
STATUTORY INSTRUMENTS

1998 No. 1215 (S. 63)

HARBOURS, DOCKS, PIERS AND FERRIES

The Peterhead Harbours Revision Order 1998

Made - - - - *8th May 1998*

Coming into force - - *11th May 1998*

Whereas the trustees of the Harbours of Peterhead have applied for a harbour revision order under section 14 of the Harbours Act 1964(1):

And whereas the Secretary of State has, in pursuance of sub-paragraph (4) of paragraph A2 of Schedule 3(1) to the said Act notified the trustees that the application is not one to which the provisions of sub-paragraph (3) of that paragraph apply:

And whereas the Secretary of State is satisfied that the making of this Order is desirable in the interests of securing the improvement, maintenance or management of the harbours in an efficient and economical manner:

Now, therefore, the Secretary of State for Scotland, in exercise of the powers conferred by section 14 of the said Act and of all other powers enabling him in that behalf, hereby makes the following Order:

PART I

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Peterhead Harbours Revision Order 1998 and shall come into force on 11th May 1998.

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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; and Schedule 3 was further amended by regulations 4 to 8 of the Harbour Works (Assessment of Environmental Effects) Regulations 1988 (S.I.1988/1336) as applied and amended in relation to Scotland by the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations 1996 (S.I. 1996/1946), article 2.
- (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; and Schedule 3 was further amended by regulations 4 to 8 of the Harbour Works (Assessment of Environmental Effects) Regulations 1988 (S.I.1988/1336) as applied and amended in relation to Scotland by the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations 1996 (S.I. 1996/1946), article 2.

(2) The Peterhead Harbours Orders 1985 to 1996⁽²⁾ and this Order may be cited together as the Peterhead Harbours Orders 1985 to 1998.

Interpretation

2.—(1) In this Order—

“Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847⁽³⁾

“area of works” means the area within the limits of deviation or any part of that area;

“trustees” means the body corporate known as the trustees of the harbours of Peterhead;

“deposited plan and sections” means the plan and sections prepared in duplicate and signed on behalf of the Secretary of State and marked “Plan and Sections referred to in Article 2 of the Peterhead Harbours Revision Order 1998” of which one is deposited at the offices of the Secretary of State for Scotland and the other at the harbour office of the trustees;

“enactment” means any Act, whether general, local or personal and any order (including this Order) or other instrument made thereunder and any provision in any such Act, order or instrument;

“harbours” means the harbours of Peterhead as defined in section 32 (Limits of harbours) of the Peterhead Harbours Order 1992⁽⁴⁾

“harbour undertaking” means the undertaking of the trustees in connection with the harbour;

“level of high water” means the level of mean high-water springs;

“level of low water” means the level of mean low-water springs;

“limits of deviation” means the limits of deviation shown on the deposited plan;

“tidal work” means so much of any work authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;

“vessel” means a ship, boat or craft of any description and includes any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily); and includes a hovercraft within the meaning of the Hovercraft Act 1968⁽⁵⁾ or any other amphibious vehicle or a seaplane; and

“works” means the works authorised by Article 4 (Power to carry out works) of this Order or, as the case may require, any part thereof.

(2) All areas, directions, distances, lengths and widths as stated in any description of works, powers or lands other than Article 5 (Power to deviate) of this Order shall be construed as if the words “or thereabouts” were inserted after each such area, direction, distance, length and width and any reference in a description of works to a point shall be a reference to that point on the deposited plan.

Incorporation of Act of 1847

3. The Act of 1847 (except sections 6 to 13, 16 to 19, 22, 25, 26, 48, 79 to 82, 95, 97, 98, 99, 101 and 103) so far as applicable for the purposes and not inconsistent with the provisions of this Order, is hereby incorporated with and forms part of this Order:

Provided that—

(a) in construing the provisions so incorporated the expression “the Special Act” shall mean this Order, and—

(2) 1986 c.v, 1992 c.xii and S.I. 1996/2755.

(3) 1847 c. 27.

(4) 1992 c.xii.

(5) 1992 c.xii.

