

**2015 No. 298**

**HARBOURS, DOCKS, PIERS AND FERRIES**

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

*Made* - - - - *4th August 2015*

*Coming into force* - - *5th August 2015*

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## SCHEDULE — ROADS AND FOOTPATH PLANS

The Scottish Ministers (“the Ministers”) make the following Order in exercise of the powers conferred by section 14(1) and (3) of the Harbours Act 1964(a) and all other powers enabling them to do so.

In accordance with section 14(1) of that Act, this Order is made in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, for achieving objects specified in Schedule 2 to that Act(b).

In accordance with section 14(2) of that Act—

- (a) this Order is made following a written application to the Ministers by Peterhead Port Authority (“the applicant”) being the authority engaged in improving, maintaining or managing the harbour; and
- (b) the Ministers are satisfied that the making of this Order is desirable in the interests of securing the improvement, maintenance, or management of the harbour in an efficient and economical manner.

In accordance with paragraph 4 of Schedule 3 to that Act(c), the Ministers have decided that the application relates to a project which falls within Annex II to Council Directive 85/337/EEC(d), as relevantly amended by Council Directive 97/11/EC(e) and Council Directive 2003/35/EC(f), on the assessment of the effects of certain public and private projects on the environment and, taking into account the criteria set out in Annex III to that Directive, that the project is a relevant project.

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- (a) 1964 c.40; section 14 was relevantly amended by the Transport Act 1981 (c.56), Schedule 6, paragraphs 2, 3, 4(1) and 14 and Schedule 12 and the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 1. See sections 14(7) and 57(1) of the Harbours Act 1964 for the definitions of “the appropriate Minister” and “the Minister”. The functions of the Minister of the Crown were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
  - (b) Schedule 2 was relevantly amended by the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 9.
  - (c) Paragraph 4 of Schedule 3 was substituted by S.I. 1999/3445.
  - (d) O.J. L 175, 5.7.1985, p.40.
  - (e) O.J. L 73, 14.3.1997, p.5.
  - (f) O.J. L 156, 25.6.2003, p.17.

In accordance with paragraph 6 of that Schedule(a), the Ministers have—

- (a) informed the applicant of that decision, and the reasons for it; and
- (b) given an opinion to the applicant about the extent of the information referred to in Annex IV to that Directive which the applicant would be required to supply in the environmental statement and—
  - (i) in giving that opinion the Ministers have taken into account the matters in sub-paragraph (3) of that paragraph; and
  - (ii) before giving that opinion the Ministers have consulted the applicant and such bodies with environmental responsibilities as the Ministers thought appropriate.

In accordance with paragraph 8 of that Schedule(b), the Ministers have directed the applicant to supply them with an environmental statement and, as required by paragraph 9 of that Schedule(c), the applicant has complied with that direction.

Notices have been published by the applicant in accordance with the requirements of paragraphs 10 and 10A of that Schedule(d).

In accordance with paragraph 15 of that Schedule(e), the Ministers have—

- (a) consulted; and
- (b) sent the environmental statement to,

such bodies who were likely to have an interest in the project by reason of their environmental responsibilities as the Ministers thought appropriate.

The provisions of paragraph 17 of that Schedule(f) have been satisfied. All objections to the application have been withdrawn or paragraph 18(1A) of that Schedule(g) applied in respect of those objections.

In accordance with paragraph 19(1) of that Schedule(h), the Ministers have considered—

- (a) the environmental statement;
- (b) the result of the consultations under paragraph 15 of that Schedule;
- (c) any objections made and not withdrawn;
- (d) any representations made under paragraph 10(2)(f), of that Schedule; and
- (e) any written representations submitted to the Ministers by the applicant or any objector in elaboration of the application or, as the case may be, objection.

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- (a) Paragraph 6 of Schedule 3 was substituted by S.I. 1999/3445.
  - (b) Paragraph 8 of Schedule 3 was substituted by S.I. 1999/3445.
  - (c) Paragraph 9 of Schedule 3 was substituted by S.I. 1999/3445.
  - (d) Paragraph 10 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(b) and (c). Paragraph 10A of Schedule 3 was inserted by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(d).
  - (e) Paragraph 15 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(e).
  - (f) Paragraph 17 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(g).
  - (g) Paragraph 18 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport (Scotland) Act 2005 (asp 12), section 46 and the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(h).
  - (h) Paragraph 19(1) of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport (Scotland) Act 2005 (asp 12), section 46 and the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(i).

In accordance with paragraph 19(2) of that Schedule(a), the Ministers have decided to make this Order with modifications which do not appear to them substantially to affect the character of the Order.

## PART 1

### Preliminary

#### Citation and commencement

1.—(1) This Order may be cited as the Peterhead Port Authority Harbour Revision Order 2015 and shall come into force on the day after the day on which it is made.

