SCOTTISH STATUTORY INSTRUMENTS

2002 No. 504

HARBOURS, DOCKS, PIERS AND FERRIES

The Peterhead Harbours Revision (Constitution) Order 2002

Made - - - -	*28th October 2002*
Coming into force - -	*31st October 2002*

Whereas the Peterhead Harbours Trustees 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And whereas objections to the application made pursuant to paragraph 3(2)(a) of Schedule 3 to the said Act have been withdrawn:

Now, therefore, the Scottish Ministers(**2**), in exercise of the powers conferred by the said section 14 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 Peterhead Harbours Revision (Constitution) Order 2002 and shall come into force on 31st October 2002.

(2) The Peterhead Harbours Orders 1985 to 1998 and this Order may be cited together as the Peterhead Harbours Orders 1985 to 2002.

Interpretation

2. In this Order–

"the 1992 Act" means the Peterhead Harbours Order Confirmation Act 1992;

"application date" means the date by which applications must be lodged with the chief executive under article 7(1)(b);

"appointing body" has the meaning given by article 5(1);

"appointment and election procedure" means the procedure carried out under articles 4 to 7;

"approved candidates" means applicants for election as trustee whom the appointing body decide should go forward for election under article 5(4);

"election date" means a date between 1st November and 31st December;

(**1**) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraph 2 to 4 and 14, and by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 1.

(**2**) 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).

"the new constitution date" means the election date in the year 2004;

"Peterhead Harbours electoral area" means the following Aberdeenshire electoral wards: Blackhouse, Boddam – Inverugie, Buchanhaven, Clerkhill, Dales – Towerhill, Lonmay & St. Fergus and Peterhead Central – Roanheads;

"sheriff" means the sheriff principal of the sheriffdom of Grampian, Highlands and Islands and includes any sheriff sitting in the sheriff court district of Peterhead; and

"the trustees" means the Peterhead Harbours Trustees holding office either under the 1992 Act or this Order as the case may require.

Constitution of trustees

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

(a) six persons nominated by the shipowners from among their number and elected by the electors, qualified as hereinafter provided;

(b) two persons nominated by the harbour ratepayers from among their number and elected by the electors, qualified as hereinafter provided;

(c) two persons nominated and elected by the electors from among their number, qualified as hereinafter provided;

(d) the chief executive of the trustees; and

(e) one person appointed by the trustees

and application, appointment or election under a sub-paragraph of this paragraph shall mean application, appointment or election for the post of trustee described in that sub-paragraph.

(2) The arrangements for election and appointment of trustees shall be as follows–

(a) on the election date in the year 2002 and every third year thereafter,

(i) two trustees shall be elected in accordance with sub-paragraph (1)(a) above,

(ii) one trustee shall be elected in accordance with sub-paragraph (1)(b) above; and

(iii) one trustee shall be elected in accordance with sub-paragraph (1)(c) above;

(b) on the election date in the year 2003 and every third year thereafter,

(i) two trustees shall be elected in accordance with sub-paragraph (1)(a) above,

(ii) one trustee shall be elected in accordance with sub-paragraph (1)(b) above, and

(iii) one trustee shall be elected in accordance with sub-paragraph (1)(c) above;

(c) one trustee shall be appointed in accordance with sub-paragraph (1)(e) above.

(i) two trustees shall be elected in accordance with sub-paragraph (1)(a) above,

(ii) one trustee shall be appointed in accordance with sub-paragraph (1)(e) above.

(3) The chief executive shall be a trustee by virtue of that office, and other employees of the trustees shall not be eligible to become trustees while they are employed by the trustees.

(4) All trustees elected or appointed under paragraph (2) shall hold office for three years.

Application procedure

4.—(1) All persons seeking election or appointment under paragraphs 3(1)(a), (b), (c) or (e) shall lodge an application form with the chief executive by the application date.

(2) The application form shall contain the following information–

(a) the name and address of the applicant;

(b) a statement as to under which sub-paragraph of article 3(1) the application is made;

(c) a declaration of interests as set out in Schedule 1;

(d) such biographical information as the applicant sees fit to supply.

(3) Applications made under articles 3(1)(a), (b) and (c) shall be accompanied by nomination papers as follows–

(a) applications made under article 3(1)(a) shall be accompanied by no fewer than two nomination papers from persons whose names appear on the list of shipowners as defined in article 6(1)(a);

(b) applications made under article 3(1)(b) shall be accompanied by no fewer than two nomination papers from persons whose names appear on the list of harbour ratepayers maintained in accordance with article 6(1)(b);

(c) applications made under article 3(1)(c) shall be accompanied by no fewer than two nomination papers from persons whose names appear on the electoral register as defined in article 6(1)(c).

(4) Nomination papers shall state that the nominating person nominates the nominee and shall be signed by the nominating person.

Interviews and selection

5.—(1) There shall be an appointing body consisting of the following three persons, none of whom shall have made an application under article 4:–

(a) the Convenor of trustees unless the Convenor has made an application under article 3, in which case another trustee nominated by the trustees;

(b) a person who is not a trustee, who shall be nominated by the trustees and considered to represent the interests of one or more groups of persons interested in Peterhead Harbours; and

(c) the chief executive of Aberdeenshire Council or the nominee of the chief executive.

(2) The appointing body shall meet as soon as practicable after the application date to consider the applications made under article 4 and in any event within one week of the application date.

(3) The appointing body shall interview applicants as it sees fit.

(4) In the years of election of such trustees, the appointing body shall decide whether those persons who have applied under articles 4(1)(a), (b) and (c) shall be candidates in the election.

