
STATUTORY INSTRUMENTS

1991 No. 2513

HARBOURS, DOCKS, PIERS AND FERRIES

The Collieston Harbour Revision Order 1991

Made - - - - 17th June 1991

Laid before Parliament 5th July 1991

Coming into force - - 5th November 1991

The Secretary of State for Transport (being the appropriate Minister under section 14(7) of the Harbours Act 1964⁽¹⁾ for the purposes of making this Order) in exercise of the powers conferred by section 14 of that Act and now vested in him⁽²⁾ and of all other powers enabling him in that behalf, and on the application of the Collieston Amenities Committee being a body representative of persons having a substantial interest in Collieston harbour, hereby makes the following order:

Citation and commencement

1. –

(1) This Order may be cited as the Collieston Harbour Revision Order 1991 and this Order and the Collieston Harbour Act 1894⁽³⁾ may be cited together as the Collieston Harbour Act and Order 1894 to 1991.

(2) This Order shall come into force on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965⁽⁴⁾.

Interpretation

2. In this Order unless the context otherwise requires:–

“the Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847⁽⁵⁾;

“the Act of 1964” means the Harbours Act 1964;

“Chairman” and “Secretary” mean, respectively up until the new constitution date, the Chairman and Secretary of the Collieston Amenities Committee and on that day and thereafter of the Collieston Harbour Trustees;

(1) 1964 c. 40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c. 56) Section 18 and Schedule 6 paragraphs 2 to 4, and 12.

(2) See section 57(1) of the Harbours Act 1964 and S.I.1981/238.

(3) Confirmed by 1894 c. cxi (57 and 58 Vict.).

(4) 1945 c. 18; 1965 c. 43.

(5) 1847 c. 27.

“Collieston harbour electoral area” means the area shown edged in red on the map prepared in duplicate, signed by an Assistant Secretary in the Department of Transport and marked “Collieston harbour electoral area” one of which is deposited at the offices of the Department of Transport and one at the offices of the Gordon District Council, Ellon;

“district council” means the Gordon District Council;

“the Harbour” means Collieston harbour as defined in article 13(1);

“harbour limits map” means the map prepared in duplicate, signed by an Assistant Secretary in the Department of Transport and marked “Collieston Harbour—Limits of Harbour” deposited at the offices of the Department of Transport and the offices of the Gordon District Council in Ellon, being a map of the harbour limits;

“the new constitution date” means the first day after expiry of six weeks from the date of the coming into force of this Order;

“Order of 1894” means the Collieston Harbour Act 1894;

“Regional Council” means the Grampian Regional Council;

“register of electors” means the register of electors for the parish of Slains for the time being last published by the Electoral Registration Officer for the Grampian Region;

“Trustees” means the Collieston Harbour Trustees as qualified, appointed or elected as provided for in this Order.

New constitution

3. –

(1) For the purpose of carrying this Order into execution and to be the harbour authority for the Harbour from the new constitution date there shall be a body of Trustees to be qualified, nominated and elected as in this Order provided, and the Trustees and their successors are hereby for the purposes of this order incorporated by the name of the Collieston Harbour Trustees and by that name shall be a body corporate, with perpetual succession.

(2) Subject to the provisions of this Order on and after the new constitution date there shall be seven Trustees of whom four shall be Trustees ex-officio and the other three shall be elected, as herein provided. The Trustees ex-officio shall be (i) the proprietor for the time being of the estate of Slains or his successors; (ii) the present minister of the parish of Slains or his successors in the incumbency of the said parish; and (iii) the regional councillor and the district councillor for the electoral division of Formartine.

Election of trustees

4. The Secretary shall as soon as may be after the coming into force of this Order make arrangements for the nominating of candidates to be elected as Trustees by displaying a public notice, within the Collieston harbour electoral area containing the following information:

- (1) that nominations for 3 Trustees to be elected are required to be lodged with the Secretary;
- (2) that the Trustees to be nominated must reside in the Collieston harbour electoral area and their names must appear on the register of electors for the parish of Slains;
- (3) the closing date for nominations which shall be no sooner than 14 days after the public notice is displayed;
- (4) that nominations must be made and signed by at least 2 people residing in the Collieston harbour electoral area and whose names appear on the register of electors for the parish of Slains.

5. –

(1) If three or less candidates are duly nominated they shall be appointed with effect from the new constitution date without the need for an election.

(2) In the event of an insufficient number of nominations, the appointment(s) shall be filled by the Trustees by appointing a person(s) who resides in the Collieston harbour electoral area and whose name(s) appear in the register of electors for the parish of Slains and consents to be appointed.

(3) Where more than 3 nominations are made an election shall take place in accordance with the provisions of Schedule 1 to this Order.

