i) for a period during which three such meetings have been held; or

(ii) for a period of three consecutive months;

whichever of those periods is the longer; or

(b) has had an award of sequestration made against his estate or has made a trust deed for behoof of his creditors or a composition arrangement; or

(c) is incapacitated by physical or mental illness from discharging the functions of a member; or

(d) is otherwise unable, unwilling or unfit to discharge the functions of a member;

the Authority may declare his office as a member to be vacant and thereupon his office shall become vacant.

Indemnity insurance for Authority

10. The Authority may enter into, and pay premiums for, a contract of insurance to indemnify the members jointly or severally against personal liability arising from any act or omission of the members or of any of them; not being an act or omission which the member or members in question knew to be a breach of his or their duty or, concerning which, he or they were reckless as to whether it was such a breach.

Incidental provisions relating to Authority

11. On and after the new constitution date the provisions of Schedule 2 to this Order shall have effect with respect to the Authority.

Borrowing powers

12. The Authority may from time to time borrow, by any methods they see fit, such sums of money as they think necessary for the purposes of meeting their obligations in carrying out their functions; and where moneys are borrowed by the Authority under this article, the Authority may, if they see fit, borrow those moneys upon the security of their assets for the time being or of their revenues or of both their assets and their revenues.

Extension of area of jurisdiction of Authority

13.—(1) The definition of "the Harbour" in article 2(1) of the 1983 Order shall be amended by deleting the words "and shown on the plan annexed as Schedule 6 to this order".

(2) The definition of "the seaward limit" in paragraph 1(1) of Schedule 2 to the 1983 Order shall be amended by substituting for that definition the following:—

> ""the seaward limit" means the area bounded by a line drawn from the root of the North Breakwater commencing at a point:– 57° 30.04' N 001° 46.18'W, thence extending in a south-easterly direction to a point at 57° 29.90'N 001° 45.83'W, thence extending in an easterly direction to a point at 57° 29.90'N 001° 44.10'W, thence extending in a southerly direction to a point at 57° 28.31'N 001° 44.10'W, thence extending in a westerly direction to a point at 57° 28.31'N 001° 45.10'W, thence extending in a north-westerly direction to a point at 57° 28.73'N 001° 45.97'W, thence extending in a north-easterly direction to a point at 57° 28.87'N 001° 45.73'W, thence extending in a north-westerly direction to a point at 57° 28.98'N 001° 45.95'W, thence extending in a south-westerly direction to a point at 57° 28.85'N 001° 46.18'W thence extending in a north-westerly direction to a point at 57° 29.31'N 001° 47.12'W and there terminating, which point joins onto the outward extent of the inland limit.".

(3) Schedule 6 to the 1983 Order shall be revoked.

(4) The harbour limits which are described in Schedule 2 to the 1983 Order as amended by paragraph (2) above are, for the purpose of identification only, shown hatched black on the plan prepared in triplicate, signed by the Scottish Ministers and marked "Plan referred to in the Peterhead Bay Authority (Constitution) Harbour Revision Order 2002", two copies of which have been deposited at that Department and one copy of which has been deposited at the offices of the Authority, Bath House, Bath Street, Peterhead AB42 1DX.

(5) The references to co-ordinates in paragraph (2) above are references to WGS84 (ETRS89) datum.

Consequential amendment of 1983 Order

14. In paragraph 1 of Schedule 3 to the 1983 Order for the words "may employ such", there shall be substituted the words "shall employ a chief executive and such other".

Revocations

15. On the new constitution date the enactments mentioned in the first and second columns of Schedule 3 to this Order (which include spent enactments) shall be revoked to the extent specified in the third column of that Schedule.

St Andrew's House,
Edinburgh
5th June 2002

LEWIS MACDONALD
Authorised to sign by the Scottish Ministers

S C H E D U L E S

SCHEDULE 1

Article 7

FORM OF DECLARATION BY MEMBERS

PETERHEAD BAY AUTHORITY

PETERHEAD BAY AUTHORITY ORDERS 1983 AND 2002

DECLARATION

I, [FULL NAME] do solemnly declare

(1) that I will faithfully and impartially, according to the best of my skill and judgement, execute all the powers and authorities vested in me as a member of the Peterhead Bay Authority by virtue of the Peterhead Bay Authority Orders 1983 and 2002;

(2) that I have read and understood the Standing Orders of the Authority and the documents entitled "Note for Guidance of Members on the Disclosure of Financial and Other Interests" and "Duties of Members" and that I will comply with the requirements as to the disclosure of such interests, laid down by paragraph 15 of Schedule 2 to the Peterhead Bay Authority (Constitution) Revision Order 2002, and in particular that:

(a) I have disclosed to the Chief Executive details of every financial or other interest such as is mentioned in those Standing Orders and documents;

(b) I will in future notify the Chief Executive of any alteration in those interests, of any new interest, such as is mentioned in those Standing Orders and documents, which I may acquire.