(5) In the year of appointment of such a trustee, the appointing body shall decide which person who has applied under article 4(1)(e) shall be appointed as a trustee.

(6) The appointing body shall have particular regard to the following considerations when making decisions under paragraphs (4) and (5)–

(a) the special knowledge, experience or ability of applicants to contribute to the efficient and economic discharge by the trustees of their functions;

(b) the special knowledge, experience or ability of applicants in one or more of the following matters–

(i) management of harbours;

(ii) shipping or other forms of transport;

(iii) the fishing industry;

(iv) sailing and other water-related leisure activities;

(v) navigation;

(vi) industrial, commercial or financial matters;

(vii) administration;

(viii) the law relating to Scotland;

(ix) safety;

(x) personnel management;

(xi) environmental matters affecting harbours;

(xii) local community interests;

(xiii) any other skills and matters considered relevant from time to time by the trustees to the discharge by them of their functions;

(c) any guidance issued by the Scottish Ministers from time to time with respect to the exercise of such functions.

Registers

6.—(1) On or before 30th September in each year, the chief executive shall cause the following lists to be made up and made available for inspection at the harbour office:–

(a) a list of shipowners, being those persons–

(i) who for the 12 calendar months prior to 1st September preceding the election shall have been recorded in the register of electors as a person resident within the Peterhead harbours electoral area, or in the valuation roll as a ratepayer in respect of non-domestic property within the said area; and

(ii) whose names appear on 1st September preceding the election in the register of shipping under Part I of the Merchant Shipping Act 1894 or in the register of British fishing vessels under Part II of the Merchant Shipping Act 1995 as owner, or part owner to the extent of at least four sixty-fourth shares, of a ship or vessel of not less than 9 metres overall length;

(b) a list of harbour ratepayers, being those persons whose names appear on the roll kept and maintained by Grampian Joint Valuation Board or its successor, under the Valuation Acts (as defined by section 26(1) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(**3**) for the purpose of assessing and levying rates under sections 1 and 7 respectively of the Local Government (Scotland) Act 1975(**4**) in respect of non-domestic property in the Peterhead Harbours electoral area; and

(c) a list of electors, being those persons who appear on the register of electors for the electoral wards in the Peterhead Harbours electoral area held by Aberdeenshire Council and last published in the year preceding the application date.

(2) Where:–

(a) a firm consisting of two or more partners, or a company appears in the said register of shipping or said register of British fishing vessels, or

(b) a firm consisting of two or more partners, or a company appears in the said valuation roll, or

(c) two or more persons appear jointly on the said valuation roll,

the said firm, company or persons or the manager or principal officer of such firm or company may on or before 1st September in each year intimate in writing to the trustees or to the chief executive the name of the partner of such firm or shareholder or director of such company or the name of one

(**3**) 1987 (c. 47).
(**4**) 1975 (c. 30).

such person appearing on the register or valuation roll, as the case may be, who shall be qualified to be elected a trustee and to be an elector under the provisions of this section.

(3) Any persons considering themselves qualified to be elected as trustees or to be electors, whose names are not included in the said list may within 21 days of the date of publication of the list apply to the chief executive who may add the name of any such person to the list and, if the chief executive refuses or neglects to add the name to the list, such person may petition the sheriff within three days after intimation of such refusal and the sheriff shall forthwith hear and decide the petition in a summary manner without written record or pleadings.

(4) The decision of the sheriff shall be final and the sheriff may order any of the lists above to be amended in conformity with that decision and may make such order as to the expenses of the petition as the sheriff thinks fit.

Elections

7. The following rules shall be observed with respect to the elections for trustees under articles 4(1)(a), (b) and (c)–

(1) Not less than 21 clear days prior to the date for the election the chief executive shall by notice posted on a board outside the harbour office and published by insertion at least once in a newspaper circulating in the Peterhead Harbours electoral area, intimate:–

(a) the names of the retiring trustees;

(b) the date and times by which applications and the withdrawal of applications must be lodged with the chief executive;

(c) the nomination procedure outlined in articles 4 and 5;

(d) the date, time and place of the election in the event of a poll being necessary, such place being within the Peterhead Harbours electoral area and such date being between 1st November and 31st December.

(2) The returning officer shall be the chief executive or such other person as may be appointed by the chief executive, and the returning officer shall preside at the polling place;

(3) Any application by a candidate may be withdrawn by notice of withdrawal to the returning officer and such notice of withdrawal shall be signed by the person who made the application;

(4) If there are no more approved candidates than the number to be elected in a particular class the returning officer shall on or before the Wednesday preceding the election cause public notice to be given of the persons so nominated, which notice shall be affixed in some place accessible to the public within the office of the trustees or in some conspicuous place on the outside thereof and advertised in one or more newspapers published or circulating in Peterhead, and shall give notice that as the number of approved candidates in such class does not exceed the number of vacancies to be filled at the election there will be no poll for that class, and shall further declare that the persons so proposed will on the day of election be deemed to be the elected trustees, and on the day of the election the persons so proposed shall accordingly be deemed to be duly elected;

(5) If there are more approved candidates for any of the classes than the number to be elected the returning officer shall order a poll which shall take place on the day and at the place fixed for the election;

(6) The poll shall be taken by ballot in the manner of a Parliamentary election or in such manner as may be determined by the returning officer;

(7) Such of the persons who, being not more than the number of elected trustees at an election under this Order, shall be found to have the greatest number of valid votes at such election shall, if duly qualified according to this Order, be deemed to be elected trustees, and the returning officer shall prepare and sign a certificate of election which certificate shall be final and conclusive as to the