
STATUTORY INSTRUMENTS

1978 No. 919

HARBOURS, DOCKS, PIERS AND FERRIES

The Montrose Harbour (Constitution) Revision Order 1978

<i>Made</i> - - - -	8th May 1978
<i>Laid before Parliament</i>	19th May 1978
<i>Coming into Operation</i>	29th June 1978

The Secretary of State for Transport in exercise of the powers conferred by section 14 of the Harbours Act 1964(a) and now vested in him(b) and of all other powers enabling him in that behalf and on the application of the Trustees of the Harbour of Montrose, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Montrose Harbour (Constitution) Revision Order 1978 and this Order and the Montrose Harbour Acts and Order 1837 to 1974 may be cited together as the Montrose Harbour Acts and Orders 1837 to 1978.

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

Interpretation

2.—(1) In this Order, unless the context otherwise requires:—

“Board” means the Board of Trustees of the Harbour of Montrose;

“chief executive officer” means the chief executive officer for the time being of the Board;

“District Council” means the Council of the Angus District of the Tayside Region;

“new constitution date” means the first day of the third month after the expiry of the month current at the commencement of this Order;

“Regional Council” means the Council of the Tayside Region.

(2) The Interpretation Act 1889(d) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(a) 1964 c. 40.

(b) S.I. 1970/1681.

(c) 1945 c. 18 (9 & 10 Geo. 6); 1965 c. 43.

(d) 1889 c. 63.

The new constitution

3.—(1) On and after the new constitution date the Board shall consist of:—

- (a) (i) a chairman, who shall at the time of his appointment be a resident of the parish of Montrose or the parish of Craig, and
 - (ii) two other trustees
- appointed by the Secretary of State after consultation with the National Ports Council;
- (b) three trustees appointed by the Regional Council;
 - (c) three trustees appointed by the District Council; and
 - (d) the chief executive officer.

(2) Of the three trustees to be appointed under paragraph (1) above by the Regional Council and the District Council respectively—

- (a) at least one shall not at the time of his appointment be a member of the appointing council; and
- (b) at least two shall be persons who in the opinion of the appointing council are familiar with, and have a substantial interest in, the harbour of Montrose or the area, or any part of the area, in the vicinity of that harbour (which for the purposes of this article shall be deemed to include, but without prejudice to the generality of the foregoing, the whole town of Montrose).

(3) In selecting persons for appointment as trustees the Secretary of State, the Regional Council and the District Council shall each select persons who appear to him or to them as the case may be to have wide experience of, and to have shown capacity in, one or more of the matters mentioned in paragraph (4) below or to have in some other respect special knowledge or experience that would be of value to the Board in the discharge of their duties and the Secretary of State shall have regard to the desirability of appointing members who are familiar with the special requirements and circumstances of the area predominantly served by the undertaking of the Board.

(4) The matters referred to in paragraph (3) above are—

- (a) the management of harbours;
- (b) shipping or other forms of transport;
- (c) industrial matters including in particular, but without prejudice to the generality of the foregoing, matters relating to the oil industry;
- (d) commercial or financial matters;
- (e) administration;
- (f) the organisation of workers;
- (g) environmental matters affecting the area in the vicinity of the harbour of Montrose.

(5) In relation to the first appointment of trustees under this article and each triennial appointment of trustees in accordance with article 4 of this

Order the National Ports Council (before expressing to the Secretary of State their views as respects the appointments which are the subject of consultation with the National Ports Council under paragraph (1)(a) above) the Regional Council and the District Council (before each of the said Councils makes appointments in accordance with paragraphs (1)(b) and (c) above) shall consult together with a view to securing that the whole body of trustees will possess an appropriate range and balance of relevant knowledge and experience.

Appointments and terms of office of appointed trustees

4.—(1) The Secretary of State, the Regional Council and the District Council shall each appoint the first trustees to be appointed by them under article 3 of this Order before the new constitution date and the trustees so appointed shall come into office on that date and, subject to the provisions of Schedule 1 to this Order, shall continue in office for the period of three years beginning on the new constitution date. The trustees holding office immediately before the new constitution date shall go out of office on that date.

