

ELIZABETH II



1987 CHAPTER xxi

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Aberdeen Harbour. [16th November 1987]

WHEREAS the Provisional Order set forth in the Schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said Order should be confirmed by Parliament: 1936 c. 52.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Provisional Order contained in the Schedule hereunto annexed is hereby confirmed. Confirmation of Order in Schedule.
2. This Act may be cited as the Aberdeen Harbour Order Confirmation Act 1987. Short title.

SCHEDULE

ABERDEEN HARBOUR

Provisional Order to amend the constitution and functions of the Aberdeen Harbour Board; to re-define the limits of the port and harbour of Aberdeen; and for other purposes.

WHEREAS—

(1) The port and harbour of Aberdeen is vested in and administered by the Aberdeen Harbour Board pursuant to the provisions of the Aberdeen Harbour Orders 1960 to 1984:

(2) It would conduce to greater efficiency in the management and operation of the port and harbour if alterations were made to the composition of the Board as in this Order provided and if other changes were made in the manner of their appointments:

(3) It is expedient that the Board's powers relative to investment and other financial matters should be amended as in this Order provided:

(4) It is expedient that the limits of the port and harbour should be extended:

(5) It is expedient that the other provisions of this Order should be enacted:

(6) The purposes of this Order cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

1936 c. 52.

Now therefore in pursuance of the powers contained in the said Act of 1936, the Secretary of State orders as follows:—

Citation and commencement.

1.—(1) This Order may be cited as the Aberdeen Harbour Order 1987.

(2) The Aberdeen Harbour Orders 1960 to 1984 and this Order may be cited together as the Aberdeen Harbour Orders 1960 to 1987.

(3) Subject to the exceptions mentioned in subsection (4) below, this Order shall come into operation on the date of the passing of the Act confirming this Order.

(4) The exceptions referred to in subsection (3) above are—

(a) in section 9, paragraphs (d) and (i); and

(b) in the Schedule, the repeal of sections 5 (1), 7 (2) and 8 of the Order of 1960;

and those provisions shall come into operation on 1st January 1988.

Interpretation.

2. In this Order, except where the context otherwise requires, words and expressions defined in the Order of 1960 and used in this Order have the same respective meanings, and "the Order of 1960" means the Aberdeen Harbour Order 1960.

1960 c. i.

Reconstitution of Board.

3.—(1) Notwithstanding any of the provisions contained in the Order of 1960, the members of the Board holding office on 16th November 1987 shall continue in office until 31st December 1987 with all the powers and duties of such office.

(2) On and after 1st January 1988 the Board shall, subject to any casual vacancies, consist of not more than 15 members, of whom—

- (a) seven shall be appointed by the Secretary of State in accordance with subsection (3) below;
- (b) five shall be appointed pursuant to subsection (4) below;
- (c) one shall be the general manager; and
- (d) two may be co-opted as provided in section 4 below.

(3) Of the members to be appointed under subsection (2) (a) above by the Secretary of State—

- (a) one member shall be a person appearing to him, after consultation with the Aberdeen Fish Landing Company Limited, to be engaged in the fishing industry in Aberdeen;
- (b) one member shall be a person appearing to him, after consultation with the Aberdeen Chamber of Commerce, to be a member or employee of a company engaged in the exportation or importation of cargoes (other than fish) through the port and harbour;
- (c) one member shall be a person appearing to him, after consultation with the Aberdeen Base Operators' Association, to be representative of the operators of oil bases;
- (d) one member shall be a person appearing to him, after consultation with the UK Offshore Operators' Association, to be representative of oil-related interests;
- (e) one member shall be a person appearing to him, after consultation with the National Association of Port Employers, to be representative of cargo-handling interests in the port and harbour;
- (f) one member shall be a person appearing to him, after consultation with the Institute of Chartered Shipbrokers, to be representative of shipowners and their agents operating at the port and harbour;
- (g) one member shall be a person appearing to him to have—
 - (i) wide experience of and to have shown capacity in one or more of the following matters, that is to say, the management of harbours, shipping, the navigation of ships, commercial, financial or legal matters; or
 - (ii) some other knowledge or experience that would be of value to the Board in the discharge of their functions.

(4) Subject to subsection (5) below, the members referred to in subsection (2) (b) above shall be appointed as follows:—

- (a) two by the Grampian Regional Council;
- (b) one by the City of Aberdeen district council;
- (c) one by the Aberdeen Chamber of Commerce;
- (d) one by the Scottish Trades Union Congress.

(5) A person shall be disqualified from being appointed, or from continuing in office, as a member by virtue of subsection (2) (b) above if he is, or, as the case may be, becomes, a member of any other harbour authority (within the meaning of section 57 of the Harbours Act 1964) other than the Grampian Regional Council.

