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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 414**

**The Aberdeen Harbour Revision Order 2016**

**PART 2**

**WORKS**

**Power to construct works**

**3.—(1)** The Board may, in the lines and situations and upon the lands delineated on the deposited plans and within the limits of deviation shown on them, construct and maintain in the City of Aberdeen the following works, along with all necessary works and conveniences connected with them—

Work No. 1 – Deepening by means of excavation, including drilling and blasting, to a depth of 10.5 metres below Chart Datum, including side slopes of that part of the seabed shown coloured green on sheet 1.

Work No. 2 – Deepening by means of excavation, including drilling and blasting, to a depth of 9 metres below Chart Datum, including side slopes of that part of the seabed shown coloured orange on sheet 1.

Work No. 3 – Deepening by means of excavation, including drilling and blasting, to a depth of 10.5 metres below Chart Datum, including side slopes of that part of the seabed shown coloured blue on sheet 1.

Work No. 4 – Construction of a breakwater, including dredging, from the north shore of Nigg Bay, as shown coloured blue on sheet 2.

Work No. 5 – Construction of a breakwater, including dredging, from the south shore of Nigg Bay, as shown coloured green on sheet 2.

Work No. 6 – Construction of west, north and east quays and a southeast pier, including quay walls and pier walls respectively and associated structures, as shown coloured green on sheet 3.

Work No. 7 – Excavation, reclamation, infilling and surfacing of an area of land behind the quays forming Work No. 6 to form hardstanding for port operations, marshalling of cargo, parking, port entrance and exit and ancillary uses, as shown coloured yellow on sheet 3.

Work No. 8 – Construction/erection of (i) protective fencing and gates shown coloured blue on sheet 4 and (ii) service trenches, lighting, welfare accommodation, vehicle weighbridges, CCTV facilities and signage within the area shown coloured green on sheet 4.

Work No. 9 – Construction of a harbour car park, security gatehouse and security installations within the area shown coloured orange on sheet 5.

Work No. 10 – Construction of water storage tanks, a fuel depot, bulk commodity storage tanks and electricity substations within the area shown coloured blue on sheet 6.

Work No. 11 – Construction of berthing jetties as shown coloured green on sheet 7.

Work No. 12 – Erection of breakwater lights, leading lights and sector lights and erection of dredged channel navigational aids in accordance with the requirements of the Commissioners of Northern Lighthouses.

(2) The respective deck levels of the breakwaters, quays, pier and jetties forming works 4, 5, 6 and 11 shall be as follows: breakwaters at levels between 10.4 and 12.9 metres above Chart Datum and quays, pier and jetties at a level of 6.7 metres above Chart Datum.

(3) The respective heights of the buildings and structures forming works 8, 9 and 10 shall be as follows: fencing and gates 3 metres, lighting units 25 metres, welfare accommodation 5 metres, CCTV facilities 6 metres, security gatehouse 4 metres, tanks and fuel depot 15 metres and other items 5 metres.

(4) The Board 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 seabed of the harbour and of the foreshore as lies within the limits of deviation and may hold and use the same as part of the harbour undertaking and so much of the seabed of the harbour 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<sup>(1)</sup>.

(5) The Board may, within the limits of deviation, alter, reconstruct, extend, enlarge, replace or relay, temporarily or permanently, the works and may maintain and use the same as altered, reconstructed, extended, enlarged, replaced or relaid.

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

(7) The Board may authorise any person or persons to carry out the works.

#### **Power to deviate**

4. In carrying out the works authorised by article 3 (power to construct works)—

- (a) the Board may deviate laterally from the lines or situations of those works as shown on sheets 1 to 7 to any extent not exceeding the limits of deviation;
- (b) the Board may deviate vertically from the levels and heights set out in of article 3(2) and (3) to any extent not exceeding ten metres upwards and to such extent downwards as may be necessary or convenient; and
- (c) the Board may deviate vertically in a downwards direction from the levels stipulated in the descriptions of Works Nos. 1, 2 and 3 in article 3(1) in order to facilitate construction but by no more than 5.5 metres.

#### **Subsidiary works**

5. The Board 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 and electrical lines.

#### **Obstruction of works**

6. Any person who intentionally obstructs any person acting under the authority of the Board in setting out the lines of or in constructing the works, or who interferes with, moves or removes any

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(1) 1997 c.8.

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 the harbour undertaking**

7. The works shall be deemed for all purposes to be part of the harbour undertaking and the Aberdeen Harbour Orders 1960 to 2002 together with all byelaws, directions, rules and regulations of the Board for the time being in force relating to the harbour undertaking shall apply to the works and may be enforced by the Board accordingly.

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

8.—(1) A tidal work shall not be demolished, constructed, renewed, reconstructed or altered except in accordance with plans and sections approved by the Ministers and subject to any conditions and restrictions imposed by the 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 Ministers may by notice in writing require the Board at their own expense to remove, alter or reconstruct the tidal work, or any part of it, or otherwise restore the site of the tidal work to its former condition; and if on the expiry of one month beginning with the date the notice was served upon the Board they have failed to comply with the requirements of the notice, the Ministers may execute the works specified in the notice; or
- (b) if it appears to the Ministers urgently necessary to do so, they may themselves remove, alter or reconstruct the tidal work, or any part of it, or otherwise restore the site to its former condition.

(3) Any expenditure incurred by the Ministers under paragraph (2) shall be recoverable from the Board.

### **Survey of tidal works**

9. The Ministers may at any time if they deem it necessary or expedient order a survey and examination of a tidal work or a site upon which it is proposed to construct such a work and any expense incurred by them in such a survey and examination shall be recoverable from the Board.

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

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

11.—(1) Where a tidal work is abandoned or falls into decay the Ministers may by notice in writing require the Board at the Board's own expense to repair and restore the work, or any part of it, or to remove the work and restore the site of the work to its former condition, to such an extent and within such limits as the Ministers think appropriate.

(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 allowed 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 Ministers may include that part of the work, or any portion of it, in any notice under this article.

(3) If, on the expiry of one month from the date when a notice under this article is served upon the Board, they have failed to comply with the requirements of the notice, the Ministers may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Board.

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

**12.—**(1) During the whole time of the demolition, construction, renewal, reconstruction or alteration of a tidal work the Board 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 Board fails to comply in any respect with a direction given under this article the Board 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**

**13.—**(1) After completion of a tidal work the Board 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 Board fails to comply in any respect with a direction given under this article the Board 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**

**14.—**(1) If the works are not completed within ten years from the coming into force of this Order or within such extended period as the Ministers may on the application of the Board allow by consent in writing, the powers granted to the Board under this Order for making and maintaining the works shall cease to have effect, unless the works have been substantially commenced.

(2) As soon as reasonably practicable after any consent is given under paragraph (1), the Board shall arrange for a notice to be published in the Edinburgh Gazette and in a local newspaper circulating in the area where the harbour is situated and the notice shall contain a summary of the effect of that consent.

(3) During the period of one month beginning with the date on which any notice is published in a local newspaper under paragraph (2), the Board shall keep a copy of the consent referred to in that notice open to public inspection at their principal office at all reasonable hours, without payment.

(4) The works shall be deemed to have been substantially commenced for the purposes of paragraph (1) where so much of Work No. 4 has been constructed as will enable other works to be constructed, maintained and managed together with that part of Work No. 4 as a harbour for the efficient and economic transport of goods or passengers by sea.

(5) Paragraph (1) does not apply to any works carried out under article 3(5) or article 5.