6. The three elected Trustees shall remain in office for a period of 5 years and shall be eligible for re-appointment.

7. At least 6 weeks before the elected Trustees' period of appointment ends the Secretary shall cause a public notice to be displayed seeking nominations for the 3 elected Trustees and the provisions set out in articles 4 to 6 and Schedule 1 to this Order shall apply.

8. If a casual vacancy occurs among the elected Trustees the vacancy shall be filled by the Trustees as soon as practicable and such replacement Trustee shall reside in the Collieston harbour electoral area and his name shall appear in the register of electors for the parish of Slains and shall remain in office for the remainder of the term of office of the Trustee being replaced. The method to be used for the selection of candidates to fill a casual vacancy shall be at the discretion of the Trustees.

9. The Trustees may act notwithstanding a vacancy in the membership and no act of the Trustees shall be invalidated by reason of any irregularity in the qualification or election of any Trustee.

10. A Trustee may resign his office at any time by notice in writing given to the Secretary of the Trustees.

Management and meetings

11. The first meeting of the Trustees after the new constitution date shall be convened by the Secretary as soon as possible after that date and the Secretary shall send such notice of the meeting by post to each of the Trustees. Subsequent meetings of the Trustees shall be at the discretion of the Trustees and the procedure and business of the Trustees shall be regulated in such a manner as the Trustees may from time to time determine.

General powers of the Trustees

12. The Trustees may, subject to the provisions of this Order, take all such steps from time to time as they consider necessary or desirable for the maintenance, operation and improvement of the Harbour and for those purposes and without the prejudice to the generality of the foregoing the Trustees may:—

- (1) improve, regulate and manage the Harbour and provide harbour facilities therein, and
- (2) do all other things which in their opinion are expedient to expedite the efficient functioning, improvement or development of the Harbour.

Limits of the harbour

13. —

(1) The limits of the Harbour for the purposes of this Order, and within which the Trustees shall have authority, shall comprise the harbour, basin and piers and the whole of the area below high water mark as described in Schedule 2 to this Order.

(2) In the event of any discrepancy between the limits described in Schedule 2 and the limits shown on the harbour limits map, the limits as shown in the harbour limits map shall be deemed to be correct and shall prevail.

General byelaws

14. –

(1) In addition to the byelaws which may be made by the Trustees under section 83 of the Act of 1847 the Trustees may, from time to time, make such byelaws as they think fit with reference to all or any of the following:–

- (a) regulating the navigation, berthing and mooring of vessels and their speed and manner of navigation within the Harbour;
- (b) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the Harbour;
- (c) regulating the conduct of all persons within the Harbour not being members of a police force or officers or servants of the Crown whilst in exercise of their duties;
- (d) regulating the placing and maintenance of moorings within the Harbour;
- (e) preventing and removing obstructions or impediments within the Harbour;
- (f) prohibiting or regulating the discharge of ballast, ashes, refuse, rubbish and other materials in the Harbour;
- (g) regulating the use within the Harbour of yachts, sailing boats, sailboards, rowing boats, pleasure craft, and other small craft;
- (h) regulating or prohibiting the activities within the Harbour of divers, surfers, water skiers, jet skiers and other persons engaged in similar recreational pursuits but not so as to prohibit the use for navigation of the vessels referred to in paragraph (g) above;
 - (i) regulating the launching of vessels within the Harbour;
- (j) regulating or prohibiting the use of fire and lights within the Harbour and within any vessel within the Harbour;
- (k) regulating the movement, speed and parking of vehicles within the Harbour;
- (l) regulating the control of domestic animals within the Harbour.

(2) Byelaws made under this article may:–

- (a) provide for imposing upon persons offending against them, or against any condition, requirement or direction imposed, made or given thereunder, fines not exceeding level 3 on the standard scale;
- (b) relate to the whole of the Harbour or any part thereof;
- (c) make different provisions for different parts of the Harbour, or in relation to different classes of vessels.

Confirmation of byelaws

15. –

(1) The provisions of sub-sections (4), (5), (6), (7), (8), (10) and (12) of section 202 and section 203 of the Local Government (Scotland) Act 1973⁽⁶⁾ shall apply to any byelaws made by the Trustees under the Act of 1847 or this Order as if the Trustees were a local authority and in the

(6) 1973 c. 65.

application of the provisions of the said Act of 1973 the Secretary of State shall be the confirming authority.

(2) Where the Secretary of State proposes to exercise the power of modification conferred on him under sub-section (10) of section 202 of the said Act of 1973 and it appears to him that any modification which he proposes to make is substantial, he shall inform the Trustees and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Trustees and by other persons who have been informed of it.