1964 c. 40.

(6) An appointment made under this section shall not be effective until notice thereof has been given in writing by the appointing authority to the secretary.

Co-option
of members.

4.—(1) The members referred to in section 3 (2) (a) to (c) above may, by a resolution supported by the votes of at least three-quarters of those members after notice of the meeting and of its purpose has been given in the manner in which notices of meetings of the members are usually given, co-opt as additional members not more than two persons who in their opinion have special knowledge or experience that would be of value to the Board in the discharge of their functions.

(2) A person shall not be eligible for co-option under this section if he is employed by or is a member of any of the appointing authorities.

(3) A member co-opted under this section shall (unless his office previously becomes vacant for any reason) hold office for a period specified in the resolution referred to in subsection (1) above, being a period not exceeding three years beginning with the date of his co-option, and on the expiry of his term of office shall be eligible for co-option again.

Appointment
of members
and tenure
of office.

5.—(1) Each appointing authority shall not later than 1st December 1987 make their appointment or appointments (as the case may be) in accordance with section 3 above.

(2) Subject to section 3 (6) above, each member so appointed shall (unless his office previously becomes vacant for any reason) hold office on and from 1st January 1988 to 31st December 1990.

(3) Each appointing authority shall not later than 1st December 1990 and 1st December of each third year thereafter make their appointment or appointments (as the case may be) in accordance with section 3 above.

(4) Subject to section 3 (6) above, each member appointed under subsection (3) above shall (unless his office previously becomes vacant for any reason) hold office for a period of three years beginning with 1st January next following his appointment and upon ceasing to hold office shall be eligible for re-appointment.

Salaries, etc., of
members.

6. The Board may pay to or in respect of a member of the Board such salary, fee, allowances and expenses as the Board may determine.

Power to invest
in securities of
bodies corporate.

7.—(1) In order to provide or facilitate the provision of funds for—

(a) the establishment, carrying on or extension by any body corporate of warehouses, factories or works at or near the port and harbour for purposes connected with the functions of the Board; or

(b) the establishment or carrying on by any body corporate of an undertaking or business (including an undertaking or business concerned with the transport or handling of goods) connected with or ancillary to the carrying on of the harbour undertaking; or

(c) the carrying on by any body corporate of any other undertaking or business which appears to the Board to be advantageous or convenient for, or in connection with, the functions of the Board;

and to the extent requisite therefor, the Board may subscribe for, purchase, take up and hold or dispose of any shares, stock, mortgages, debentures or debenture stock of such body corporate and may in respect of any such shares, stock, mortgages, debentures or debenture stock for the time being held by them exercise either by themselves or through some person nominated by them for the purpose all or any of the rights exercisable by an individual holder of such shares, stock, mortgages, debentures or debenture stock.

(2) The Board may apply for the purposes of this section any of their capital or funds for the time being available.

8.—(1) The Board may—

- (a) maintain such reserve funds as they think fit;
- (b) invest any sums not immediately required for the purposes of the harbour undertaking; and
- (c) turn their resources to account so far as not required for those purposes.

Reserve funds,
etc.

(2) This section is without prejudice to any powers of the Board under or by virtue of any other enactment (including this Order).

9. The Order of 1960 shall be amended—

- (a) by omitting from section 5 (2) the words “and Second Schedules” and substituting the word “Schedule” therefor and by omitting the words “elections and”;
- (b) by substituting for section 11 thereof the following section:—

Amendment of
Order of 1960.

“Disclosure
of pecuniary
interest in
contract, etc.

11.—(1) If a member of the Board—

- (a) has any pecuniary interest, direct or indirect—
 - (i) in any contract or proposed contract to which the Board are or would be a party; or
 - (ii) in any other matter with which the Board are concerned; or
- (b) is a director of a company or body with which a contract or proposed contract such as is mentioned in paragraph (a) (i) above is made or proposed to be made;

and is present at a meeting of the Board or of any committee of the Board at which that contract, proposed contract or matter is considered, he shall—

- (i) so soon as practicable after the commencement of that meeting disclose his interest;
- (ii) not vote on any question with respect to that contract or matter; and
- (iii) withdraw from the meeting if the other members present by a resolution require him so to do.

