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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 289**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Associated British Ports (Troon)  
Harbour Revision Order 2000**

*Made* - - - - *18th August 2000*

*Coming into force* - - *21st August 2000*

Whereas Associated British Ports has applied in writing for a harbour revision order under section 14 of the Harbours Act 1964<sup>(1)</sup>;

And whereas it appeared to the Secretary of State for the Environment, Transport and the Regions in pursuance of paragraph A2 of Schedule 3 to the said Act<sup>(2)</sup>, that the application is made in relation to a project which falls within Annex II to Council Directive 85/337/EEC<sup>(3)</sup> on the assessment of the effects of certain public and private projects on the environment and whose characteristics require that it should be made subject to an environmental assessment;

And whereas the Secretary of State has directed the applicant to provide the information referred to in Annex III to the Directive in accordance with that paragraph;

And whereas the Scottish Ministers<sup>(4)</sup> have complied with the requirements of paragraph 3, 3A<sup>(5)</sup> and 4 of Schedule 3 to the said Act;

And whereas an objection to the application was made and not withdrawn and the Scottish Ministers caused an inquiry to be held with respect thereto in terms of paragraph 4 of Schedule 3 to the said Act;

And whereas the Scottish Ministers are satisfied as required by subsection (2)(b) of the said section 14:

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

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- (1) 1964 c. 40: section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2, 3, 4(1) and 14 and by the Transport and Works Act 1992 (c. 42), Schedule, paragraph 1.
- (2) Schedule 3 as amended by the Transport Act 1981, section 18 and Schedule 6, paragraphs 4(2) to (7) and (12) and by the Transport and Works Act 1992, Schedule 3, paragraph 10. Paragraph A2 was inserted by the Harbour Works (Assessment of Environmental Effect) (Amendment) Regulations 1996 (S.I.1996/1946).
- (3) O.J. No. L 175, 5.7.85, p.40.
- (4) 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).
- (5) Paragraph 3A was inserted by the Harbour Works (Assessment of Environmental Effects) Regulations 1998 S.I. 1998/1336 and were extended to Scotland by the Harbour Works (Assessment of Environmental Effects) 1992 S.I. 1992/1421 and amended by S.I.1996/1946.

### **Citation, commencement and extent**

1.—(1) This Order may be cited as the Associated British Ports (Troon) Harbour Revision Order 2000 and shall come into force on 21st August 2000.

(2) This Order extends to Scotland only.

### **Interpretation**

2.—(1) In this Order and subject to the provisions of article 3(2) of this Order, the words and expressions assigned meanings by Acts wholly or partly incorporated within this Order shall have those meanings in this Order, and—

“the 1847 Act” means the Harbours, Docks and Piers Clauses Act 1847(6);

“A.B. Ports” means Associated British Ports;

“the deposited plan” and “the deposited sections” mean respectively the plan and sections comprising a single sheet prepared in duplicate, signed on behalf of the Scottish Ministers and marked “Plan and sections referred to in the Associated British Ports (Troon) Harbour Revision Order 2000” one copy of which is deposited with the Scottish Ministers at the Scottish Executive, Victoria Quay, Edinburgh, EH6 6QQ and the other with A.B. Ports, Port Office, Ayr, KA8 8AH;

“the harbour master” means A.B. Ports' Harbour Master, at Ayr and Troon;

“the level of high water” means the level of mean high water springs;

“the limits of deviation” means the limits of deviation shown on the deposited plan;

“Troon Harbour” means the undertaking of A.B. Ports at its docks and harbour at Troon the area of which is described in Article 16 of, and Schedule 1 to, this Order;

“tidal work” means so much of any of the works as is on, under or over tidal waters or tidal lands below the level of high water;

“the undertaking” means the undertaking A.B. Ports as authorised from time to time;

“vessel” means every description of vessel, however propelled or moved, and includes hovercraft, any floating manufactured article, anything constructed or used to carry persons or goods by water, and, except for the purpose of levying rates, a seaplane on or in the water; and

“the works” means the works authorised by this Order.

(2) Unless the context otherwise requires, any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

(3) All points, directions, distances and lengths as stated in any description of works shall be construed as if the words “or thereabouts” were inserted after each such part, direction, distance and length point on the deposited plan.

