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STATUTORY INSTRUMENTS

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**1992 No. 1435**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Dundee Port Authority Harbour Revision Order 1992**

*Made* - - - - 24th February 1992  
*Laid before Parliament* 9th March 1992  
*Coming into force* - - 6th June 1992

The Secretary of State for Transport (being the appropriate Minister under section 14(7) of the Harbours Act 1964((1)) for the purposes of making this Order) in exercise of the powers conferred by section 14 of that Act and now vested in him((2)), and of all other powers enabling him in that behalf, and on the application of the Dundee Port Authority, hereby makes the following Order:—

**Citation and commencement**

1.—(1) This Order may be cited as the Dundee Port Authority Harbour Revision Order 1992 and shall come into force on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965((3)).

2) The Dundee Port Authority Orders 1952 to 1980 and this Order may be cited together as the Dundee Port Authority Orders 1952 to 1992.

**Interpretation**

2. In this Order, unless the context otherwise requires—

“appointing bodies” means the Secretary of State, the Dundee and Tayside Chamber of Commerce and Industry, the Dundee Shipowners' and Shipbrokers' Association and the Regional Council; and

“appointing body” means any one of those bodies;

“Authority” means the Dundee Port Authority;

“employee” means an individual who has entered into or works under a full-time contract of employment with the Authority whether it is a contract of service or apprenticeship but shall not include any person who is an officer of the Authority;

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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.  
(2) See section 57(1) of the Harbours Act 1964, and S.I.1981/238.  
(3) 1945 c. 18 (9 & 10 Geo. 6); 1965 c. 43.

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

“officer” means the chief executive, general manager, port engineer, port accountant, commercial manager or harbourmaster of the Authority;

“Order of 1975” means the Dundee Port Authority Order 1975((4));

“Regional Council” means Tayside Regional Council;

“the chief executive” means the chief executive for the time being of the Authority.

### **Reconstitution of Authority**

3.—(1) Notwithstanding any of the provisions contained in the Dundee Port Authority Orders 1952 to 1980, the members of the Authority holding office on the coming into force of this Order shall continue in office until immediately before the new constitution date with all the powers and duties of such office, and shall go out of office on that date.

(2) On and after the new constitution date the Authority shall, subject to any casual vacancies, consist of not less than eight nor more than nine members, of whom five shall be appointed members, one shall be an elected member, two (the Lord Provost for the time being of the City of Dundee district and the chief executive) shall be members by virtue of their respective offices and one may be co-opted.

(3) The appointed members of the Authority shall be as follows:—

- (a) a chairman and one other member appointed by the Secretary of State;
- (b) one member appointed by the Dundee and Tayside Chamber of Commerce and Industry;
- (c) one member appointed by the Dundee Shipowners' and Shipbrokers' Association; and
- (d) one member appointed by the Regional Council.

(4) Each of the members to be appointed under paragraph (3) above shall be a person appearing to the appointing body in question to have—

- (a) wide experience of and capacity in one or more of the following matters, that is to say, the management of harbours, shipping, the navigation of ships, commercial, financial or legal matters; or
- (b) some other knowledge or experience that would be of value to the Authority in the discharge of their functions.

(5) If an organisation which is referred to in paragraph (3)(b) or (c) above ceases to exist, the appointment under that paragraph shall be made by the Secretary of State after consultation, if he considers it desirable, with such persons as appear to him to be representative of the interest in question.

(6) The elected member of the Authority shall be elected by the employees for the time being of the Authority from among themselves in accordance with article 5 below.

(7) If a person holding office as an elected member of the Authority ceases to be an employee of the Authority the Authority shall declare his office to be vacant and thereupon the office shall become vacant.

(8) The Authority may in their discretion co-opt by name or office one officer of the Authority (in addition to the chief executive) to be a member of the Authority.

(9) No person shall be appointed as a member of the Authority under paragraph (3) above if he is a member or officer of another harbour authority (as defined in section 57(1) of the Harbours Act 1964) and if a member of the Authority becomes such a member or officer the Authority may declare

his office as a member of the Authority to be vacant and thereupon the office shall become vacant. The foregoing provisions of this paragraph shall not apply in relation to a person who is a member or officer of a local authority which is such a harbour authority as aforesaid unless he is a member of the committee of the authority which is responsible for the administration of the harbour in question and participates in the decisions of that committee as respects that harbour. In this paragraph “local authority” means, in relation to Scotland, an islands, regional or district council and, in relation to England or Wales, a district council.

#### **Nomination of candidates for election**

4.—(1) Not less than 28 days before the new constitution date the employees of the Authority shall submit to the chief executive nominations of persons for election as a member of the Authority.

(2) Not later than 1st December in the year 1994 and in each third year thereafter the employees of the Authority shall submit to the chief executive nominations of persons for election as a member of the Authority.

(3) In the case of a casual vacancy the Authority shall by notice to the employees of the Authority specify the date (being not less than 28 days after the date of the notice) by which the employees shall submit to the chief executive nominations of persons for election as a member of the Authority.

(4) Except as provided in paragraph (1) above a person shall be duly nominated for election only if a nomination paper—

- (a) is received by the chief executive not later than 1st December in the year of election or, in the case of a casual vacancy, the date specified in the notice referred to in paragraph (3) above;
- (b) is signed by the proposer and seconder of the candidate; and
- (c) contains a declaration signed by the candidate that, if elected, he would be willing to serve as a member of the Authority.