(2) Subsection (1) (a) above shall not apply to any interest—

- (a) which affects the trading community in general and arises in respect of the provision of harbour services or facilities or any charges therefor;
- (b) which a member of the Board has as an employee of a public utility undertaking or as a shareholder of a company unless he is a director or possesses more than five per cent. of the issued share capital of that company; or
- (c) which the other members present at the meeting by resolution declare to be too remote.”;

(c) by adding after section 29 (d) thereof the words—

“(e) by loan on the security of any land for the time being vested in them;”;

(d) by omitting from section 32 (2) the number “28” and by substituting therefor the number “12”;

(e) by omitting from section 52 (2) the words “which is shown within the broken black line on map number 2.” and substituting therefor the

1936 c. 52.

words "within a radius of two nautical miles from the Head of the North Pier at Aberdeen (which is located at latitude 57° 08.75' North and longitude 02° 03.55' West) and to the north of a straight line drawn in a direction of 090° (true) from the coastguard lookout at Gregness (which is located at latitude 57° 07.65' North and longitude 02° 03.1' West) being the area the limits whereof are shown on a map signed by Gavin Douglas, Q.C., Senior Counsel to the Secretary of State under the Private Legislation Procedure (Scotland) Act 1936, being the map which shall, within one month after the commencement of this Order, be deposited as follows:—

- (a) one copy at the office of the Secretary of State in Edinburgh;
 - (b) one copy at the Department of Transport; and
 - (c) one copy at the office of the Board.”;
- (f) by adding after section 83 (1) (b) thereof the words—
“or
(c) if on being required so to do by the harbour master the master of a vessel within the port and harbour having a length not exceeding 10 metres fails to produce a certificate of seaworthiness in respect of his vessel being a certificate signed within the previous year by a marine surveyor having qualifications acceptable to the Board;”;
- (g) by inserting in section 83 (1) thereof after the words “referred to in paragraph (b)” the words “or (c)” and by omitting the words “from the port and harbour”;
- (h) by omitting from section 183 (2) the words “public institutions or” and by omitting the words “three hundred pounds” and substituting “£2,000” therefor;
- (i) by substituting for the First Schedule thereof the following Schedule:—

“FIRST SCHEDULE

ADMINISTRATIVE ARRANGEMENTS AND PROCEEDINGS

Failure to
appoint
member of
Board.

1. If there is a vacancy in the membership of the Board due to the failure of the appointing authority to appoint a member, or the appointing authority ceases to exist, then the remainder of the members of the Board may themselves appoint a person to fill such vacancy and the person so appointed shall hold office for the remainder of the term for which he would have been appointed if he had been appointed by the appointing authority.

Casual
vacancies.

2.—(1) Subject to sub-paragraph (3) below, any casual vacancy among the members of the Board appointed by the Secretary of State shall be filled as soon as practicable by the appointment by the Secretary of State in accordance with the provisions of section 3 (3) of the Aberdeen Harbour Order 1987 of a new member and the member so appointed shall come into office upon his appointment or, where the appointment is made in advance to fill a casual vacancy which is known to be about to occur, upon that vacancy occurring and, subject to the provisions of this Order and the said Order of 1987, shall hold office during the remainder of the term of the member in whose place he is appointed.

(2) Subject to sub-paragraph (3) below, any casual vacancy among the appointed members (other than those appointed by

the Secretary of State) shall be filled by an appointment made by the appropriate appointing authority.

(3) Any casual vacancy occurring less than four months before the end of the vacating member's normal term of office may at the discretion of the appointing authority be left vacant.

(4) A person appointed under sub-paragraph (2) above to fill a casual vacancy shall (unless his office previously becomes vacant for any reason) hold office during the remainder of the term for which the person in whose place he has been appointed was appointed.

Resignation
of members.

3. A member may at any time while he is in office resign his office by notice in writing to the secretary and to the appointing authority, if any, by whom he was appointed.

Appointment
of chairman
and vice-
chairman.

4.—(1) The Board shall, at their first meeting after 1st January 1988, and at their first meeting in every third year after that date, appoint from among their number a chairman and vice-chairman, each of whom shall (unless he resigns his office or ceases to be a member of the Board) hold office until the expiry of his current term of office as a member.

(2) Except upon the vote of the majority of the members appointed to the Board by the Secretary of State and the separate vote of the majority of the remaining members of the Board, the offices of chairman and vice-chairman shall not at the same time both be filled from only one of those categories.

(3) A vote required under sub-paragraph (2) above may be signified to the secretary in writing by a person unable to attend the meeting in person.

(4) On a casual vacancy arising in the office of chairman or vice-chairman the Board shall appoint one of their number to hold that office for the remainder of the term for which the person he replaces was appointed.

(5) A person vacating the office of chairman or vice-chairman shall be eligible for re-appointment.

Quorum at
meetings.

5. The quorum required for a meeting of the Board shall be six.

Convening
meetings.

6.—(1) Meetings of the Board shall be convened by the secretary.