Made and signed in Peterhead, on the …….. day of ……	)))	…… (signature)
Witnessed by the Chief Executive as a member of the Peterhead Bay Authority	))	…… (signature)

Note:- Where the declaration is to be made by the Chief Executive, the Form shall be amended so that, for references to "the Chief Executive", there are substituted references to "the Convener"

SCHEDULE 2

Article 11

INCIDENTAL PROVISIONS RELATING TO AUTHORITY

Appointment of convener and deputy convener of Authority

1. There shall be a convener of the Authority who shall be appointed by the members of the Authority from among their number.

2. The first convener taking office after the new constitution date shall be appointed at the first meeting of the Authority referred to in paragraph 9 below and shall, subject to paragraph 4 below, and unless he resigns his office as convener or ceases to be a member, continue in office as convener until his initial term of office as a member has expired.

3. Subject to paragraph 4 below, every convener subsequently appointed under paragraph 1 above shall, unless he resigns his office as convener or ceases to be a member, hold office for a period of three years.

4. If the Authority are satisfied that the convener should cease to hold that office, they may terminate his appointment as such and appoint another member to be convener during the remainder of the term for which the former convener was appointed.

5. There shall be a deputy convener of the Authority who shall be appointed annually by the members of the Authority from among their number.

6. The first deputy convener holding office after the new constitution date shall be appointed as soon as practicable after that date and shall, unless he resigns his office as deputy convener or ceases to be a member, continue in office as deputy convener until the first anniversary of the new constitution date.

7. Every deputy convener subsequently appointed under paragraph 5 above shall, unless he resigns his office as deputy convener or ceases to be a member, hold office for a period of one year.

8.—(1) On a casual vacancy occurring in the office of convener or deputy convener of the Authority, the vacancy shall be filled by the Authority at a meeting held as soon as practicable after the vacancy occurs.

(2) A member appointed under this paragraph to fill a casual vacancy in the office of convener or deputy convener shall, unless he resigns that office or ceases to be a member, hold that office during the remainder of the term for which the convener or deputy convener whom he replaces was appointed or until the expiration of his appointment as a member, whichever is the sooner.

Meetings of Authority

9.—(1) The first meeting of the Authority after the new constitution date shall be convened as soon as practicable by the Chief Executive for such date as he may fix; and he shall make arrangements for notice of that meeting to be sent by post to each of the other members of the Authority.

(2) The Authority shall meet at least six times in every year.

Vacation of office by members

10. A member (other than the Chief Executive) may resign his office at any time by notice in writing given to the Chief Executive of the Authority.

Reappointment of members

11.—(1) Subject to the provisions of this Schedule, a vacating appointed member shall be eligible for reappointment as a member unless he has been disqualified from office under article 9 above.

(2) A vacating appointed member shall not be eligible for reappointment as a member where, immediately before the date in question, he has held office for three consecutive terms unless he is the convener of the Authority.

(3) A convener of the Authority who is an appointed member shall not be eligible for reappointment as a member where, immediately before the reappointment date in question he has held office as a member for four consecutive terms.

(4) For the purposes of this paragraph, "term" does not include—

(a) a term referred to in article 5(2)(a) or (b) above;

(b) the remainder of a term during which the member was appointed to fill a casual vacancy under article 8 above; or

(c) any term served by the member prior to the new constitution date.

(5) In this paragraph "appointed member" means a member appointed under article 4(1)(a) above.

Reappointment of convener

12.—(1) A convener of the Authority shall not be eligible for reappointment as the convener where, immediately before the reappointment date in question, he has served as a convener for three consecutive terms.

(2) For the purposes of this paragraph, "term" does not include—

(a) a term served by the member as a convener under paragraph 2 above where that term is less than 3 years;

(b) the remainder of a term during which the member was appointed to fill a casual vacancy in the office of convener under paragraph 8 above; or

(c) any term served by the member as a convener prior to the new constitution date.

