SCOTTISH STATUTORY INSTRUMENTS

2003 No. 491

HARBOURS, DOCKS, PIERS AND FERRIES

The Cromarty Firth Port Authority (Constitution) Revision Order 2003

Made - - - - 30th September 2003

Coming into force - - 1st October 2003

Whereas the Cromarty Firth Port Authority have applied for a harbour revision order under section 14 of the Harbours Act 1964(**1**):

And whereas objections to the application made pursuant to paragraph 10(2)(f) of Schedule 3 to the said Act have been withdrawn:

Now therefore the Scottish Ministers in exercise of the powers conferred upon them by section 14 of the said Act(**2**) and of all other powers enabling them in that behalf, hereby make the following Order:–

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the Cromarty Firth Port Authority (Constitution) Revision Order 2003 and shall come into force on 1st October 2003.

(2) The Cromarty Firth Port Authority Orders 1973 to 1997(**3**) and this Order may be cited together as the Cromarty Firth Port Authority Orders 1973 to 2003.

Incorporation of section 60 of Commissioners Clauses Act 1847

2. Section 60 of the Commissioners Clauses Act 1847(**4**) shall be incorporated with this Order.

(**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**) Section 14(7) contains a definition of "the appropriate Minister" relevant to the exercise of the powers under which this Order is made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**3**) See 1973 c.xiv, S.I. 1996/1419 and S.I. 1997/1953.

(**4**) 1847 c. 16.

Interpretation

3. In this Order–

"the Authority" means the Cromarty Firth Port Authority;

"the new constitution date" means 1st January 2004.

Constitution

Constitution of Authority

4.—(1) On and after the new constitution date, the Authority shall consist of–

(a) seven members appointed by the Authority;

(b) the port manager for the time being of the Authority; and

(c) if they so decide, a person co-opted by the members referred to in sub-paragraphs (a) and (b) above to serve as a member during such period not exceeding one year as may be specified by those members at the time of co-option.

(2) Each member appointed under paragraph (1)(a) above or co-opted under paragraph (1)(c) above shall be a person who appears to have special knowledge, experience or ability appropriate to the efficient and economic discharge by the Authority of their functions including in particular (but without prejudice to the generality of the foregoing) special knowledge, experience or ability in one or more of the following matters–

(a) management of harbours;

(b) shipping or other forms of transport;

(c) usage of port facilities;

(d) industrial, commercial and financial matters including, in particular, but without prejudice to the foregoing, matters relating to the oil industry;

(e) administration;

(f) the organisation of employees;

(g) community involvement;

(h) financial management;

(i) the laws relating to Scotland;

(j) safety management;

(k) commercial marketing;

(l) information technology;

(m) environmental matters affecting harbours;

(n) civil engineering; and

(o) any other skills and abilities considered from time to time by the Authority to be relevant to the discharge by them of their functions;

and the Authority shall secure, so far as reasonably practicable, that the members appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient and economic discharge by them of their functions.

(3) In making an appointment under paragraph (1)(a) above or article 8 below, or a co-option under paragraph (1)(c) above the Authority shall act in accordance with any guidance issued by the Scottish Ministers from time to time with respect to the exercise of such functions.

Appointment and terms of office of first members

5.—(1) The first appointments under article 4(1)(a) above shall be made before 1st December 2003.

(2) The Authority shall appoint the persons who are, at the date when they make the first appointments under paragraph (1) above, the continuing members to be three of the first of such appointed members and they shall hold office as members from the new constitution date until 31st December 2004; and in this paragraph "continuing members" means the persons who were appointed before the new constitution date to serve as members of the Authority for three years from 1st January 2002.

(3) Of the remaining first such appointed members–

(a) two shall hold office from the new constitution date until 31st December 2005;

(b) two shall hold office from the new constitution date until 31st December 2006;

as the Authority shall specify when they make each of those appointments.

Terms of office of subsequent members

6. A member appointed under article 4(1)(a) above (other than a member appointed under article 5 above) shall, unless appointed to fill a casual vacancy and subject to the provisions of this Order, hold office for the period of three years from 1st January next following his appointment.

Declaration to be made by members

7. No person shall be capable of acting as a member until he has made the declaration set out in Schedule 1 to this Order; and a person shall cease to be a member if he fails to make that declaration within three months of the date of his appointment.

Casual vacancies

8.—(1) A casual vacancy arising in the office of a member appointed by the Authority shall, where reasonably practicable, be filled by the appointment of a member by the Authority in accordance with article 4(3) above.

(2) A member appointed to fill a casual vacancy under this article shall hold office (unless he previously dies or otherwise ceases to be a member) during the remainder of the term for which the member whom he replaces was appointed.

Disqualification of members

9. If the Authority are satisfied that a member–

(a) has without the permission of the Authority been absent from meetings of the Authority–

(i) for a period during which three such meetings have been held; or

(ii) for a period of three consecutive months,

whichever of these periods is the longer; or

(b) has had an award of sequestration made against his estate or has become bankrupt or made an arrangement with his creditors; or

(c) is incapacitated by physical or mental illness from discharging the functions of a member; or

(d) is otherwise unable, unwilling or unfit to discharge the functions of a member;

the Authority may declare his office as a member to be vacant and thereupon his office shall become vacant.

Indemnity insurance for members

10. The Authority may enter into, and pay premiums for, a contract of insurance to indemnify the members jointly or severally against personal liability arising from any act or omission of the members or of any of them; not being an act or omission which the member or members in question knew to be a breach of his or their duty or, concerning which, he or they were reckless as to whether it was such a breach.

Incidental provisions relating to Authority

11. On and after the new constitution date the provisions of Schedule 2 to this Order shall have effect with respect to the administrative arrangements and proceedings of the Authority.

Borrowing powers

12. The Authority may from time to time borrow, by any methods they see fit, such sums of money as they think necessary for the purposes of meeting their obligations in carrying out their functions; and where moneys are borrowed by the Authority under this article, the Authority may, if they see fit, borrow those moneys upon the security of their assets for the time being or of their revenues or of both their assets and their revenues.

Repeals and revocations

13. On the new constitution date the enactments mentioned in the first and second columns of Schedule 3 to this Order (which include spent enactments) shall be repealed or revoked to the extent specified in the third column of that Schedule.

St Andrew's House, Edinburgh
30th September 2003

NICOL SYEPHEN
A member of the Scottish Executive