
STATUTORY INSTRUMENTS

1997 No. 1952

HARBOURS, DOCKS, PIERS AND FERRIES

The Inverness Harbour Revision Order 1997

Made - - - - *4th August 1997*

Coming into force - - *18th August 1997*

Whereas the Trustees of the Harbour of Inverness 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 to the said Act(2) notified the Trustees that the application is not one to which the provisions of sub-paragraph (3) of that paragraph apply;

And whereas no objection has been made pursuant to paragraph 3(a) of the said Schedule 3;

And whereas the Secretary of State is satisfied as mentioned in subsection (2)(b) of the said section 14:

Now, therefore, the Secretary of State for Transport (being the appropriate Minister under subsection (7) of the said section 14(3)) in exercise of the powers conferred by that section and now vested in him(4), 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 Inverness Harbour Revision Order 1997 and shall come into force on 18th August 1997.

(2) The Inverness Harbour Acts and Orders 1808 to 1983 and this Order may be cited together as the Inverness Harbour Acts and Orders 1808 to 1997.

Interpretation

2.—(1) In this Order—

“deposited plan and section” means the plan and section prepared in triplicate, signed by the Head of Ports Division in the Department of Transport and marked “Plans and section referred

(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, 3, 4(1) and 14 and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1.

(2) Paragraph A2 was inserted by the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations 1996 (S.I. 1996/1946) regulation 2.

(3) For the definition of “Minister” (mentioned in section 14(7)), see section 57(1).

(4) S.I. 1981/238.

to in the Inverness Harbour Revision Order 1997”, of which two copies are deposited at the offices of the Secretary of State for Transport and one at the principal office of the Trustees;

“level of highwater” 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;

“Trustees” means the Trustees of the Harbour of Inverness;

“undertaking” means the undertaking of the Trustees 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 of this Order.

Power to construct works

3.—(1) Subject to the provisions of this Order the Trustees may and in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and section 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:

A quay wall of sheet steel piling commencing at the existing Citadel Quay extension and then proceeding in a north-westerly direction for a distance of 230 metres downstream and terminating at this point where it joins an extension upstream of the existing Longman Quay together with an infilling of the bed of the River Ness as impounded by the said wall and the existing embankment and the provision of a deck of reinforced concrete thereover.

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

Subsidiary works

4. Subject to the provisions of this Order, the Trustees may, within the limits of deviation, from time to time erect, construct and maintain, whether temporarily or permanently, all such necessary works and conveniences and take such measures 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

5. In constructing the works the Trustees may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited section 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

6.—(1) A tidal work shall not be constructed, reconstructed, renewed, enlarged 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, enlarged or altered in contravention of paragraph (1) above or of any condition or restriction imposed under the said paragraph—

(a) the Secretary of State may by notice in writing require the Trustees at their own expense to remove the tidal work or any part thereof 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

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 so to do, 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.

Survey of tidal works

7. 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 Trustees 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 recoverable from the Trustees.

Provision against danger to navigation

8.—(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 notify the Commissioners of Northern Lighthouses as required by paragraph (1) above or to comply in any respect with any direction given under the said paragraph they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

9.—(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 at their own expense either to repair and restore the work or any part thereof, or to remove the work 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 paragraph (1) above.

(3) If, on the expiration of thirty days from the date when a notice under paragraph (1) above 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.

Lights on tidal works during construction

10.—(1) The Trustees shall at or near a tidal work during the whole time of the construction, reconstruction, renewal, enlargement, 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 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 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 tidal works

11.—(1) After the completion of a tidal work the Trustees shall at the outer extremity 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 Commissioner of Northern Lighthouses shall from time to time direct.

(2) If the Trustees fail to comply in any respect with a direction given under 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.

Obstructing works

12. 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 guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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 Trustees 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 Trustees accordingly.

Defence in relation to offences under articles 8, 10 and 11 of this Order

14.—(1) In any proceedings for an offence under article 8, 10 or 11 of this Order, it shall be a defence for the Trustees to prove that they took all reasonable precautions and exercised all due diligence to avoid commission of such an offence.

(2) If in any case the defence made under paragraph (1) above involves an allegation that the commission of the offence was due to the act or default of another person, the Trustees shall not, without the leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, they have served on the prosecution a notice in writing giving such information as was then in their possession identifying or assisting in the identification of that other person.

Saving for Town and Country Planning

15.—(1) Section 274 of the Town and Country Planning (Scotland) Act 1972⁽⁵⁾ (which declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session of Parliament held during the regnal years 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Order as if it had been passed during that session; and accordingly the Town and Country Planning (Scotland) Act 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Order.

(2) In their application to development authorised by this Order, article 3 of, and Class X in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1981⁽⁶⁾ (which permit development authorised by any local or private Act or by any order approved by both Houses of Parliament, or by an order made under section 14 or section 16 of the Harbours Act 1964,

(5) 1972 c. 52.

(6) S.I. 1981/830 (S.86).

being an Act or order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Order were limited to development begun within ten years of the coming into operation of this Order.

Crown rights

16.—(1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, 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 proportion 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.

Signed by authority of the Secretary of State for Transport

S.K. Reeves
Head of Ports Division,
Department of the Environment, Transport and
the Regions

4th August 1997

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 authorises the Trustees of the Harbour of Inverness to construct a quay wall in Inverness and to continue and maintain the said quay wall; and to carry out subsidiary works.

The applicants for the Order are the Trustees of the Harbour of Inverness.