
STATUTORY INSTRUMENTS

1993 No. 1592

HARBOURS, DOCKS, PIERS AND FERRIES

The Montrose Harbour Revision Order 1993

Made - - - - *11th June 1993*

Coming into force - - *12th June 1993*

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

And whereas the making of this Order is not opposed:

Now therefore the Secretary of State for Transport (being the appropriate Minister under section 14(7) of the Act for the purpose of making this Order) in exercise of the powers conferred by section 14 of the Act and now vested in him⁽²⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Montrose Harbour Revision Order 1993 and shall come into force on 12th June 1993.

(2) This Order and the Montrose Harbour Acts and Orders 1837 to 1991 may be cited together as the Montrose Harbour Acts and Orders 1837 to 1993.

Interpretation

2. In this Order—

“Authority” means the Montrose Port Authority;

“harbour” has the same meaning as in article 2 of the Montrose Harbour Revision Order 1991⁽³⁾;

“the harbour undertaking” means the undertaking of the Authority as from time to time authorised;

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

(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) See section 57(1) of the Harbours Act 1964 and S.I.1981/238.
(3) S.I. 1991/1745.

Disposal of land no longer required for harbour purposes

3. The Authority, in respect of land vested in them and held for the purposes of the harbour which is no longer required for those purposes, may—

- (a) dispose of such land or interests in it in such manner, for such period, upon such conditions and for such consideration, as they think fit; and
- (b) develop such land (alone or with others) with a view to disposing of that land as aforesaid and may acquire other land by agreement for the purpose of developing it together with the first-mentioned land.

Remuneration and expenses of members

4. The Authority may pay to each member of the Authority such reasonable remuneration, allowances and expenses as the Authority may determine.

Power to dredge

5.—(1) The Authority may deepen, widen, dredge, scour and improve the bed and foreshore of the harbour and of the approaches to the harbour and may blast any rock within the harbour or in the approaches thereto.

(2) Any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894⁽⁴⁾) taken up or collected in the course of such operations shall be the property of the Authority and may be used, sold, removed, deposited or otherwise disposed of as the Authority may think fit:

Provided that the Authority shall not lay down or deposit any materials below the level of high water except in such position as the Secretary of State may approve and subject to such conditions and restrictions as he may impose.

- (3) In the exercise of the powers of this article the Authority shall not—
 - (a) interfere with or damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or
 - (b) do anything which will obstruct or impede any work relating to the inspection or repair of such apparatus;

without the consent of the statutory undertaker concerned.

(4) The powers of the Authority under this article shall be exercisable subject to the provisions of article 9 (Crown rights) of this Order and in particular and without prejudice to that general limitation, any consent given to the exercise of such powers by the Crown Estate Commissioners on behalf of Her Majesty may be given subject to such restrictions and conditions, including the payment by the Authority to the Crown Estate Commissioners of royalties, rents or sums of money in respect of materials raised from any place below the level of high water and sold by the Authority under this article or in respect of any place below the level of high water upon which materials may be deposited, as may be fixed by the Crown Estate Commissioners.

- (5) In this article “statutory undertaker” means—
 - (a) any person who is a statutory undertaker within the meaning of section 275(1) of the Town and Country Planning (Scotland) Act 1972⁽⁵⁾;
 - (b) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949⁽⁶⁾; or

(4) 1894 c. 60.

(5) 1972 c. 52.

(6) 1949 c. 74.

- (c) any operator of a telecommunication code system; and in this sub-paragraph “operator” and “telecommunication code system” have the same meaning as in the Telecommunications Act 1984(7).

Charges on certain floating articles

6. In addition to their power to demand, take and recover ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Authority may demand, take and recover in respect of any floating manufactured article (not being a ship within the meaning of the said Act) entering, using or leaving the harbour such dues as they think fit; and the provisions of sections 30 and 31 of the said Act shall, with any necessary modifications, apply to the dues authorised by this article as they apply to ship, passenger and goods dues.

Charges for services and facilities

7.—(1) The Authority may in relation to the harbour undertaking demand, take and recover in respect of anything done or provided by them or on their behalf such reasonable charges as they may determine.

(2) In paragraph (1) above “charges” does not include ship, passenger and goods dues as defined in section 57 of the Harbours Act 1964.

Amendments and repeals

8.—(1) The provisions of the Orders referred to in column (1) of Schedule 1 to this Order shall have effect subject to the amendments specified in column (2) of that Schedule.

(2) The enactments specified in Schedule 2 to this Order are hereby repealed to the extent specified in column (3) of that Schedule.

Crown rights

9. Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing herein contained authorises the Authority to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land hereditaments, subjects or rights of whatsoever description 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 on behalf of Her Majesty first had and obtained for that purpose.