(2) The Peterhead Port Authority Orders 1983 to 2005, the Peterhead Port Authority Harbour Revision Order 2008(b) and this Order may be cited together as the Peterhead Port Authority Orders 1983 to 2015.

#### Interpretation

2.—(1) In this Order, except where the context otherwise requires—

“the Authority” means Peterhead Port Authority;

“deposited plans, sections and elevations” means the plans, sections and elevations which are bound together and signed in duplicate with reference to this Order and marked “The Peterhead Port Authority Harbour Revision Order 2015 Plans, Sections and Elevations” and which are deposited at the offices of the Scottish Ministers at Victoria Quay, Edinburgh EH6 6QQ and at the offices of the Authority, Harbour Office, West Pier, Peterhead, Aberdeenshire AB42 1DW and a reference to a numbered sheet is a reference to that numbered sheet bound in the deposited plans, sections and elevations;

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

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

“Plan A” means the annexed plan headed Plan A in the Schedule to this Order;

“Plan B” means the annexed plan headed Plan B in the Schedule to this Order;

“port” means the Port of Peterhead;

“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;

“undertaking” means the port undertaking for the time being of the Authority; and

“works” means the works authorised by this Order, or as the case may require, any part thereof and includes any work constructed pursuant to article 3 (power to construct works) or article 5 (subsidiary works).

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

(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 that number authorised by this Order.

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(a) Paragraph 19(2) of Schedule 3 was substituted by S.I. 1999/3445.

(b) S.S.I. 2008/331.

## 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(a).

(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.

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(a) 1997 c.8.

## **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>(a)</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.

## **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).

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(a) 1995 c.21; see section 255(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.

## **PART 3**

### **Temporary closure of parts of harbour**

#### **Temporary closure of area of works**

**19.**—(1) For the purpose of carrying out the works the Authority may irrespective of anything in any enactment temporarily close the area of works to vessels at such places within the port as the Authority shall think appropriate.

(2) The area of works shall only be closed to vessels for such period as is reasonably required for the purposes specified in paragraph (1) of this article.

#### **Removal of vessels from area of works**

**20.**—(1) Before exercising the power conferred on them by article 19 (temporary closure of area of works) to close the area of works temporarily to vessels, the Authority shall display a notice of the intention to close part of the port temporarily in a visible position in the port.

(2) Any such notice shall state that the Authority intend to close the area of works temporarily to vessels and specify the date and time, which shall be a date and time not earlier than 24 hours after the time the notice is displayed, by which all vessels must be removed from the area of works.

(3) If the master of any vessel within the area of works does not remove the vessel before the date and time specified in a notice under this article, the harbour master may cause that vessel to be removed from the area of works and moored or laid in any other place where it may without injury be moored or laid and any expenditure incurred by the Authority in removing that vessel shall be recoverable from the master of that vessel.

(4) The powers conferred on the harbour master and the Authority by this article are in addition, and without prejudice, to the powers relating to the removal of vessels conferred upon them by sections 64 and 65 of the Harbours, Docks and Piers Clauses Act 1847(a).

#### **Vessels entering the area of works after date of closure**

**21.** If any vessel enters the area of works after the date specified in a notice under article 20 (removal of vessels from area of works) during the period of temporary closure the harbour master may direct the master of the vessel immediately to remove the vessel from the area of works, and if the master of that vessel does not immediately comply with such directions, the provisions of paragraphs (3) and (4) of article 20 shall apply to and in respect of that vessel as if the vessel had been within the area of works before the date specified in the notice.

## **PART 4**

### **Temporary stopping up of roads and footpath**

#### **Temporary stopping up of roads and Bay Footpath**

**22.**—(1) The Authority may in the construction of the works temporarily stop up or otherwise interfere with so much of—

- (a) Bridge Street as lies between the points marked T6 and T7; and
- (b) Castle Street as lies between the points marked T8 and T9;
- (c) shown on plan A.

(2) The Authority may during the construction of the works temporarily stop up so much of Bay Footpath as lies between the points T1 and T2 shown on plan B and shall provide a reasonable temporary substitute in the position shown between the points marked T1, T3, T4, T5 and T2 on plan B throughout the period of such temporary stopping up.

(3) In this article “Bay Footpath” means the path along Smith Embankment in Peterhead Bay, Aberdeenshire.

#### **Permanent stopping up of roads**

**23.**—(1) In connection with the construction of the works, the Authority may permanently stop up and discontinue so much of Alexandra Parade as lies between the points marked P1 and P2

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(a) 1847 c.27.

shown on plan A and shall provide a substitute in the position shown on the annexed plan between the points marked P1, P3 and P2 on plan A.

(2) In connection with the construction of the works, the Authority may permanently stop up and discontinue so much of Port Henry Pier as lies between the points marked P4 and P5 on plan A.