(2) Every meeting shall be convened by circular delivered to each member of the Board or sent by post to his residence or to his place of business five clear days at least before the day of the meeting:

Provided—

(a) that the chairman or in his absence the vice-chairman may where he considers it necessary to do so authorise the convening of a meeting on shorter notice; and

(b) that want of notice to any member of the Board shall not affect the validity of a meeting.

Chairman of
meetings.

7. At every meeting of the Board the chairman of the Board shall preside but if he is not present at the time appointed for the meeting the vice-chairman if present shall preside and if neither

the chairman nor the vice-chairman is present the members then present shall select one of their number to preside at that meeting during the absence of the chairman and vice-chairman.

Determination by lot in case of equality of votes in certain matters.

8. The person presiding at any meeting of the Board or of any committee or sub-committee thereof shall in the case of an equality of votes with respect to any matter then arising be entitled to exercise a second or casting vote provided that where at any such meeting an equal number of votes is given for two or more persons—

- (a) in the election of a member of the Board to any office or to be a member of any committee or sub-committee; or
- (b) in the selection in accordance with paragraph 7 above, of a member to preside; or
- (c) in the appointment by the Board of a person to fill a casual vacancy on the Board;

the meeting shall determine by lot which of the persons for whom an equal number of votes is given shall be elected or selected as the case may be.

Minutes.

9.—(1) Minutes of the proceedings of a meeting of the Board shall be drawn up by or on behalf of the secretary and shall be submitted to the meeting for approval as a record of the meeting and signed at the meeting by the person presiding thereat or shall be so submitted to the next ensuing ordinary meeting of the Board for like approval and signed by the person presiding at that next ensuing meeting and without prejudice to any of the other provisions of this Order any minute purporting to be so signed shall be received in evidence without further proof.

(2) Subject to any standing orders or other directions by the Board the provisions of sub-paragraph (1) above shall apply with respect to any committee or sub-committee of the Board in like manner as they apply with respect to the Board.

(3) Until the contrary is proved a meeting of the Board or of any committee or sub-committee thereof in respect of the proceedings whereof a minute has been made and signed in manner above provided shall be deemed to have been duly convened and held and all the members present at the meeting shall be deemed to have been duly qualified and where the proceedings are proceedings of a committee or sub-committee the committee or sub-committee (as the case may be) shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

Standing orders.

10. Subject to the provisions of this Order the Board may make standing orders for the regulation of their proceedings and business and may vary or revoke such standing orders.

Committees and sub-committees.

11.—(1) The Board may appoint from among their own number such and so many committees either of a general or special nature consisting of such number of persons as they think fit for the purpose of any of the functions exercisable by the Board and may appoint a member of any such committee to be the convener or chairman thereof and the chairman and vice-chairman of the Board shall be ex-officio members of every such committee and of any sub-committee thereof unless they or either of them expressly request to be excluded therefrom.

(2) The Board may delegate, with such restrictions or conditions (if any) as they think fit, any of their powers or duties to any such committee:

Provided that there shall be excluded from the delegation to any committee appointed by the Board the following (that is to say):—

- (a) the power of incurring capital expenditure;
- (b) the incurring of any expenditure not provided for in the annual estimates of the Board unless and until such expenditure is reported to and approved of by the Board in the form of a supplementary estimate:

Provided that in the case of urgency such expenditure where passed by the committee may be incurred on the authorisation of the chairman and subject to report to the Board;

- (c) the enactment, alteration or revocation of any byelaws or standing orders;
- (d) the power to fix or revise rates and charges;
- (e) the appointment or dismissal of the general manager, secretary, treasurer, engineer, collector or harbour master of the Board;
- (f) the appointment or dismissal of a solicitor to the Board.

(3) Any committee appointed by the Board shall have power to refer any matter falling within the province of the committee to a sub-committee consisting of members of the committee and including any member appointed to be convener of the committee but except with the approval of the Board the committee shall not delegate any matter to a sub-committee.

(4) Where in the case of any committee a convener or chairman thereof has been appointed such convener or chairman if present shall preside at any meeting of the committee or of any sub-committee thereof and where such convener or chairman is absent or in the case of a committee to which no convener or chairman has been appointed the provisions of paragraph 7 above shall *mutatis mutandis* apply to meetings of such committee or sub-committee as they apply to meetings of the Board.

Execution
of deeds.

12. A deed to which the Board are a party shall be held to be validly executed on behalf of the Board whether attested by witnesses or not if it is sealed with the common seal of the Board and subscribed on behalf of the Board by two members and the secretary and (in the case of any bond such as is referred to in section 32 (Form of bond and manner of execution) of this Order) by the treasurer.

