SCOTTISH STATUTORY INSTRUMENTS

2003 No. 258

HARBOURS, DOCKS, PIERS AND FERRIES

The Montrose Port Authority Harbour Revision (Constitution) Order 2003

Made - - - -	*21st April 2003*
Coming into force - -	*22nd April 2003*

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

And whereas there were objections made to the application which were not withdrawn, and an inquiry was held in accordance with paragraph 18 of Schedule 3 to the Harbours Act 1964;

And whereas the Scottish Ministers have considered the objections made and not withdrawn and the report of the person holding the inquiry, and are satisfied as mentioned in section 14(2)(b) of the Act;

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

Citation and commencement

1.—(1) This Order may be cited as the Montrose Port Authority Harbour Revision (Constitution) Order 2003 and shall come into force on 22nd April 2003.

(2) This Order and the Montrose Harbour Acts and Orders 1837 to 1999 may be cited together as the Montrose Harbour Acts and Orders 1837 to 2003.

Incorporation of section 60 of the Commissioners Clauses Act 1847

2. Section 60 of the Commissioners Clauses Act 1847(**3**) shall be incorporated with this Order.

Interpretation

3. In this Order–

"the Authority" means the Montrose Port Authority;

(**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**) 1847 c. 16.

"the new constitution date" means 1st October 2003.

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) two members appointed by Angus Council; and

(c) the Chief Executive, the finance director and the commercial manager for the time being respectively of the Authority.

(2) Each member appointed under paragraph (1)(a) and (b) 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) financial management;

(d) the laws relating to Scotland;

(e) safety or personnel management;

(f) commercial marketing or information technology;

(g) environmental matters affecting harbours;

(h) local government and local community interests; and

(i) any other skills and abilities considered from time to time by the Authority and Angus Council respectively to be relevant to the discharge by the Authority of their functions;

and the Authority and Angus Council respectively 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 the Authority of their functions.

(3) In making an appointment under paragraph (1) above or article 8 below, the Authority and Angus Council respectively 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) and (b) above shall be made before 1st September 2003.

(2) The Authority shall appoint the person who is, at the date when they make the first appointments under paragraph (1)(a) above, the chairman of the Authority to be one of the first of such appointed members and he shall hold office as a member from the new constitution date until 30th September 2006; and on and after the new constitution date shall be the chair of the Authority.

(3) Of the remaining first such appointed members–

(a) three shall hold office from the new constitution date until 30th September 2004;

(b) three shall hold office from the new constitution date until 30th September 2005;

(c) two shall hold office from the new constitution date until 30th September 2006;

as the Authority and Angus Council shall specify when they make the appointments for which they are respectively responsible.

Terms of office of subsequent members

6. A member appointed under article 4(1)(a) or (b) 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 October 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 or Angus Council shall, where reasonably practicable, be filled by the appointment of a member by the Authority or Angus Council 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;

(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 in addition to those provisions of the Montrose Acts and Orders 1837 to 1974 which are in force at the date when this Order comes into force and are not repealed by this Order.

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.

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 revoked to the extent specified in the third column of that Schedule.

St Andrew's House, Edinburgh
21st April 2003

LEWIS MACDONALD
Authorised to sign by the Scottish Ministers