
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 32

HARBOURS, DOCKS, PIERS AND FERRIES

**Scrabster (Inner Harbour Development)
Harbour Revision Order 2000**

Made - - - - *21st February 2000*

Coming into force - - *29th February 2000*

Whereas the Trustees of the Scrabster Harbour Trust have applied in writing for a harbour revision order under section 14 of the Harbours Act 1964(1):

And whereas it appears to the Scottish Ministers(2), in pursuance of paragraph A2 of Schedule 3 to the said Act(3), determined that the application is made in relation to a project which falls within Annex II to Council Directive 85/337/EEC(4) 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, has directed the applicant to supply them with the information referred to in Annex III to the Directive;

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

Now, therefore, the Scottish Ministers, in exercise of the powers conferred on them by section 14 of the said Act(6) and of all other powers enabling them in that behalf and being satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, 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 to 4 and 14, and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1.
 - (2) 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) Schedule 3 was amended by the Transport Act 1981, section 18 and Schedule 6, paragraphs 4(2) to (3) 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 Effects) Amendment Regulations 1996 (S.I.1996/1946).
 - (4) O.J. No. L175, 5.7.85, p.40.
 - (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.
 - (6) The Scottish Ministers are the “appropriate Minister” under section 14(7) of the Harbours Act 1964 (c. 46).

PART I

PRELIMINARY

Citation, commencement and extent

1.—(1) This Order may be cited as the Scrabster (Inner Harbour Development) Harbour Revision Order 1999 and shall come into force on 29th February 2000.

(2) The Scrabster Harbour Acts and Orders 1841 to 1998 and this Order may be cited together as the Scrabster Harbour Acts and Orders 1841 to 2000.

(3) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order—

“Act of 1841” means the Act passed in the fourth and fifth years of the reign of Her Late Majesty Queen Victoria intituled “An Act for making and maintaining a Harbour at Scrabster Roads in the Bay of Thurso and County of Caithness, and Road thereto”(7);

“area of works” means the area within the limits of deviation, or any part of that area;

“deposited plan and sections” means the plan and sections prepared in duplicate and signed by a member of the Scottish Executive and marked “Plan and sections referred to in the Scrabster (Inner Harbour Development) Harbour Revision Order 2000” of which one is deposited with the Rural Affairs Department at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TY and the other at the harbour office of the Trust;

“enactment” means any Act, whether general, local or personal and any order other than (including this Order) or other instrument made thereunder and any provision in any such Act, order or instrument and includes Acts of the Scottish Parliament and any order or instrument made thereunder;

“government department” includes any part of, or any member of the staff of the Scottish Administration which shall have the meaning defined in section 126 of the Scotland Act 1998(8);

“harbour” means the harbour of Scrabster as authorised by the Act of 1841, the Scrabster Harbour Order 1897(9) and the Scrabster Harbour Order 1989(10) together with the lands, buildings, works, plant, property and conveniences connected therewith or any part thereof as the case may be;

“harbour undertaking” means the undertaking of the Trustees in connection with the harbour;

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

“level of low water” means the level of mean low-water springs;

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

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

“Trust” means Scrabster Harbour Trust as constituted and incorporated by the Act of 1841;

“Trustees” means the Trustees for the time being of the Trust;

(7) 1841.c.1.

(8) 1998.c.46.

(9) 1897.c.lxxx.

(10) 1989.c.v.

“works” means the works authorised by article 3 (power to carry out works) of this Order or, as the case may require, any part thereof.

(2) All areas, directions, distances, lengths and widths as stated in any description of works, powers or lands other than article 4 (power to deviate) of this Order shall be construed as if the words “or thereabouts” were inserted after each such area, direction, distance, length and width and any reference in a description of works to a point shall be a reference to that point on the deposited plan.

(3) 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 the same number authorised by article 3 of his Order.

PART II

WORKS

Power to carry out works

3.—(1) Subject to the provisions of this Order, the Trust may, in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plans and sections, carry out and maintain the following improvement works in the parish of Thurso, County of Caithness, Highland, and on the foreshore and the bed of the sea adjacent thereto together with all necessary and proper works and conveniences connected therewith and incidental thereto:—

(Work No.1) A quay of open construction with a concrete deck commencing at a point 3 metres east and 11 metres north of the north-east corner of the building marked “RNMDSF” on the plan at a point ND 31000 97031 and extending 219 metres east-north-east to terminate at the west face of the existing Ice Plant Quay at a point ND 31020 97039, with a berthing face on the south side thereof.

