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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 298**

**The Peterhead Port Authority Harbour Revision Order 2015**

**PART 2**

**Works**

**Power to construct works**

**3.—(1)** Subject to the provisions of this Order, the Authority may in the lines and situations and upon the lands delineated on the deposited plans and within the limits of deviation shown on them and according to the levels shown on the deposited sections or elevations, construct and maintain in Aberdeenshire the following works, with all necessary works and conveniences connected with them—

Work No. 1 – A deepening by means of excavation, including blasting, to a depth of 6.5 metres below Chart Datum of that part of North Harbour shown hatched black on sheet 3 and the sections of which are shown on sheet 17.

Work No. 2 – A deepening by means of excavation, including blasting, to a depth of 8 metres below Chart Datum of that part of North Harbour shown hatched black on sheet 4 and the section of which is shown on sheet 17.

Work No. 3 – A deepening by means of excavation, including blasting, to a depth of 6.5 metres below Chart Datum of that part of South Harbour shown hatched black on sheet 5 and the sections of which are shown on sheet 17.

Work No. 4 – A deepening by means of excavation, including blasting, to a depth of 7.5 metres below Chart Datum of that part of the port adjacent to Merchant's Quay shown hatched black on sheet 6 and the section of which is shown on sheet 18. In connection with the carrying out of Work No. 4, the authority may strengthen such part of the quay wall of Merchant's Quay as is deemed necessary or expedient.

Work No. 5 – A deepening by means of excavation, including blasting, to a depth of 9 metres below Chart Datum of that part of the port adjacent to West Jetty shown hatched black on sheet 7 and the section of which is shown on sheet 17.

Work No. 6 – The strengthening and refacing of the quay walls of North Harbour, West Boom Jetty, and Ballast Quay Jetty within the port at the locations shown on sheet 8 and sections of which are shown on sheet 17.

Work No. 7 – Reclamation by infilling of an area comprising 35,000 square metres of Peterhead Bay adjoining Smith Embankment to form an area of hardstanding and having rock armoured revetted slopes on the seaward side, the location of which is shown on sheet 9 and the section of which is shown on sheet 18.

Work No. 8 – An extension of the West Jetty created by the excavation, including blasting, of the bed of the port on the western side at the landward end of the Jetty, the location of which is shown on sheet 10 and the section of which is shown on 17. Work No. 8 includes the construction of a return wall and a refacing of West Jetty on the western side at the landward end of the Jetty.

Work No. 9 – A Jetty comprising the partial demolition and reconstruction of the West Pier Jetty, commencing at a point on the quay wall at Merchant’s Quay at 413645,845827, extending into South Harbour for a distance of 23 metres and terminating at a point at 413667,845831 the location of which is shown on sheet 11 and the section of which are shown on sheet 17. In connection with the demolition of West Pier Jetty and the construction of Work No. 9 the authority may strengthen such part of the quay wall of Merchant’s Quay as is deemed necessary or expedient.

Work No. 10A – A single story building comprising a fish market and facilities associated with that market, the location of which is shown on sheet 12 and the plan and elevations of which are shown on sheet 14.

Work No. 10B – A two story building comprising offices and facilities associated with Work No. 10A, the location of which is shown on sheet 13 and the plans and elevations of which are shown on sheet 15.

Work No. 11 - A widening of the Junction Canal at North Harbour the location of which is shown on sheet 16 and the section of which is shown on sheet 17. In constructing Work No. 11, the Authority may demolish and remove the Queenie Bridge. In connection with the widening of the Junction Canal the Authority may blast any rock within the limits of deviation.

(2) Subject to the provisions of this Order, the Authority may, for the purposes of the works authorised by paragraph (1), demolish and remove any structures or apparatus lying within the limits of deviation and enclose and reclaim so much of the bed of the port and of the foreshore as lies within the limits of deviation and may hold and use the same as part of the undertaking of the Authority; and so much of the bed of the port and of the foreshore as may be reclaimed shall be deemed to be operational land within the meaning of section 215 of the Town and Country Planning (Scotland) Act 1997(1).

(3) Without affecting the general power conferred under paragraph (2), the Authority may in connection with the construction of the works on any land owned by it, demolish and remove so much of—

- (a) the former Greenhill Fish Market Building and Alexandra House, the location of which is indicated on sheet 12;
- (b) the Marine Co. building, the location of which is indicated on sheet 12; and
- (c) the Merchant’s Quay Fish Market building and associated offices, the location of which is indicated on sheet 6.

(4) In connection with the construction of Works Nos. 10A and 10B the Authority may—

- (a) reconstruct so much of the Greenhill Fish Market building, the location of which is indicated on sheet 12, as is considered necessary or expedient; and
- (b) remove the stone ‘lighthouse’ structure and relocate and reconstruct it on land bounded by Alexandra Parade, Roanheads and the North Sea at grid reference 413626,846555.

(5) Subject to the provisions of this Order, the Authority may, within the limits of deviation, reconstruct, extend, enlarge, replace or relay the works authorised by paragraph (1) and may maintain the same as reconstructed, extended, enlarged, replaced or relaid.

(6) For the purposes of facilitating the construction of the works authorised under this article, the Authority may enter into arrangements with persons who may be affected by the construction of the works including financial arrangements.