### **Incorporation of the 1847 Act**

3.—(1) The 1847 Act, except sections 6 to 9, 11 to 13, 16 to 23, 49, 50, 77 to 79, 80, 84 to 90, 94, 95, 97, 98, 99 and 100 so far as applicable for the purposes of and not inconsistent with this Order, is incorporated with and forms part of this Order.

(2) For the purposes of the 1847 Act, as so incorporated—

(i) the expression “the special Act” means this Order;

(ii) the expression “the harbour, dock, or pier” means the works;

- (iii) the expression “the harbour master” has the meaning given by article 2 above;
- (iv) for the meaning assigned to the word “vessel” by section 3 of the 1847 Act there shall be substituted the definition of the word “vessel” contained in article 2(1) above; and
- (v) section 53 of the 1847 Act shall not be construed as requiring the harbour master to serve upon the master of a vessel a notice in writing of his directions but such directions may be given orally or otherwise communicated to such master:

Provided that a notice which is not in writing shall not be deemed to be sufficient unless it was not reasonably practicable to serve a written notice on the master of the vessel.

## PART II

### Works

#### **Power to carry out works**

4.—(1) Subject to the provisions of this Order, A.B. Ports may, in the lines and situations shown on the deposited plan and within the limits of deviation and according to the levels shown on the deposited sections, carry out and maintain the following works on the sea bed adjoining the East Pier in Troon Harbour:—

##### Work No. 1

A jetty head commencing by a connection with the East Pier at a point 300 metres from the north western end of that pier, extending 50 metres in a northerly direction and then 20 metres in a north westerly direction and terminating in an adjustable shore ramp running parallel to the East Pier for a distance of 40 metres supported at its landward end by the jetty head and at its seaward end by an associated supporting structure.

##### Work No. 2

A structure consisting of a row of dolphins and associated walkways running parallel to the East Pier for a distance of 110 metres in a north westerly direction from a commencement point 20 metres from the seaward end of the adjustable shore ramp comprised in Work No. 1, and connected to the East Pier by a walkway at a point 100 metres from the north western end of the East Pier.

##### Work No. 3

A piled protective structure adjoining the north western end of the East Pier on its seaward side and connected to that pier by a walk 15 metres in length.

(2) Subject to the provisions of this Order A.B. Ports may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently, the works.

(3) The works shall for all purposes form part of the undertaking.

#### **Power to carry out subsidiary works**

5. Subject to the provisions of this Order A.B. Ports may from time to time within the limits of deviation erect, construct and maintain all such works, conveniences, appliances and apparatus as they from time to time deem necessary or convenient for the purposes of or in connection with or incidental to, the construction and maintenance of the works or the accommodation of vessels including any necessary alterations to the East Pier.

### **Power to deviate**

6. In constructing Works Nos. 1, 2 and 3, A.B. Ports may deviate laterally from the lines or situations shown on the deposited plan to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding three metres upwards and to such extent downwards as may be found necessary or convenient.

### **Power to dredge**

7.—(1) For the purposes of affording uninterrupted means of access to the works and of enabling their use at all states of the tide, A.B. Ports may from time to time deepen, dredge, scour, cleanse, alter and improve a channel within the area shaded grey on the deposited plan to a depth of six metres and may (subject to paragraphs (2) and (3) below) as it thinks fit use, appropriate or dispose of the materials from time to time taken up or collected by it in the course of any such operations.

(2) No materials referred to in this article shall—

- (a) be disposed of in contravention of any enactment relating to the disposal of waste; or
- (b) be deposited below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or directed by the Scottish Ministers.

(3) The power to use, appropriate or dispose of materials referred to in this article shall not extend to wrecks (within the meaning of Part IX of the Merchant Shipping Act 1995(7)) found by A.B. Ports.

### **Fine for obstructing works**

8. Any person who intentionally obstructs any person acting under the authority of A.B. Ports in constructing the works or intentionally or recklessly interferes with equipment or materials used in the construction of the works shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Tidal works not to be executed without approval of Scottish Ministers**

9.—(1) A tidal work shall not be constructed, altered, enlarged, replaced, relaid, extended or reconstructed except in accordance with plans and sections approved by the Scottish Ministers and subject to any conditions and restrictions imposed by the Scottish Ministers before the work is begun or while work is still in progress.