(2) Every vacancy other than a casual vacancy among the trustees shall be filled by a person appointed by the Secretary of State, the Regional Council or the District Council as the case may be on or before the date on which the vacancy will occur (or where a casual vacancy has occurred four months or less before the end of the vacating trustee's normal term of office and, in accordance with proviso (a) to article 4(3) below, has been left unfilled, on or before the date on which the vacancy would normally have occurred) in accordance with the provisions of article 3 of this Order and every trustee so appointed shall come into office on the date when the vacancy occurs or would have occurred (as the case may be) and, subject to the provisions of Schedule 1 to this Order, shall continue in office for the period of three years beginning on that date:

Provided that if for any reason a trustee is not appointed on or before the date on which the vacancy will occur (or, where a casual vacancy has occurred four months or less before the end of the vacating trustee's normal term of office and, in accordance with proviso (a) to article 4(3) below, has been left unfilled, on or before the date on which the vacancy would normally have occurred) he shall be appointed as soon as practicable thereafter and shall come into office upon his appointment and, subject as aforesaid, shall continue in office for the remainder of the said term.

(3) Any casual vacancy among the trustees shall be filled as soon as practicable by the appointment by the Secretary of State, the Regional Council or the District Council as the case may be in accordance with the provisions of article 3 of this Order of a new trustee and the trustee 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 Schedule 1 to this Order, shall hold office during the remainder of the term of the trustee in whose place he has been appointed:

Provided that—

(a) a casual vacancy (other than in the office of chairman) occurring four months or less before the end of the vacating trustee's normal term of office may, at the discretion of the Secretary of State, the Regional

Council or the District Council as the case may be, be left unfilled, and

- (b) the Secretary of State may, if he sees fit, fill a casual vacancy in the office of chairman by appointing as chairman a person who is already a trustee and if he does so that appointment shall be deemed to create a casual vacancy in the place of the trustee who is appointed as chairman.

Administrative arrangements and proceedings of the Board

5. On and after the new constitution date the provisions contained in Schedule 1 to this Order shall, subject to the provisions of this Order, have effect with regard to the administrative arrangements and proceedings of the Board in addition to those provisions of the Montrose Harbour Acts and Order 1837 to 1974 which are not repealed by this Order.

Repeals

6. On the new constitution date the provisions of the Montrose Harbour Acts and Order 1837 to 1974 specified in Schedule 2 to this Order shall cease to have effect.

Costs of Order

7. All costs, charges and expenses of or 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.

William Rodgers,
Secretary of State for Transport.

8th May 1978.

SCHEDULE 1

ADMINISTRATIVE ARRANGEMENTS AND PROCEEDINGS OF THE BOARD

1. The first meeting of the Board after the new constitution date shall be convened by the chairman of the Board for such date and at such place as he may fix and the chairman shall make arrangements for notice of that meeting to be sent by post to each of the other members of the Board and to the chief executive of the Board.

2. The Board shall at their first meeting after the new constitution date, and subsequently at each annual meeting of the Board, appoint one of their number (being a member appointed by the Secretary of State) to be deputy chairman and the deputy chairman shall, unless he resigns his office or ceases to be a member of the Board, continue in office until the next annual meeting of the Board.

3. A member of the Board may resign his membership by a notice in writing to the Secretary of State and to the Board.

4. If the Board are satisfied that a member of the Board—

- (a) has been absent from meetings of the Board for three consecutive months or more without the permission of the Board; or
- (b) has had his estate sequestrated or has made a trust deed for his creditors or a composition contract; or
- (c) is incapacitated by physical or mental illness from discharging the functions of a member; or
- (d) is otherwise unable or unfit to discharge the functions of a member,

the Board may declare his office as a member of the Board to be vacant and thereupon the office shall become vacant.

5. On a casual vacancy occurring in the office of deputy chairman of the Board, the vacancy shall be filled by the appointment by the Board of one of their number (being a member appointed by the Secretary of State) at a meeting held as soon as practicable after the vacancy occurs; and the person so appointed shall hold office until the next annual meeting of the Board.

6. At meetings of the Board the quorum shall be five.

7. Any person who has held office as a member of the Board shall be eligible for re-appointment.

8. Subject to the provisions of this Schedule, the Board shall have power to regulate their own procedure.

SCHEDULE 2

REPEAL OF ENACTMENTS

	<i>Enactment</i>	<i>Sections repealed</i>
1837 c. xcix	Montrose Harbour Act 1837	sections VII and VIII
1850 c. xliii	Montrose Harbour Act 1850	sections III to VI and IX
1878 c. cxv	Montrose Harbour Order 1878	sections III to IX

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order reconstitutes the Board of the Montrose Harbour Trustees so as to consist of—

- (a) a chairman and two other trustees appointed by the Secretary of State;
- (b) three trustees appointed by Tayside Regional Council;
- (c) three trustees appointed by Angus District Council; and
- (d) the chief executive officer of the Board;

and repeals certain provisions relating to the constitution of the Trustees.

The Order being subject to special parliamentary procedure, the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965 determine the date upon which it comes into operation.