Vacancies
etc., not to
invalidate
proceedings.

13.—(1) The proceedings of the Board or of a committee or sub-committee thereof shall not be invalidated by any vacancy among their number or by any defect in the appointment of any member thereof or by any member voting on or taking part in the consideration or discussion of any question when he is not entitled to do so.

(2) If the proceedings of a meeting of the Board or of a committee or sub-committee thereof are notwithstanding anything in this Order open to challenge on the ground that the

meeting has not been duly convened such proceedings shall be validated by confirmation of the minutes of the meeting at a subsequent meeting duly convened by the Board, committee or sub-committee as the case may be.

Publication of notices.

14. All notices and advertisements in the name of the Board shall be published over the signature of the secretary.

Revision of schedule.

15.—(1) The Secretary of State may from time to time at the request of the Board by order make such additions to or alterations in this schedule as may be found necessary or desirable.

(2) The power to make orders conferred on the Secretary of State by this paragraph of this schedule shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

Index-linking of certain specified sums.

10.—(1) Where any provision of the Aberdeen Harbour Orders 1960 to 1984 specifies a sum of money (not being a penalty payable on conviction for an offence against any enactment) that sum shall, from time to time be increased or decreased (as the case may be) by an amount which bears the same proportion to that sum as shall be borne by any increase or decrease in the Index of Retail Prices to the figure shown therein for the month in which that provision was enacted.

(2) In this section “the Index of Retail Prices” means the Index of Retail Prices published by Her Majesty’s Stationery Office or any official publication substituted therefor.

Removal of vehicles at harbour.

11.—(1) If a vehicle is left without the permission of the Board—

- (a) in a parking place provided by the Board for a longer period than 24 hours; or
- (b) in any part of the harbour where the parking of vehicles is prohibited by notice erected by the Board; or
- (c) in any place within the harbour where it is likely to obstruct or interfere with the use of the harbour;

the Board may cause it to be removed to a place of safe custody.

(2) Any such notice as is referred to in subsection (1) above shall be conspicuously posted in or in proximity to the place to which it relates.

(3) Where the Board in exercise of the powers of this section cause a vehicle to be removed, the expenses of and incidental to its removal and safe custody shall be recoverable by the Board from the person responsible.

(4) If the Board in exercise of the powers of this section cause a vehicle to be removed, they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1971, or any regulations replacing those regulations, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this section and of the place to which the vehicle has been removed.

S.I. 1971/450.

(5) A notice stating the general effect of subsection (1) above shall be displayed in a prominent position at each entrance to any parking place provided by the Board and at each place where a road accessible to vehicles enters any part of the harbour, and shall be endorsed on any tickets issued to persons leaving vehicles in such parking place or elsewhere at the harbour.

(6) In subsection (3) above "person responsible", in relation to a vehicle, means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was so removed, unless he shows that he was not concerned in and did not know of its being put there;
- (b) any person by whom it was put in the place aforesaid;
- (c) any person convicted of an offence under section 2 of the Refuse Disposal (Amenity) Act 1978 in consequence of the putting of the vehicle in the place aforesaid.

1978 c. 3.

12.—(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 the generality of the foregoing, nothing in this Order authorises the Board to take, use, enter upon or in any manner interfere with any land or interests in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

Crown rights.

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
- (b) 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 subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

13. The enactments specified in the Schedule to this Order (which include enactments which were obsolete or spent before the coming into operation of this Order) are hereby repealed to the extent mentioned in column (3) of that Schedule.


Repeals.

Section 13.

SCHEDULE

REPEALS

Chapter or S.I. number (1)	Short title (2)	Extent of repeal (3)
9 & 10 Eliz. 2 c. i.	Aberdeen Harbour Order 1960.	Sections 5 (1), 7 (2), 8, 18, 47, 48, 49, 50 (c) and 51. The Second Schedule.
S.I. 1984/1027.	Aberdeen Harbour Revision Order 1984.	Article 3 (3).

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Aberdeen Harbour Order Confirmation Act 1987

CHAPTER xxi

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in Schedule.
2. Short title.

SCHEDULE

ABERDEEN HARBOUR

1. Citation and commencement.
2. Interpretation.
3. Reconstitution of Board.
4. Co-option of members.
5. Appointment of members and tenure of office.
6. Salaries, etc., of members.
7. Power to invest in securities of bodies corporate.
8. Reserve funds, etc.
9. Amendment of Order of 1960.
10. Index-linking of certain specified sums.
11. Removal of vehicles at harbour.
12. Crown rights.
13. Repeals.

SCHEDULE—Repeals.