Signed by authority of the Secretary of State for Transport

11th June 1993

Caithness
Minister of State,
Department of Transport

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SCHEDULE 1

ARTICLE 8(1)

AMENDMENTS

<i>Enactment (1)</i>	<i>Amendment (2)</i>
The Montrose Harbour Order 1878(8)	
Article 21	For “rates leviable under this Order” substitute “any charges for the time being payable under any enactment to the Authority”.
Article 25	For “forfeit and pay for each such offence any sum not exceeding ten pounds” substitute “be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale”.
The Montrose Harbour Order 1894(9)	
Article 8	For “all under a penalty not exceeding ten pounds for each transgression of this regulation” substitute “and any person who contravenes or fails to comply with the requirements of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale”.
Article 9	For “liable in a penalty not exceeding ten pounds for each offence” substitute “guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale”.
Article 10	For “deemed guilty of an offence, for which he shall be liable to a penalty not exceeding ten pounds” substitute “guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale”.
The Montrose Harbour Revision Order 1974(10)	
Article 23	At the end of the article insert the following new paragraph:— <p>“(2) Where the Secretary of State proposes to exercise the power conferred on him under subsection (10) of section 202 of the Local Government (Scotland) Act 1973 to confirm with modifications any byelaws submitted by the Authority for confirmation and a modification appears to him to be substantial, he shall inform the Authority and require them to take any steps he considers necessary for informing persons</p>

(8) Confirmed by 1874 c. xv.

(9) Confirmed by 1884 c. cxiii.

(10) S.I. 1975/348.

<i>Enactment (1)</i>	<i>Amendment (2)</i>
	likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Authority and by other persons who have been informed of it.”.
The Montrose Harbour Revision Order 1991(11)	
Article 9(1)(a)	For “alter or renew” substitute “construct, alter, renew or extend”.
Article 11(1)	For “alter or renew” substitute “construct, alter, renew or extend”; for “as altered or renewed” substitute “as constructed, altered, renewed or extended”.
The Schedule	After paragraph 9 insert the following paragraph:— “9A. The proceedings of the Authority shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as chairman or other member or as deputy chairman of the Authority.”

SCHEDULE 2

ARTICLE 8(21)

REPEALS

<i>Chapter or Number (1)</i>	<i>Title or short title (2)</i>	<i>Extent of repeal (3)</i>
7 W.4 & 1 Vict. c.xcix.	An Act for improving the Harbour of the Burgh of Montrose in the County of Forfar.	The whole Act, except sections II, XLV, XLVI, LI, LVIII, LXII, LXIV and CXIV and in section LI, the words “and the said Trustees” to the end of the section.
13 & 14 Vict. c.xliii.	The Montrose Harbour Act 1850.	The whole Act, except sections X, XIV, XV, XLIX, L, LIII and LIV and in section X the words “by virtue of this section and the said recited Act”.
29 & 30 Vict. c.cii.	The Montrose Harbour Act 1866.	The whole Act, except sections 1, 3, 4, 24, 28, 32 and 34, in section 4 the definition of “The Trustees”, and in section 24 the

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<i>Chapter or Number (1)</i>	<i>Title or short title (2)</i>	<i>Extent of repeal (3)</i>
		words “under the authority of the Harbours, Docks, and Piers Clauses Act, 1847,”.
41 & 42 Vict. c.cxv.	Pier and Harbour Orders Confirmation Act 1878 (No. 2).	The Montrose Harbour Order 1878 except sections 1, 21 to 26 and 41.
57 & 58 Vict. c.cxiii.	Pier and Harbour Order Confirmation (No. 4) Act 1894.	The Montrose Harbour Order 1894 except sections 1, 8 to 10, 18 and 22.
62 & 63 Vict. c.clii.	Pier and Harbour Orders Confirmation (No. 2) Act 1899.	The Montrose Harbour Order 1899.
14 & 15 Geo. 5 c.lxxv.	Pier and Harbour Orders Confirmation (No. 1) Act 1924.	The Montrose Harbour Order 1924.
17 Geo. 5 c.i.	Montrose Burgh and Harbour Order Confirmation Act 1927.	The whole Act and the scheduled Order.
9 & 10 Eliz. 2 c.xviii.	Montrose Burgh and Harbour (Amendment) Order Confirmation Act 1961.	The whole Act and the scheduled Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order empowers the Montrose Port Authority—

- (1) to dispose of land which is no longer required for the purposes of Montrose Harbour;
- (2) to pay their members such remuneration, allowances and expenses as they see fit;
- (3) to dredge (replacing an outmoded existing power);
- (4) to charge for certain floating articles and for services and facilities.

The Order also amends certain provisions of the Montrose Harbour Acts and Orders 1837 to 1961 and in particular increases the maximum fines which may be imposed for certain offences under those provisions.

The Order repeals certain obsolete provisions of the Montrose Harbour Acts and Orders 1837 to 1961. The Order also extends the power of the Montrose Port Authority to licence works contained in article 11 of the Montrose Harbour Revision Order 1991.