#### **Election of member**

5.—(1) If the number of persons duly nominated pursuant to article 4 above is—

- (a) one only, the chief executive shall certify the fact under his hand and thereupon the person so nominated shall be deemed to be elected as a member of the Authority;
- (b) more than one, an election shall be held in accordance with the provisions of the Schedule to this Order.

(2) A member deemed to be elected or elected as a member of the Authority under this article shall (unless he shall previously die or resign or become disqualified to be a member) serve as a member of the Authority—

- (a) in the case of a nomination pursuant to article 4(1) above, from the new constitution date until 31st December 1994; and
- (b) in the case of any nomination pursuant to article 4(2) above, for the period of three years from 1st January next following his election or re-election, as the case may be.

(3) Notwithstanding paragraph 6 of Part I of Schedule 1 to the Order of 1975 a person who has held office as an elected member of the Authority shall be again eligible for election provided he remains an employee of the Authority, and not otherwise.

#### **Failure to fill vacancy**

6. If, by reason of the death, disqualification, resignation or withdrawal of a person appointed or elected as a member of the Authority or of a candidate nominated for election as a member of the

Authority, or for any other reason, there is a vacancy which cannot be filled in accordance with the provisions of this Order, or pursuant to paragraph 1(2) of Part I of Schedule 1 to the Order of 1975, the Authority shall as soon as practicable appoint a person to fill the vacancy.

#### **Amendment of Schedule 1 to Order of 1975**

7. On the new constitution date Schedule 1 to the Order of 1975 shall be amended—

(1) by substituting for paragraph 1(1) and (2) of Part I thereof the following paragraph:—

“1.—(1) Each of the appointing bodies as defined in article 2 of the Dundee Port Authority Harbour Revision Order 1992 shall—

(a) appoint the first member or members to be appointed by that body under article 3(3) of that Order before the new constitution date as defined in article 2 of that Order, and each member so appointed shall, subject to the provisions of the Dundee Port Authority Orders 1952 to 1992, hold office from that date for such term (not being less than one nor more than three years expiring on 31st December), as the appointing body may specify when making the appointment; and

(b) fill any vacancy, other than a casual vacancy, in the office of a member appointed by that body under article 3(3) of that Order by appointing a person to fill that vacancy not later than the 1st December immediately preceding the expiry of the vacating member’s term of office, and the person so appointed shall, subject to the provisions of the Dundee Port Authority Orders 1952 to 1992, hold office for such term of one, two or three years, beginning on the 1st January next following the appointment, as the appointing body may specify when making the appointment.

(2) A casual vacancy arising in the office of a member of the Authority appointed under article 3(3) of the Dundee Port Authority Harbour Revision Order 1992 shall be filled by the appointment of a member who shall, subject to the provisions of the Dundee Port Authority Orders 1952 to 1992, hold office during the remainder of the term for which the person whom he replaces was appointed.”;

(2) by omitting from paragraph 5 of Part I thereof the words “section 4(2) of this Order” and substituting the words “article 3(8) of the Dundee Port Authority Harbour Revision Order 1992”;

(3) by omitting from paragraph 1 of Part II thereof the year “1976” and by substituting therefor the year “1993.”.

#### **Repeal**

8. On the new constitution date section 4 of the Order of 1975 shall be repealed.

Signed by authority of the Secretary of State for Transport

24th February 1992

*Patrick McLoughlin*  
Parliamentary Under Secretary of State,  
Department of Transport

SCHEDULE

Article 5

PROVISIONS FOR THE ELECTION OF MEMBER OF AUTHORITY

**Returning Officer**

1. The chief executive shall be the returning officer for the election and shall appoint the day for the election.

**Voting paper**

2. Not later than 10 days before the day appointed for the election the chief executive shall send to each voter a voting paper on which shall be stated the names of the candidates, arranged alphabetically.

**Voting procedure**

- 3.—(1) The voter may place an “X” against the name of the candidate for whom he wishes to vote.  
(2) The voting paper shall be signed by the person to whom it is addressed.  
(3) The voting paper shall be returned to the chief executive to arrive not later than 10 a.m. on the day appointed for the election.

**Poll**

- 4.—(1) On the day appointed for the election, the returning officer shall ascertain the number of votes cast for each candidate and shall declare elected the candidate receiving the highest number of votes.  
(2) Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle one of those candidates to be declared elected, the returning office shall forthwith decide that candidate by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.  
(3) A declaration by the returning officer of the election of any candidate shall be evidence of that fact.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order reconstitutes the Dundee Port Authority so as to consist of not less than eight nor more than nine members, of whom five are to be appointed, one is to be elected as indicated below, and two (the Lord Provost for the time being of the City of Dundee district and the chief executive of the Authority) shall be members of the Authority by virtue of their respective offices, with power for the Authority to co-opt a further member who (in addition to the chief executive) shall be an officer of the Authority. The appointed members are as follows:—

- (i) a chairman and one other member to be appointed by the Secretary of State;

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

- (ii) one member to be appointed by the Dundee and Tayside Chamber of Commerce and Industry;
- (iii) one member to be appointed by the Dundee Shipowners' and Shipbrokers' Association;
- (iv) one member to be appointed by Tayside Regional Council.

One member is to be elected by the employees of the Authority from amongst themselves in accordance with the provisions of this Order.

The Order also makes minor or consequential amendments to Schedule 1 to the Dundee Port Authority Order 1975.

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 force.

The applicants for this Order are the Dundee Port Authority, Harbour Chambers, Dock Street, Dundee DD1 3HW.