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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 288**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Rosyth International Container  
Terminal (Harbour Revision) Order 2013**

*Made* - - - - *9th October 2013*

*Coming into force* - - *10th October 2013*

The Scottish Ministers (“the Ministers”) make the following Order in exercise of the powers conferred by section 14(1) and (3) of the Harbours Act 1964<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 14(1) of that Act, this Order is made in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, for achieving objects specified in Schedule 2 to that Act.

In accordance with section 14(2) of that Act<sup>(2)</sup>—

- (a) this Order is made following a written application to the Ministers by Port Babcock Rosyth Limited (“the Company”) being the authority engaged in improving, maintaining or managing the harbour; and
- (b) the Ministers are satisfied that the making of this Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner and facilitating the efficient and economic transport of goods or passengers by sea.

In accordance with paragraph 4 of Schedule 3 to that Act<sup>(3)</sup>, the Ministers have decided that the application relates to a project which falls within Annex II to Council Directive 85/337/EEC<sup>(4)</sup> as relevantly amended by Council Directive 97/11/EC<sup>(5)</sup> and Council Directive 2003/35/EC<sup>(6)</sup> on the assessment of the effects of certain public and private projects on the environment and, taking into account the criteria set out in Annex III to that Directive, that the project is a relevant project.

In accordance with paragraph 6 of that Schedule, the Ministers have—

- (a) informed the Company of that decision, and the reasons for it; and

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(1) 1964 c.40; section 14(3) was amended by the Transport Act 1981 (c.56), Schedule 6, paragraphs 3 and 14 and by the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 1(4); see sections 14(7) and 57(1) of the Harbours Act 1964 for definitions of “the appropriate Minister” and “the Minister”; the functions of the Minister of the Crown were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53.

(2) Section 14(2) was amended by the Transport and Works Act 1992, Schedule 3, paragraph 1(2).

(3) Schedule 3 was substituted by S.I. 1999/ 3445 and relevantly amended by the Transport (Scotland) Act 2005 (asp 12), section 46(5) and by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5).

(4) O.J. L 175, 5.7.1985, p.40. This Directive has now been replaced by Directive 2011/92/EU (O.J. L 26, 28.1.2012, p.1).

(5) O.J. L 73, 14.3.1997, p.5.

(6) O.J. L 156, 25.6.2003, p.17.

- (b) given an opinion to the Company about the extent of the information referred to in Annex IV to that Directive which the Company would be required to supply in the environmental statement and—
  - (i) in giving that opinion the Ministers have taken into account the matters in subparagraph (3) of that paragraph; and
  - (ii) before giving that opinion the Ministers have consulted the Company and such bodies with environmental responsibilities as the Ministers thought appropriate.

In accordance with paragraph 8 of that Schedule, the Ministers have directed the Company to supply them with an environmental statement and as required by paragraph 9 of that Schedule the Company has complied with that direction.

Notices have been published by the Company in accordance with the requirements of paragraphs 10 and 10A of that Schedule.

In accordance with paragraph 15 of that Schedule, the Ministers have—

- (a) consulted; and
- (b) sent the environmental statement and any further information falling within paragraph 10A(2) of that Schedule to,

such bodies who were likely to have an interest in the project by reason of their environmental responsibilities as the Ministers thought appropriate.

The provisions of paragraph 17 of that Schedule have been satisfied

The Ministers have caused an inquiry to be held under paragraph 18(1B) of that Schedule.

In accordance with paragraph 19(1) of that Schedule, the Ministers have considered—

- (a) the environmental statement and the further information falling within paragraph 10A(2) of that Schedule;
- (b) the result of the consultations under paragraph 15 of that Schedule;
- (c) any objections made and not withdrawn;
- (d) any representations made under paragraph 10(2)(f) or 10A(4)(d) of that Schedule;
- (e) the report of the person who held the inquiry; and
- (f) any written representations submitted to them by the Company or any objector in elaboration of the application or, as the case may be, objection.

In accordance with paragraph 19(2) of that Schedule, the Ministers have decided to make this Order with modifications which appeared to them substantially to affect the character of the Order and in accordance with paragraph 21 of that Schedule—

- (a) the Ministers have taken such steps as appeared to them to be sufficient and reasonably practicable for informing the Company and other persons likely to be concerned; and
- (b) the period which the Ministers thought reasonable for consideration of, and comment upon, the proposed modifications by the Company and those other persons has expired.

In accordance with section 54A(1), (2)(a) and (4) of the Harbours Act 1964(7), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

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(7) Section 54A was inserted by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(3) and amended by S.S.I. 2011/396.