Committees

13. The Authority may, consistently with their duties and subject to such conditions as they think fit, delegate any of their functions (other than the functions set out in subparagraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964(**4**)) to a committee of the Authority.

Proceedings of Authority and committees

14. The acts and proceedings of the Authority, or of any committee of the Authority, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as a member, or as convener or deputy convener, of the Authority or committee.

15.—(1) If a member has any interest, direct or indirect—

(a) in any contract or proposed contract to which the Authority are or would be a party or is a director of a company or body with which the contract or proposed contract is made or proposed to be made; or

(**4**) Paragraph 9B was inserted by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9.

(b) in any other matter with which the Authority are concerned,

he shall declare that interest.

(2) If a member is present at a meeting of the Authority or of any committee of the Authority at which a contract or other matter in which he has an interest is to be considered he shall—

(a) as soon as is practicable disclose his interest;

(b) not vote on any question with respect to that contract or matter; and

(c) withdraw from the meeting—

(i) at any time if the members present by resolution require him so to do; and

(ii) while a decision on that contract or matter is being made.

(3) This paragraph shall not apply to any interest—

(a) which a member has in respect of the payment to the Authority of standard harbour dues;

(b) which arises in respect of the provision of harbour services or facilities affecting the trading and leisure communities in general;

(c) which a member has as an employee of a public utility undertaking or as a shareholder, not being a director of a company, unless he possesses more than five per cent of the issued share capital of that company; or

(d) which the members present at the meeting by resolution declare to be too remote.

16. The person for the time being holding office as deputy convener shall have and may exercise in the absence or incapacity of the convener all the functions of the convener.

17. If at any meeting of the Authority neither the convener nor the deputy convener are present the members present at the meeting shall choose one of their number to be the convener of the meeting.

18.—(1) Every question at a meeting of the Authority or of a committee of the Authority shall be decided by a majority vote of the members present and voting.

(2) If at any meeting of the Authority or of a committee of the Authority there is an equality of votes on any question the convener of the meeting shall have a second or casting vote which he may exercise for or against the status quo.

Authentication of seal

19.—(1) The application of the seal of the Authority shall be authenticated by the signature of the convener of the Authority or some other member authorised by the Authority to authenticate the application of the seal, and of the Chief Executive of the Authority or some person authorised by the Authority to act in his place in that behalf.

(2) The Authority may authorise a person to act instead of the Chief Executive under this paragraph whether or not the Chief Executive is absent or incapable of acting.

(3) Any notice, licence or other document given or issued by the Authority shall, unless the contrary intention is expressed, be sufficiently authorised if signed by the Chief Executive or a duly authorised officer of the Authority.

Remuneration of members

20. The Authority may—

(a) pay to a member of the Authority such a salary, fee, allowance and expenses as the Authority may determine; and

(b) make provision for, or pay to or in respect of a person who is or has been a member of the Authority such pension, grant or life benefit as the Authority may determine.

General

21. Subject to the provisions of this Schedule, the quorum, procedure and business of the Authority and of any committee of the Authority shall be regulated in such manner as the Authority may from time to time determine.

22. Any notice, licence or other document given or issued by the Authority shall, unless the contrary intention is expressed, be sufficiently authenticated if signed by the secretary of the Authority or a duly authorised officer of the Authority.

SCHEDULE 3 **Article 15**

REVOCATIONS

Number	Short title	Extent of revocation
S.I.1983/316	The Peterhead Bay Harbour Trust and Transfer Order 1983	In article 2(1), in the definition of "the Harbour", the words "and shown on the plan annexed as Schedule 6 to this order," and, in the definition of "the tanker jetty", the words "and shown marked "TANKER JETTY" on the plan annexed as Schedule 6 to this order". Article 3(4). Schedule 1. Paragraphs 11 and 12 of Schedule 3. Schedule 6.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order reconstitutes the Peterhead Bay Authority as from 1st April 2002. It provides for the Authority to consist of a body of nine members with experience in relevant matters. Eight persons

will be appointed by the Authority. The Chief Executive will also hold office as a member. Under the terms of the Order the appointed members will retire in rotation.

The Order also includes other provisions with respect to the Authority's constitution including provisions for the protection of the members from personal liability in the discharge of their functions. The Order amends the Authority's borrowing powers, extends the Authority's area of jurisdiction and revokes certain statutory provisions.