### **Power to deviate**

4.—(1) Subject to the provisions of this Order, in carrying out the works authorised by article 3 (power to construct works) the Authority may deviate laterally from the lines or situations of those works as shown on the deposited plans to any extent not exceeding the limits of deviation and may, except in the case of the works mentioned in paragraphs (2) and (3), deviate vertically from the levels of the works as shown on the deposited sections or elevations to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

(2) In carrying out Works Nos. 1 to 5, the Authority may deviate vertically from the levels of the works as shown on the deposited sections to any extent not exceeding 3 metres upwards and 0.75 metres downwards.

(3) In carrying out Work No. 7, the Authority may deviate from the level of the work as shown on the deposited sections to any extent not exceeding 3 metres upwards and 0.3 metres downwards.

### **Subsidiary works**

5.—(1) The Authority may from time to time within the limits of deviation provide and operate such dock facilities, together with works ancillary to those facilities, as may be necessary or convenient for the construction of the works or the operation of the undertaking, and for this purpose the Authority may construct and maintain roads, buildings, sheds, offices, workshops, depots, walls, foundations, fences, gates, tanks, pumps, conduits, pipes, drains, wires, mains, cables, electrical substations, signals, conveyors, cranes, lifts, hoists, lighting columns, weighbridges, stairs, ladders, stages, platforms, dolphins, mooring posts, pontoons, catwalks, equipment, signage, machinery and appliances and such other works and conveniences (including levelling of surfaces) as may be necessary or expedient.

(2) Without prejudice to paragraph (1), the Authority may within the limits of deviation carry out and maintain such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance or use of the works including—

- (a) works for the accommodation or convenience of vessels or for the loading and unloading of goods and the embarking and loading of passengers; and
- (b) works to alter the position of apparatus, including mains, sewers, drains, pipes, conduits, cables, electrical substations, electrical lines and telecommunications apparatus.

### **Power to dredge**

6.—(1) Without affecting any other powers which may be exercisable by the Authority within the port the Authority may, for the purposes of constructing and maintaining the works and of affording access to the works by vessels from time to time deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels within the limits of the port as lie within North Harbour, South Harbour and the approaches to South Harbour and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995<sup>(2)</sup>), from time to time dredged by them.

(2) No such materials 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 otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Scottish Ministers.

(3) The Authority may not carry out any activities under this article by means of blasting or drilling but this shall not apply to activities carried out for the purposes of constructing the works.

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(2) 1995 c.21; see section 255(1).

### **Construction Environmental Management Plan**

7.—(1) The works shall not be commenced until a Construction Environmental Management Plan has been submitted to and, following consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency, approved by the Scottish Ministers.

(2) The Authority shall secure that the works are carried out in accordance with the Construction Environmental Management Plan approved by the Scottish Ministers under paragraph (1).

### **Marine Mammal Mitigation Plan**

8.—(1) The works shall not be commenced until a Marine Mammal Mitigation Plan has been submitted to and, following consultation with Scottish Natural Heritage, approved by the Scottish Ministers.

(2) The Authority shall secure that the works are carried out in accordance with the Marine Mammal Mitigation Plan approved by the Scottish Ministers under paragraph (1).

### **Obstruction of works**

9. Any person who intentionally obstructs any person acting under the authority of the Authority in setting out the lines of or in constructing the works, or who interferes with, 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 undertaking**

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

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

11.—(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.

(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 Authority at their own expense to remove the tidal work or any part of it and restore the site of the tidal work to its former condition; and if on the expiration of 30 days from the date when the notice is served upon the Authority they have 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—
  - (i) they may themselves remove the tidal work or part of it and restore the site to its former condition; and
  - (ii) any expenditure incurred by the Scottish Ministers in so doing shall be recoverable from the Authority as a debt.

### **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 a site upon which it is proposed to construct the work and any expense incurred by them in such a survey and examination shall be recoverable from the Authority as a debt.

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

13.—(1) In the case of injury to or destruction or decay of a tidal work or any part thereof, the Authority shall as soon as 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 the Authority fail to comply in any respect with the provisions of this article, they 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.

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

14.—(1) Where a tidal work is abandoned or suffered to fall into decay the Scottish Ministers may by notice in writing require the Authority at their own expense either to repair and restore the work or any part of it, 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 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 Authority they have 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 Authority as a debt.

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

15.—(1) During the whole time of the demolition, construction, renewal, reconstruction or alteration of a tidal work the Authority 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 Authority fail to comply in any respect with a direction given under this article they 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.

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

16.—(1) After completion of a tidal work the Authority 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 Authority fail to comply in any respect with a direction given under this article they 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.

### **Period for completion of works**

17.—(1) Subject to paragraph (2), if the works are not completed within ten years from the coming into force of this Order or such extended time as the Scottish Ministers may on the application of the Authority allow, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to the Authority for making and maintaining the works shall cease except as to so much of those works as is then substantially commenced.

(2) Nothing in paragraph (1) shall apply to any works carried out under paragraph (5) of article 3 (power to construct works) or article 5 (subsidiary works).

### **Works to be within area of Aberdeenshire Council**

18. The works shall, to the extent that they lie outwith the area of the Aberdeenshire Council, be annexed to and incorporated within that area.