(2) If a tidal work is constructed, altered, enlarged, replaced, relaid, extended or reconstructed in contravention of this article or of any condition or restriction imposed under this article—

- (a) the Scottish Ministers may by notice in writing require A.B. Ports at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and, if on the expiration of 30 days from the date when the notice is served upon A.B. Ports it has failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice; or
- (b) if it appears to the Scottish Ministers urgently necessary so to do, he may remove the tidal work or part of it and restore the site to its former condition,

and any expenditure incurred by the Scottish Ministers in so doing shall be recoverable from A.B. Ports.

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(7) 1995 c. 21.

### **Provision against danger to navigation**

**10.**—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof, A.B. Ports shall as soon as reasonably practicable notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If without reasonable excuse A.B. Ports fails to notify the Commissioners of Northern Lighthouses as required by paragraph (1) above of this article or to comply in any respect with a direction given under the said paragraph it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum, or on conviction on indictment to a fine.

### **Abatement of works abandoned or decayed**

**11.**—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Scottish Minister may by notice in writing require A.B. Ports at its own expense either to repair and restore the work of any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Scottish Minister thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Scottish Ministers may include that part of the work, or any portion thereof, in any notice under this article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon A.B. Ports, it has failed to comply with the requirements of the notice, the Scottish Minister may execute the works specified in the notice and any expenditure incurred by the Scottish Ministers in so doing shall be recoverable from A.B. Ports.

### **Survey of tidal works**

**12.** The Scottish Ministers may at any time, if they deem it expedient, order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Scottish Ministers in any such survey and examination shall be recoverable from A.B. Ports.

### **Permanent lights on tidal works**

**13.**—(1) After the completion of a tidal work A.B. Ports shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If A.B. Ports fails to comply in any respect with a direction given under this article, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine; but it shall be a defence for A.B. Ports to prove that all due diligence was used to secure compliance with the direction.

### **Lights on tidal works during construction**

**14.**—(1) A.B. Ports shall at or near a tidal work during the whole time of the construction, alteration, enlargement, replacement, relaying or extension thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If A.B. Ports fails to comply in any respect with paragraph (1) it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine; but it shall be a defence for A.B. Ports to prove that all due diligence was used to secure compliance with the direction.

### **Marking approaches**

**15.—**(1) A.B. Ports may, with the consent of the Commissioners of Northern Lighthouses, provide, place and erect in such places as it deems proper lightships, lighthouses, buoys, beacons, guiding posts or signs for the guidance of vessels approaching or leaving the works.

(2) A.B. Ports may maintain and repair any lightships, lighthouses, buoys, beacons, guiding posts or signs provided, placed or erected by it under this article.

## **PART III**

### **Miscellaneous**

#### **Works deemed to be within South Ayrshire**

**16.** So much of any work constructed or placed pursuant to this Order as is not within the area known as South Ayrshire<sup>(8)</sup> shall be deemed for all purposes to be within that area.

#### **Limits of Troon Harbour**

**17.** The limits within which A.B. Ports shall exercise jurisdiction as harbour authority at Troon and in which the power of the harbour master may be exercised shall be the area described in Schedule 1 to this Order.

#### **Crown rights**

**18.—**(1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown, and in particular nothing in this Order authorises A.B. Ports to take, use, enter upon or in any manner interfere with any land, hereditaments, or rights of whatsoever description (including any part of the shore or bed of the sea)—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) A consent under paragraph (1) above may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.

St Andrew's House,  
Edinburgh  
18th August 2000

*SARAH BOYACK*  
A member of the Scottish Executive

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(8) See section 1 of and Part I of Schedule 1 to the Local Government etc. (Scotland) Act 1994 (1994 c. 39).

## SCHEDULE 1

Article 17

### LIMITS OF TROON HARBOUR

The area shown on the deposited plan within the line marked “Seaward Limit of Troon Harbour” together with any quays, docks, piers, jetties and other works, lands, buildings, wharves and erections at Troon which are for the time being vested in or occupied or administered by A.B. Ports.

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order empowers Associated British Ports to construct and operate a new berth adjoining the existing East Pier at Troon and provides for the extension of the existing limits of the Harbour.

The Order also gives Associated British Ports ancillary powers in relation to the works (articles 8 to 14).

The deposited plans and sections of the works, may be inspected during working hours at the Office of Associated British Ports, Port Office, Ayr, KA8 8AH.