Power to make charges

16. –

(1) Subject to paragraph (2) below, the Trustees may make such reasonable charges as they think fit for services and facilities provided by them.

(2) Paragraph (1) above does not authorise the levying of ship, passenger or goods dues within the meaning of the Act of 1964.

(3) Nothing in this section shall affect any power of the Trustees to demand, take or recover charges which they have under or by virtue of any enactment or rule of law.

Repeals

17. On the new constitution date the provisions of the Collieston Harbour Act 1894 specified in Schedule 3 to this Order shall cease to have effect.

Saving for Grampian Regional Council

18. Nothing in this Order shall authorise the Trustees, without the consent in writing of the Grampian Regional Council in its capacity as either–

(a) Coast Protection Authority, in terms of the Coast Protection Act 1949, or

(b) Sewerage and Drainage Authority, in terms of the Sewage (Scotland) Act 1968,

to alter the construction of the pier or any other work within the Harbour or to interfere with any apparatus belonging to the Council which has been located within the harbour limits and the Council shall not unreasonably withhold such consent.

Costs of order

19. All costs, charges and expenses of the applicant in connection with the preparation, submission and making of this Order (other than costs, charges and expenses which any person is lawfully ordered to pay and any costs, charges and expenses incurred in opposing the Order) shall be paid or reimbursed by the Trustees.

Signed by authority of the

17th June 1991

Patrick McLoughlin
Parliamentary Under Secretary of State,

SCHEDULE 1

Article 5

PROCEDURE FOR ELECTIONS

1. The Secretary shall be the returning officer for the election of the Trustees under the provisions of this Order and it shall be the duty of the returning officer to do all such acts and things as may be necessary for effectually conducting the election in the manner provided.

2. The returning officer shall after the closing date for nominations make arrangements for the election of candidates as Trustees by displaying a public notice within the Collieston harbour electoral area with the following information:—

- (1) the date, time and place of the election
- (2) qualification of electors entitled to vote
- (3) the mode in which electors are to vote
- (4) the names and addresses of the candidates for election.

3. The mode in which the electors are entitled to vote and the procedures to be adopted at the election should one be held in respect of the nomination of the first Trustees, shall be determined by the Collieston Amenities Committee and thereafter by the Collieston Harbour Trustees.

4. At the election of the Trustees the Chairman shall preside. In the event of any equality of vote the Chairman shall have a casting vote.

5. Only a person appearing on the register of electors for the parish of Slains shall be entitled to vote at the election.

6. The elected Trustees shall come into office in respect of the first election on the new constitution date as provided in article 5(1) or (2), or if an election is held, as soon as the result of that election is declared and thereafter on the first day after the expiry of the term of office of the existing Trustees.

SCHEDULE 2

Article 13

HARBOUR LIMITS

The limits include the Harbour, the whole of the pier and Tarness Haven close eastwards, commencing at latitude 57° 20' 45.6 and longitude 01° 55' 57.3, thence in a north-easterly direction for a distance of 225 metres to a point 10 metres south-east of the Ebbing Stone, thence in a north-north-westerly direction for a distance of 200 metres to a point at the head of Tarness Haven; thence in a westerly direction above high water line for a distance of 40 metres; thence in a south-westerly curve to the pier parapet; thence the limit follows the boundaries of three private feus to the root of the pier; thence along the seawall including the slipway to a point situated 20 metres west by south from the Louping Stane; thence four short incursions up the coastal slope above the level of high water; thence in a south-easterly direction for a distance of 50 metres; thence in a southerly direction for a distance of 70 metres returning to the commencing point.

SCHEDULE 3

Article 17

REPEALS

Chapter	Short Title	Extent of repeal
57 & 58 VICT. ch. cxi	Collieston Harbour Act 1894	Sections 1–11; 17; 25–29; 30–32; 34; 35; 37–40; 51–53 and 54. The Schedule to the Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order—

- (a) reconstitutes the Collieston Harbour Trustees so as to consist of—
 - (1) the proprietor for the time being of the estate of Slains or his successors;
 - (2) the present minister of the parish of Slains or his successors in the incumbency of the said parish;
 - (3) the regional councillor and the district councillor for the electoral division of Formartine;
 - (4) three elected trustees
- (b) contains a provision regarding the meetings of the Trustees and the procedure and business of the Trustees;
- (c) contains a general provision for the maintenance, operation and improvement of the harbour;
- (d) contains a provision setting out the limits of the harbour in which the Collieston Harbour Trustees exercise jurisdiction as a harbour authority;
- (e) contains provisions for the making and confirmation of byelaws within the harbour;
- (f) provides the Trustees with the power to make such reasonable charges as they think fit for services and facilities provided by them within the harbour.

The applicants for this Order are the Collieston Amenities Committee.