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SCOTTISH STATUTORY INSTRUMENTS

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**1999 No. 200**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Montrose Harbour Revision Order 1999**

*Made* - - - - - *21st December 1999*

*Coming into force* - - - - - *1st January 2000*

Whereas the Montrose Port Authority has applied for an Order under section 14 of the Harbours Act 1964<sup>(1)</sup> (hereinafter called “the Act”);

And whereas the making of this Order is not opposed;

Now therefore the Scottish Ministers in exercise of the powers conferred upon them by section 14 of the Act<sup>(2)</sup> and of all other powers enabling them in that behalf, hereby make the following Order:—

**Citation and commencement**

1.—(1) This Order may be cited as the Montrose Harbour Revision Order 1999 and shall come into force on 1st January 2000.

(2) This Order and the Montrose Harbour Acts and Orders 1837 to 1993 may be cited together as the Montrose Harbour Acts and Orders 1837 to 1999.

**Interpretation**

2. In this Order—

“Authority” means the Montrose Port Authority;

“harbour” has the same meaning as in article 2 of the Order of 1991;

“the harbour undertaking” has the meaning given it by article 2 of the Montrose Harbour Revision Order 1993<sup>(3)</sup>;

“the Order of 1991” means the Montrose Harbour Revision Order 1991<sup>(4)</sup>.

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(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, 12 and 14; and by the Transport and Works Act 1992 (c. 42), section 63 and Schedule 3, paragraphs 1 and 10.

(2) Section 14(7) contains a definition of “the appropriate Minister” relevant to the exercise of the powers under which this Order is made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(3) S.I.1993/1592.

(4) S.I. 1991/1745.

### **Incorporation of provisions of Commissioners Clauses Act 1847**

3. Sections 12 to 16 of the Commissioners Clauses Act 1847<sup>(5)</sup> are hereby incorporated in this Order subject to the omission from section 16 of the words “or who for six months in succession is absent from all meetings of the commissioners, and to act in the execution of this and the special Act”.

### **Amendment of Order of 1991**

4. The Order of 1991 shall be amended—

- (a) by omitting from article 2 the words “‘District Council' means the Council of the Angus District of the Tayside Region;” and substituting therefor the words “‘Council' means the Angus Council;” and by omitting from that article the words “‘Regional Council' means the Council of the Tayside Region;”;
- (b) by omitting from article 4(3) the words “The Regional Council, the District Council” and substituting therefor the words “The Council shall appoint two members of the Authority” and by omitting the word “each”;
- (c) by inserting in article 4(4) after the words “chief executive officer” the words “the finance director and the commercial manager” and by omitting the words “a member” and substituting therefor the word “members”;
- (d) by omitting from article 4(6) the words “Regional Council, the District”;
- (e) by omitting article 5(1);
- (f) by omitting from article 5(2) the words “as aforesaid” and substituting therefor the words “under article 4 of this Order”;
- (g) by omitting from article 5(2) and (3), wherever they appear, the words “Regional Council, the District”;
- (h) by omitting from article 7(3) the words “Regional Council, the District”.

### **General powers and duties in respect of harbour**

5.—(1) The Authority may take such steps from time to time as they consider necessary or expedient for the improvement, maintenance and management of the harbour and the accommodation and facilities afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of paragraph (1) above, the Authority may—

- (a) improve, maintain, regulate, manage, mark and light the harbour and provide harbour facilities therein;
- (b) subject to obtaining the necessary rights in or over land, construct, alter, demolish and reconstruct structures and works in the harbour;
- (c) acquire any undertaking or part of an undertaking;
- (d) subscribe for or acquire shares or securities of any body corporate;
- (e) lend money to any person for the purposes of any undertaking carried on by him or, where that person is a body corporate, any undertaking carried on by a subsidiary of that body corporate;
- (f) maintain such reserve funds as it thinks fit;
- (g) invest any sums not immediately required for the purposes of the harbour undertaking;

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(5) 1847 c. 16.

- (h) turn its resources to account so far as not required for those purposes; and
- (i) do all other things which in its opinion are necessary or expedient to facilitate the proper carrying on or development of the harbour undertaking.

(3) This article is without prejudice to any powers of the Authority under or by virtue of any other enactment (including any other provision of this Order).

### **Subsidiaries**

6.—(1) The Authority may form and promote a wholly-owned subsidiary for carrying on any activities which the Authority have power to carry on.

(2) The Authority shall secure that any company formed in exercise of the powers conferred by paragraph (1) above remains such a wholly-owned subsidiary.