- (i) the expressions “the Promoters of the undertaking” and “the undertakers” shall mean the trustees and the expression “the harbour, dock and pier” shall mean the harbours;
 - (ii) the meaning of the word “vessel” as defined in Article 2 (Interpretation) of this Order shall be substituted for the meaning assigned to that word by section 3 of the Act of 1847;
 - (iii) section 23 shall be read and have effect as if the words “provided that no such lease be granted for a longer term than three years” were omitted and there were added the words “provided that as from the commencement of any lease of a tidal work made under this section the lessee shall during the continuance of his lease be subject to all the liabilities and obligations to which the undertakers are subject and shall perform all the duties of the undertakers under the Special Act in respect of that work.”;
 - (iv) section 63 shall be read and have effect as if for the words from “to a penalty” to the end of the section there were substituted the words “on summary conviction to a fine not exceeding level 2 on the standard scale.”;
 - (v) section 69 shall be read and have effect as if for the words from “forfeit” to the end of the section there were substituted the words “be liable on summary conviction to a fine not exceeding level 2 on the standard scale.”;
 - (vi) section 84 shall be read and have effect as if for the words “five pounds” there were substituted the words “level 2 on the standard scale.”; and
- (b) the height of any warehouse or other building which the trustees may erect on the area of Works Nos.2 and 3 authorised by this Order shall not exceed the level of the top of the existing wall on the south side of the roads known as Harbour Street, Lodge Walk and Bath Street, Peterhead.

PART II

WORKS

Power to carry out works

4.—(1) Subject to the provisions of this Order, the trustees may, in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and sections, carry out and maintain the following improvement works in Aberdeenshire, together with all necessary and proper works and conveniences connected therewith or incidental thereto:—

Work No.1 The deepening of a portion of the south entrance channel to the harbours of Peterhead to a depth of 6.7 metres below the level of low water within the area shown as hatched on the deposited plan, commencing at Point G on the deposited plan 223 metres from the fixed point marked in the deposited plan at the centre of the east face of West Pier, extending 94 metres in a north-westerly direction and there terminating.

Work No.2 Land reclamation and a berthing face to be known as “Merchants Quay (North)” commencing at a point 46 metres west of the fixed point marked on the deposited plan, extending in a westerly direction for 201 metres and there terminating, such works to include the demolition and removal of the existing lifeboat shed and slipway.

Work No.3 A pier and breakwater to be known as “Merchants Quay (west)” commencing from the south-east corner of the Smith Embankment at a point 306 metres from the fixed point marked on the deposited plan, extending 101 metres in a south-south-easterly direction and then a further 61 metres in a southerly direction and terminating at a point 162 metres from the point of commencement.

Work No.4 A pier, pontoon and support frame commencing 10 metres north of the north-west corner of West Pier at a point 39 metres from the fixed point marked on the deposited plan extending 36 metres in an easterly direction and there terminating.

Power to deviate

5. Subject to the provisions of this Order, in carrying out the works the trustees may deviate laterally from the lines or situations thereof as shown on the deposited plan to any extent not exceeding the limits of deviation shown on the said plan and may deviate vertically from the levels of the works shown on the deposited sections 1 metre upwards and to any extent downwards as may be found necessary.

Subsidiary works

6. Subject to the provisions of this Order, the trustees may within the limits of deviation from time to time erect, construct, maintain and operate, whether temporarily or permanently, all such subsidiary or incidental works and conveniences as maybe necessary or expedient for the purposes of or in connection with the construction, maintenance and use of the work.

Obstructing works

7. Any person who intentionally obstructs any person acting under the authority of the trustees in setting out the lines of the works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Works to be deemed part of harbour undertaking

8. The works shall be deemed for all purposes to be part of the harbour undertaking and all byelaws, rules and regulations of the trustees for the time being in force relating to the harbour undertaking shall apply to the works and may be enforced by the trustees accordingly.

Tidal works not to be executed without approval of Secretary of State

9.—(1) A tidal work shall not be demolished, constructed, renewed or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun or while work is still in progress.

(2) If a tidal work is demolished, constructed, renewed or altered in contravention of this Article or of any condition or restriction imposed under this Article—

- (a) the Secretary of State may by notice in writing require the trustees to remove the tidal work or any part thereof and restore the site to its former condition; and if on the expiration of 30 days from the date when the notice is served upon the trustees they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary to do so, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the trustees.

Provision against danger to navigation

10.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the trustees shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the trustees fail to comply in any respect with the provisions of this article, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

11.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the trustees either to repair and restore the work or any part thereof, or to remove and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work authorised by this Order and consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work or any portion thereof, in any notice under this article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the trustees, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the trustees as a debt.

Lights on works during construction

12.—(1) The trustees shall at or near a tidal work during the whole time of the demolition, construction, renewal or alteration thereof exhibit, every night from sunset to sunrise, such lights as will clearly warn seafarers of the presence of that work.