(3) Upon the permanent stopping up of that part of the roads referred to in paragraphs (1) and (2) all rights of way, if any, over or along that part of the roads stopped up shall be extinguished and the Authority may appropriate and use the site and soil thereof so far as it is the owner of the same.

## PART 5

### Miscellaneous

#### **Defence of due diligence**

**24.**—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2) it shall be a defence for the Authority to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) The provisions referred to in paragraph (1) are—

article 13 (provision against danger to navigation);

article 15 (lights on tidal works during construction); and

article 16 (permanent lights on tidal works).

(3) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the Authority shall not, without leave of the court, be entitled to rely on that defence unless, within a period of 7 clear days before the hearing, they have served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in their possession.

#### **Saving for Commissioners of Northern Lighthouses**

**25.** Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of the Commissioners of Northern Lighthouses.

#### **Crown rights**

**26.**—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to that generality, nothing in this Order authorises the Authority or any licensee to take, use, enter upon or in any manner interfere with any land or any rights of whatsoever description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;

(b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or

(c) 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) may be given unconditionally or subject to terms and conditions; and shall be deemed to have been given in writing where it is sent electronically.

(3) In this article, “government department” includes any part of, or any member of the staff of, the Scottish Administration (which shall have the same meaning as in section 126(6) of the Scotland Act 1998<sup>(a)</sup>).

St Andrew’s House,  
Edinburgh  
4th August 2015

*JOHN NICHOLLS*  
A member of the staff of the Scottish Ministers

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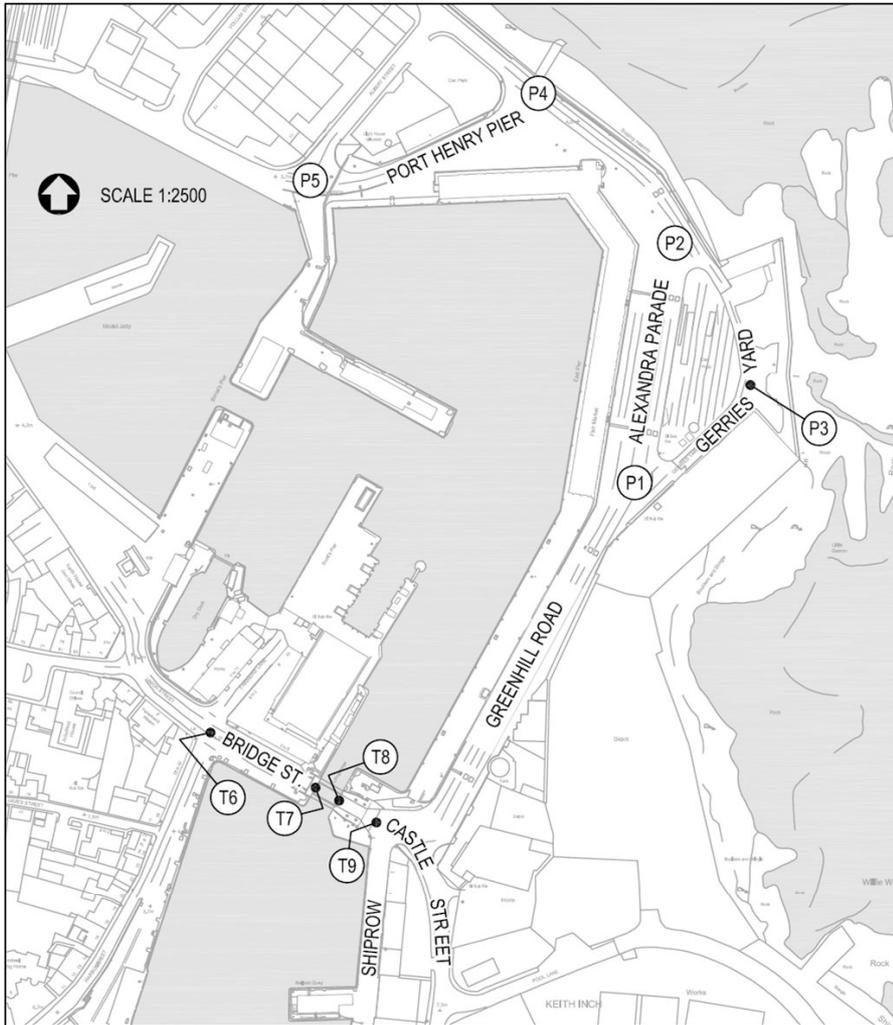
(a) 1998 c.46.