(3) Subject to paragraph (4) below, the Authority may enter into arrangements with a company formed in exercise of the powers conferred by paragraph (1) above for the transfer to that company from the Authority or from any other company so formed, in such manner and on such terms (including payments by any of the parties to the arrangements to any of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of the Authority or of that other company which are relevant to the carrying on of the activities to be carried on by the first-mentioned company.

(4) The Authority shall secure that any company formed in exercise of the powers conferred by paragraph (1) above shall not transfer any property, other than surplus property, to any person other than to the Authority or to another company so formed.

(5) In this article—

“surplus property” means any property of the Authority or of any wholly-owned subsidiary of the Authority being property held for the purposes of the harbour and which is no longer required for those purposes; and

“wholly-owned subsidiary” has the meaning given by section 736 of the Companies Act 1985(6).

### **Development, etc., of certain land**

7.—(1) The Authority may form and promote, or join with any other person in forming and promoting, a company (“the company”) for using or developing for any of the activities referred to in section 37(1) of the Docks and Harbours Act 1966(7) any land within or formerly within the harbour (but not required for the purposes of the harbour undertaking), not being an activity which may be carried on by a company formed under article 6 of this Order.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of the company may include power to do anything necessary or expedient for the purposes of the objects mentioned in paragraph (1) above or for purposes incidental to those purposes, notwithstanding that the Authority would not themselves have the power to do that thing.

### **Harbour limits**

8.—(1) The limits within which the Authority shall exercise jurisdiction as a harbour authority (including jurisdiction for the purposes of pilotage under Part I of the Pilotage Act 1987(8)) and within which the powers of the harbour master shall be exercised shall be the area described in paragraph (2) below.

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(6) 1985 c. 6; section 736 was substituted by the Companies Act 1989 (c. 40), section 144(1).

(7) 1966 c. 28.

(8) 1987 c. 21.

(2) The area referred to in paragraph (1) above is the area which lies within a line commencing at a point on the level of mean high water springs 60 metres or thereby due north (true) from Scurdie Ness Lighthouse proceeding thence in an easterly direction for a distance of 1500 metres or thereby to position latitude 56°42'09"N longitude 2°24'40.5"W intersecting an arc 1220 metres radius from the Annat Buoy, at position latitude 56°42'14"N longitude 2°25'26"W, then in an arc of 1220 metres radius from the Annat Buoy to a point latitude 56°42'30"N longitude 2°24'46"W then in a straight line in a westerly direction for a distance of 2180 metres or thereby to a position latitude 56°42'30"N longitude 2°26'52"W thence in a south by west direction following the level of mean high water springs to the line of mean high water springs on the north bank of the river South Esk thence in a westerly direction till it meets the New Bridge connecting Montrose with the south bank of the river South Esk thence in a south south westerly direction along the east face of the said bridge to a point on the level of mean high water springs on the south bank of the river South Esk thence following the said level in a south easterly and easterly direction to the point of commencement.

(3) For each reference to article 19 of the Montrose Harbour Revision Order 1974<sup>(9)</sup> in—

- (a) article 3 of the Montrose Harbour Revision Order 1974;
- (b) article 2 of the Montrose (Pilotage) Harbour Revision Order 1990<sup>(10)</sup>; and
- (c) article 2 of the Order of 1991;

there shall be substituted a reference to article 8 of this Order.

(4) Article 19 (Harbour limits) of the Montrose Harbour Revision Order 1974 and the Montrose (Pilotage) Harbour Revision Order 1990 are hereby revoked.

St Andrew's House,  
Edinburgh  
21st December 1999

*SARAH BOYACK*  
A member of the staff of the Scottish Ministers

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<sup>(9)</sup> S.I. 1975/348.  
<sup>(10)</sup> S.I. 1991/1106

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## EXPLANATORY NOTE

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

This Order incorporates certain provisions of the Commissioners Clauses Act 1847 and amends the constitution of the Montrose Port Authority by increasing the number of ex-officio members of the Authority.

In addition to making minor and consequential amendments to the Montrose Harbour Revision Order 1991 which amended the constitution of the Authority, the Order sets out the general powers and duties of the Authority in respect of the harbour. The Order also empowers the Authority to form wholly-owned subsidiaries for carrying on activities which the Authority has power to carry on, and to form companies for developing or carrying on any business on land within (or formerly within) the harbour but no longer required for the purposes of the Authority's undertaking.

The Order also extends the area of jurisdiction (including jurisdiction for the purpose of pilotage) over which the Authority may exercise its powers.