(Work No.2) A quay of solid construction commencing at a point 9 metres east and 5.5 metres north of the north-east corner of the building marked “RNMDSF” on the plan at a point ND 31000 97031 and extending 18 metres south-south-east and thereafter turning and extending 103 metres south-east to terminate at a point ND 97020 31005 with a berthing face and with a reclamation of the seabed by infilling, levelling and surfacing.

(Work No.3) Dredging of an area of seabed commencing at a point 5 metres north and 31 metres east of the south-east corner of the building marked “RNMDSF” on the plan at a point ND 31004 97027 and extending 187 metres or thereabouts east-north-east to terminate at a point ND 31021 97034.

(Work No.4) Dredging of an area of seabed commencing at a point 49 metres south and 8 metres west of the south-west corner of the Ice House marked on the plan at a point ND 31022 97026 and extending 276 metres or thereabouts south-east and thence turning and extending 69 metres or thereabouts east-south-east and thence turning and extending 63 metres or thereabouts east-north-east to terminate at a point ND 31055 97008.

(Work No.5) A finger pier and breakwater of solid construction commencing at a point 78 metres east and 108 metres south of the south-east corner of the Fishmarket Building marked on the plan at a point ND 31021 97003 and extending 60 metres or thereabouts north-east and thence turning and extending 76 metres or thereabouts north and thence turning and extending 12 metres or thereabouts north-west to terminate at a point ND 31025 97014 with a berthing face on the north-west and west sides thereof and with a reclamation of the seabed by infilling, levelling and surfacing.

(Work No.6) A reclamation of the seabed commencing at a point 172 metres south and 67 metres east of the south-west corner of the Pentland Firth Yacht Club Clubhouse marked on the plan at a point ND 30999 96984 and extending 175 metres or thereabouts north to terminate at a point ND 30999 97001 by infilling, levelling and surfacing and all necessary spending slopes.

(2) The Trust may, within the limits of deviation, maintain, renew, reconstruct and alter temporarily or permanently the works.

Power to deviate

4. Subject to the provisions of this Order, in carrying out the works the Trust may deviate laterally from the lines or situations thereof as shown on the deposited plan to any extent not exceeding the limits of deviation shown on the said plan and may deviate vertically from the levels of the works as shown on the deposited sections to any extent not exceeding 1 metre upwards and to such extent downwards as may be found necessary or convenient.

Subsidiary works

5. Subject to the provisions of this Order, the Trust may within the limits of deviation from time to time erect, construct, maintain and operate, whether temporarily or permanently, all such subsidiary or incidental works and conveniences as may be necessary or expedient for the purposes of or in connection with the construction, maintenance and use of the works.

Power to dredge

6.—(1) Subject to the provisions of this Order the Trust may from time to time deepen, dredge, scour, cleanse, alter and improve the harbour for the purpose of affording uninterrupted means of access to the harbour or any part of it or the accommodation of vessels thereat.

(2) The Trust may use, appropriate or dispose of any material (other than a wreck within the meaning of Part IX of the Merchant Shipping Act 1995)(11) from time to time dredged by them from the harbour.

(3) Subject to the provisions of this Order no materials so dredged shall be laid down or deposited—

- (a) in contravention of the provisions of any enactment as respects the disposal of waste; or
- (b) in any place below the level of high water other than in such position and under such conditions and restrictions as may be approved or directed by the Scottish Ministers.

Obstructing works

7. Any person who intentionally obstructs any person acting under the authority of the Trust in setting out the lines of or in constructing the works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Works to be deemed part of harbour undertaking

8. The works shall be deemed for all purposes to be part of the harbour undertaking and all byelaws, rules and regulations of the Trust for the time being in force relating to the harbour undertaking shall apply to the works and may be enforced by the Trust accordingly.

Tidal works not to be executed without approval of Scottish Ministers

9.—(1) A tidal work shall not be demolished, constructed, renewed, reconstructed or altered 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.

(11) 1995 c. 21

(2) If a tidal work is demolished, constructed, renewed, reconstructed or altered 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 the Trust at its own expense to remove the tidal work or any part of it 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 Trust 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 to do so, they may themselves 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 the Trust as a debt.

Survey of tidal works

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

Provision against danger to navigation

11.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Trust shall forthwith 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 the Trust fails to comply in any respect with the provisions of this article, 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

12.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Scottish Ministers may by notice in writing require the Trust at its own expense either to repair and restore the work or any part of it, or to remove the work and restore the site to its former condition, to such an extent and within such limits as the Scottish Ministers think proper.