(2) If the trustees fail to comply with paragraph (1) above they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Permanent lights on works

13.—(1) After the completion of a tidal work the trustees shall at the outer extremity thereof every night from sunset to sunrise exhibit such lights, if any, and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the trustees fail to comply in any respect with a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Dredged material

14. No materials dredged in the execution of the works shall be deposited below the level of mean high water springs except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

PART III

TEMPORARY CLOSURE OF HARBOUR

Temporary closure of area of works

15.—(1) For the purpose of carrying out the works the trustees may notwithstanding anything in any enactment (other than this Order)—

- (a) temporarily close the area of works to vessels by means of one or more coffer dams at such places within the harbours as the trustees shall think fit;
- (b) dry out the area of works by pumping or otherwise and carry out all such measures and construct or install all such valves, sluices, gates, pipes, channels, aqueducts, pumps and similar works of a temporary nature as may be necessary to convey water entering the area of works into tidal waters.

(2) Notwithstanding anything contained in this Order, the area of works shall not be closed to vessels for a period continuous or discontinuous longer than two years.

Removal of vessels from area of works

16.—(1) Before exercising the power conferred on them by Article 15 (Temporary closure of area of works) of this Order temporarily to close the area of works to vessels the trustees shall—

- (a) publish a notice of their intention to do so in Lloyd's List, in the Edinburgh Gazette and once in each of two successive weeks in a local newspaper published or circulating in Peterhead, with an interval between the dates of publication of not less than six clear days;
- (b) display notice thereof in a conspicuous position in the harbours; and
- (c) give notice thereof in writing to the Secretary of State.

(2) Each of the notices shall—

- (a) state that the trustees intend temporarily to close the area of works to vessels; and
- (b) specify a date, which shall be a date not earlier than one month after the date of the latest of the three publications referred to in paragraph (1)(a) above, by which all vessels must be removed from the area of works.

(3) If the master of any vessel within the area of works does not remove the same before the date specified in accordance with paragraph 2(b) above, the harbourmaster may cause that vessel to be removed from the area of works and moored or laid in any other place where it may without injury be moored or laid.

(4) The trustees may recover as a debt from the owner of any vessel removed as aforesaid all expenses incurred by them in respect of its removal.

(5) The powers conferred on the trustees and the harbourmaster by this article shall be in addition to and without prejudice to the powers as to the removal of vessels conferred upon them by sections 64 and 65 of the Act of 1847.

As to vessels entering area of works on or after date of closure

17. If any vessel enters the area of works on or after the date specified in accordance with paragraph (2)(b) of Article 16 (Removal of vessels from area of works) of this Order, and during the period of temporary closure, the harbourmaster may direct the master of such vessel forthwith to remove the vessel from the area of works, and if the master of such vessel does not forthwith comply with such a direction the provisions of paragraphs (3) to (5) inclusive of the said article

15 shall apply to and in respect of such vessel as if such vessel had been within the area of works before the said date.

PART IV MISCELLANEOUS

For protection of proprietors, lessees and tenants of adjacent properties

18.—(1) This article shall apply and have effect for the protection, lessee and tenants of proprietors of heritable property adjacent to Work No.1 authorised by this Order.

(2) In carrying out any drilling or blasting in the execution of Work No.1 authorised by this Order the trustees shall not—

- (a) carry out any such drilling or blasting between the hours of 6 o'clock in the afternoon and 8 o'clock in the forenoon of the following day or between the hours of sunset and sunrise or at any time on a Saturday or Sunday;
- (b) contravene the code of practice for the control of noise approved by the British Standards Institution and numbered BS 5228 or such other code of practice as may from time to time be approved by the said Institution in lieu thereof;
- (c) cause greater vibration at any heritable property adjacent to the said Work No.1 than vibration of a peak particle velocity of 12.5 millimetres per second.

(3) Notwithstanding the powers conferred on the trustees by this Order and without prejudice to any other remedies available, they shall be liable to the said proprietors of heritable property adjacent to Work No.1 authorised by this Order for damage to such heritable property caused by the execution of the said Work No.1.

Crown rights

19.—(1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown, and in particular without prejudice to the generality of the foregoing nothing herein contained shall authorise the trustees or any licensee of the trustees to take, use, enter upon or in any manner interfere with any land or interest 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):—

- (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 paragraph (1) above may be given unconditionally or subject to terms and conditions.

St Andrew's House,
Edinburgh
8th May 1998

Sewel
Parliamentary Under Secretary of State, Scottish
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order empowers the trustees of the harbours of Peterhead:–

- (1) To deepen a portion of the south entrance channel to the harbours;
- (2) To reclaim land and construct a new berthing face and a new pier and breakwater, to be known as Merchants Quay, in substitution for part of the works authorised by the Peterhead Harbours (South Bay Development) Order 1985;
- (3) To construct a new pier, pontoon and support frame adjacent to West Pier;
- (4) Temporarily to close to vessels the area of the proposed works and to remove vessels from that area.