# SCHEDULE

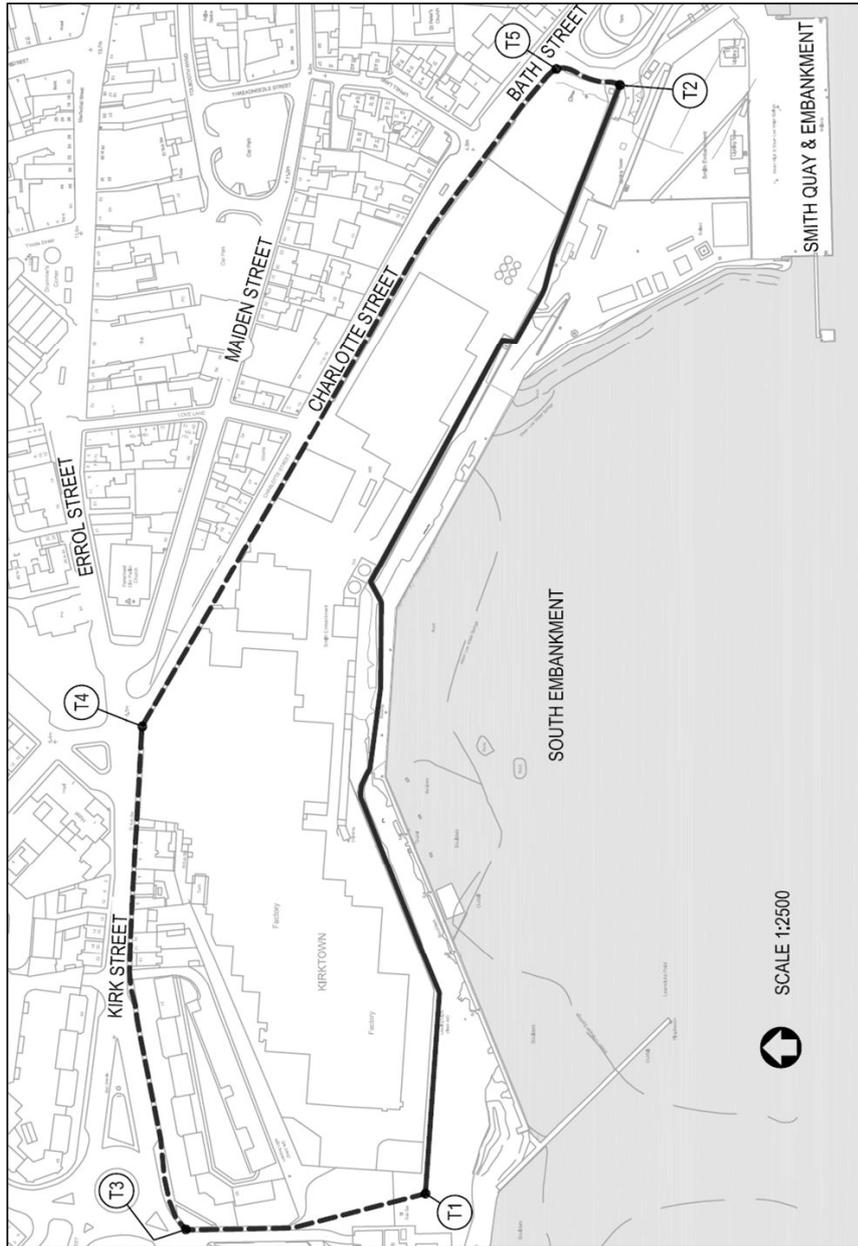
Articles 2, 22 and 23

## ROADS AND FOOTPATH PLANS

### PLAN A ROADS PLAN



PLAN B  
FOOTPATH PLAN



## **EXPLANATORY NOTE**

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

This Order empowers Peterhead Port Authority (“the Authority”) to construct and maintain works and other port facilities at the Port of Peterhead, Aberdeenshire. The works will consist of the deepening of the North and South Harbours and associated strengthening of the quay walls as well as works for the reclamation of land at Smith Embankment, an extension of the West Jetty and the demolition and reconstruction of a smaller West Pier Jetty.

In addition, the Order authorises the construction of a new fish market at the site of the former Greenhill Fish Market and the demolition and levelling of the site of the existing fish market at Merchant’s Quay. The Order also authorises a widening of the Junction Canal with associated demolition and removal of Queenie Bridge as well as the demolition of certain other buildings and the removal and relocation of the stone lighthouse structure required in consequence of the construction of the works.

The Order also authorises the construction of subsidiary works and confers a power to dredge for the purposes of constructing and maintaining the works.

For the purposes of carrying out the works, the Order authorises the Authority to temporarily close the area of works to vessels.

In connection with the works, the Order authorises the temporary stopping up of Bridge Street and part of Castle Street, the temporary stopping up and diversion of part of the Bay Footpath at Smith Embankment, the permanent stopping up of part of Port Henry Pier and the permanent stopping up and diversion of part of Alexandra Parade.

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