(2) Where a work authorised by this Order and 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 of it, 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 the Trust it has failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Trust as a debt.

(4) A notice or other document required to be served under this article may be served by first class post and that notice shall be deemed served the next day after the date of posting.

Lights on tidal works during construction

13.—(1) During the whole time of the demolition, construction, renewal, reconstruction or alteration of a tidal work the Trust shall at the outer extremity thereof every night from sunset to sunrise exhibit 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 the Trust 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 or, on conviction on indictment, to a fine.

Permanent lights on works

14.—(1) After the completion of a tidal work the Trust shall at the outer extremity thereof every night from sunset to sunrise exhibit 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 the Trust 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 or, on conviction on indictment, to a fine.

Period for completion of works

15. If the works are not completed within 10 years from the coming into force of this Order, the powers granted by this Order to the Trust for constructing the works shall cease except as to so much thereof as is then substantially commenced.

PART III

MISCELLANEOUS

Amendments to Act of 1841

16. The provisions of the Act of 1841 specified in the Schedule to this Order shall have effect subject to the amendments set out in that Schedule.

Annual General Meeting

17. The next Annual General Meeting of the Trustees shall take place on or before 30th November 2000.

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 and without prejudice to the generality of the foregoing nothing herein contained shall authorise the Trust or any licensee of the Trust to take, use, enter upon or in any manner interfere with any land or interest in land (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) or any rights of whatsoever description—

- (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 terms and conditions.

St. Andrew's House,
Edinburgh
21st February 2000

ROSS FINNIE
A member of the Scottish Executive

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SCHEDULE

Article 16

AMENDMENTS TO ACT OF 1841

1. For Section V (First and other Meetings of Trustees) of the Act of 1841 there shall be substituted—

“V. And be it enacted, That the said Trustees shall meet in the Court House or any other suitable Place in the Town of Thurso within Two Months after the passing of this Act, or as soon thereafter as conveniently may be, and proceed to the Execution of this Act, with Power to adjourn from Time to Time; and the said Trustees shall also hold an Annual General Meeting in the Year One thousand eight hundred and forty-two, and in every year thereafter at such time as the Management Committee (whom failing the Trustees) shall think fit, with Power to adjourn from Time to Time and the Clerk to the Trustees shall notify the Trustees of such Meetings by means of an advertisement in a paper circulating in Caithness not less than 42 days before the Annual General Meeting Provided that not more than fifteen months shall elapse between the date of the Annual General Meeting and that of the next and in all Cases Five of the said Trustees shall be a Quorum, and at their Meetings the Trustees present at such Meetings shall elect their Preses for the Time; and all Questions shall be decided by a Majority of the Trustees present at the respective Meetings; the Preses, in the case of an Equality of Votes, having a casting Vote besides his Vote as a Member of the Meeting.”

2. Section XI (Trustees to appoint officers. Books and Accounts to be kept.) shall have effect as if the words “or before the First day of May” were omitted and replaced by the words “within seven months of the end of the Accounting Reference Period of the Trust which Period shall run from the 1st April to the 31st March in each year unless the Management Committee (whom failing the Trustees) shall otherwise decide”.

3. Section XII (Accounts to be audited annually) shall have effect as if the words “First day of May” were omitted and replaced by the words “the end of the Accounting Reference Period of the Trust”.

4. Section XIII (Trustees to make out annually an Account of their Receipts and Expenditure, and transmit a Copy thereof to the Sheriff Clerk of the County.) shall have effect as if the words “on or before the Thirty-first Day of January in each Year” were omitted and replaced by the words “within twenty-eight days of the Auditor having reported the said Account to the Annual General Meeting”.

5. Section XIV (An Auditor to be appointed) shall have effect as if the words “Some Time during the Month of April in each and every Year thereafter” shall be omitted and replaced by the words “at the Annual General Meeting”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order empowers the Trustees of Scrabster Harbour Trust to build new quay wall structures over sides of the Inner Basin and to reclaim land to the south and south-south-west of the existing fishery harbour facility with dredged material (articles 3, 4, 5 and 6).

The Order also gives the Trust ancillary powers in relation to the works (articles 7 to 14).

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The Order amends certain provisions of the Act of 1841 (articles 16 and 17 and the schedule to the Order).