

1989 No. 297

HARBOURS, DOCKS, PIERS AND FERRIES

The Perth Harbour Revision Order 1988

<i>Made</i> - - - -	<i>14th December 1988</i>
<i>Laid before Parliament</i>	<i>16th January 1989</i>
<i>Coming into force</i>	<i>27th February 1989</i>

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 Tayside Regional Council, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Perth Harbour Revision Order 1988 and shall come into force on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(c).

(2) The Perth Harbour Act 1856(d), the Perth Harbour City Improvements and Gas Act 1897(e) and this Order may be cited together as the Perth Harbour Acts and Order 1856 to 1988.

Interpretation

2.—(1) In this Order:—

“Council” means the Tayside Regional Council, constituted under the Local Government (Scotland) Act 1973(f);

“deposited plans and sections” means the plans and sections prepared in triplicate, signed by an Assistant Secretary in the Department of Transport and marked “Plans and sections referred to in the Perth Harbour Revision Order 1988”, of which two copies have been deposited at that Department and one copy of which has been deposited at the principal office of the Tayside Regional Council situated at Tayside House, 28 Crichton Street, Dundee, DD1 3RA;

“harbour” means the port and harbour of Perth;

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

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

“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;

(a) 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.

(b) S.I. 1981/238.

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

(d) 1856 c. cxxxviii.

(e) 1897 c. xlix.

(f) 1973 c.65.

“undertaking” means the undertaking of the Council, as harbour authority, for the time being authorised;

“works” means the works authorised by this Order or, as the case may require, any part thereof.

(2) This Order shall be read as if the words “or thereabouts” were inserted after each distance mentioned in article 3 (Power to construct works) of this Order.

Power to construct works

3.—(1) Subject to the provisions of this Order the Council may in the district of Perth and Kinross and in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plans and sections construct and maintain the works hereinafter described, together with all necessary and proper works and conveniences connected with or incidental thereto, that is to say:—

Work No. 1 A quay wall of sheet steel piling commencing at the outside of the existing timber cope at the southern end of the existing Berth 1, proceeding thence in a south-south-westerly direction for a distance of 30 metres, thence in a westerly direction for a distance of 10 metres and there terminating, together with an infilling of the bed of the River Tay as impounded by the said wall and the provision of a deck of reinforced concrete thereover and a timber cope at the southern end of the new work.

Work No. 2 The removal of the existing coping and steps at the southern end of the existing Berth 1 and the construction of new steps at the southern end of Berth 1 as extended in terms of Work No. 1 above.

(2) The Council may within the limits of deviation reconstruct, renew and alter temporarily or permanently the works.

Period for completion of works

4. If the works are not completed before 1st January 1998 the powers by this Order granted to the Council for constructing the works shall on that day cease except as to so much thereof as is then substantially commenced.

Subsidiary works

5. Subject to the provisions of this Order, the Council may within the limits of deviation from time to time erect, construct and maintain, whether temporarily or permanently, all such necessary works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance and use of the works.

Power to deviate

6. Subject to the provisions of this Order, in constructing the works the Council may deviate laterally from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

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

7.—(1) A tidal work shall not be constructed, reconstructed, 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.

(2) If a tidal work is constructed, reconstructed, 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 Council at their own expense to remove the tidal work or any part of it and restore the site thereof to its former condition; and if on the expiration of thirty days from the date when the notice is served upon the Council 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 so to do, he may himself remove the tidal work or any 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 a debt due from the Council to the Crown and shall be recoverable accordingly.

Survey of tidal works

8. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work constructed by the Council or of the site upon which it is proposed to construct the work and any expenditure incurred by the Secretary of State in any such survey and examination shall be a debt due from the Council to the Crown and shall be recoverable accordingly.

Provision against danger to navigation

9.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Council 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 Council fail to comply in any respect with any provision 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

10.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Council at their own expense either to repair and restore the work or any part of it, or to remove the work and restore the site of it 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 of it, in any notice under this article.

(3) If on the expiration of thirty days from the date when a notice under this article is served upon the Council 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 a debt due from the Council to the Crown and shall be recoverable accordingly.

Lights on tidal works during construction

11.—(1) The Council shall at or near a tidal work during the whole time of the construction, reconstruction, renewal or alteration thereof exhibit, every night from sunset to sunrise, such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Council 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.

Permanent lights on tidal works

12.—(1) After the completion of a tidal work the Council 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 Council 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.

Work to form part of undertaking and application of byelaws

13.—(1) The works shall for all purposes form part of the undertaking.

(2) All byelaws and regulations of the Council for the time being in force relating to the undertaking shall as far as applicable apply to the works and may be enforced by the Council accordingly.

(3) The works shall be deemed for all purposes to be within the Perth and Kinross district of the Tayside Region.

Crown rights

14.—(1) Nothing in this Order shall affect 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 herein contained shall authorise the Council or any licensee of the Council 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 such conditions and upon such terms as shall be considered necessary or appropriate.

Paul Channon

14th December 1988

Secretary of State for Transport

EXPLANATORY NOTE

(This note is not part of the Order)

The number of vessels which can be accommodated at Perth harbour is limited by the size and number of berths available. As the number and size of vessels calling at Perth harbour have been increasing there is a need to increase the capacity of the harbour. This Order authorises the Tayside Regional Council to extend the existing Berth 1 at the harbour.

The applicants for this Order are the Tayside Regional Council.

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