

TRANSPORT AND WORKS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 2: Miscellaneous Amendments

Section 26: Amendment of Pilotage Act 1987

82. This section introduces a new section 1A into the Pilotage Act 1987 to improve notification provisions and permit the Scottish Ministers in those cases where there are unresolved objections to a proposal to determine the procedure for detailed consideration of those objections.
83. The new subsection (1) details the notification provisions. The Scottish Ministers must before making an order give notice by advertisement in at least one newspaper (subsection (1)(a)(i)) and the Edinburgh Gazette (subsection (1)(a)(ii)). The Scottish Ministers are also obliged to provide a copy to any other persons that might be affected. This may include parties who are engaged in shipping movements but who may not have access to a local newspaper or the Edinburgh Gazette.
84. The new subsection (2) details the notification provisions that are to apply when a harbour authority which is not a competent harbour authority (i.e. a harbour authority which has statutory powers in relation to the regulation of shipping movements and the safety of navigation within its harbour and whose harbour falls wholly or partly within an active former Pilotage district) makes an application to the Scottish Ministers to be a competent harbour authority. The notification provisions require the harbour authority to give notice by advertisement in at least one newspaper (paragraph (a)(i)) and the Edinburgh Gazette (paragraph (a)(ii)). The harbour authority is also obliged to provide a copy to any other persons that might be affected. This may include parties who are engaged in shipping movements but may not have access either to a local newspaper or the Edinburgh Gazette.
85. The new subsection (3) provides details of the content of the notice. The notice must contain a summary of the proposed order, the place where a copy may be inspected and specify a time period of at least 42 days during which affected persons will have an opportunity to make an objection.
86. The new subsection (4) provides a statutory right for a public local inquiry or hearing when a harbour authority affected by the proposal raises an objection. Subsection (5) provides that any other objections unless they are considered frivolous or trivial are to be considered at an inquiry, hearing or by written representation. Subsections (6) and (7) state that certain provisions of the Local Government (Scotland) Act 1973 which apply in respect of an inquiry under that Act will apply in similar circumstances to an inquiry or hearing carried out under the Pilotage Act 1987.
87. Following consideration of a report from an inquiry or hearing or of written representations, as the case may be, the Scottish Ministers under the new subsection (8)

*These notes relate to the Transport and Works (Scotland) Act
2007 (asp 8) which received Royal Assent on 14 March 2007*

may either make the order as proposed, make the order with modifications or decide not to make the order.

88. The new subsection (9) provides for public notification that the order has been made. It also places a duty to notify those persons who received a copy of the original notice that was issued under the provisions of subsections (1) and (2).
89. The new subsection (10) provides for the detail that must be contained within the notice notifying the making of an order.