SCOTTISH STATUTORY INSTRUMENTS

2002 No. 310

HARBOURS, DOCKS, PIERS AND FERRIES

The Aberdeen Harbour Revision (Constitution) Order 2002

Made - - - -	*24th June 2002*
Coming into force - -	*25th June 2002*

Whereas the Aberdeen Harbour Board have applied for a harbour revision order under section 14 of the Harbours Act 1964(**1**) (hereinafter called "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 Aberdeen Harbour Revision (Constitution) Order 2002 and shall come into force on 25th June 2002.

(2) The Aberdeen Harbour Orders 1960 to 1992 and this Order may be cited together as the Aberdeen Harbour Orders 1960 to 2002.

Incorporation of section 60 of the Commissioners Clauses Act 1847

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

Interpretation

3. In this Order—

"the Board" means the Aberdeen Harbour Board;

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

Constitution of Board

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

(a) nine persons appointed by the Board;

(**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).

(b) the Chief Executive of the Board; and

(c) two other senior officers of the Board as may, from time to time, be specified by the members appointed under subparagraph (a) above.

(2) Each member appointed under paragraph (1)(a) above shall be a person who appears to the Board to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Board 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) the fishing industry;

(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;

(o) local community interests; and

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

and the Board 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, effective and economic discharge by them of their functions.

(3) In making an appointment under paragraph (1) above or article 8 below, the Board shall take account of 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) Subject to paragraph (3) below, the first appointments under article 4(1)(a) above shall be made on, or as soon as reasonably practicable after, 31st October 2002.

(2) The Board shall appoint the person who is, at the date when they make the first appointments under paragraph (1) above, the chair of the Board to be one of the first of such appointed members and he shall hold office as a member from the new constitution date until 31st December 2005; and on and after the new constitution date shall be the chair of the Board.

(3) The Board shall appoint the person who is, at the date when they make the first appointments under paragraph (1) above, the vice-chair of the Board to be one of the first of such appointed members and he shall hold office as a member from the new constitution date until 31st December 2004; and on and after the new constitution date shall be the vice-chair of the Board.

(4) Of the remaining first members appointed by the Board—

(a) three shall hold office from the new constitution date until 31st December 2003;

(b) two shall hold office from the new constitution date until 31st December 2004;

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

as the Board 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 articles 7 and 9 of, and paragraph 12 of Schedule 2 to, 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 act as a member until he has made the declaration set out in Schedule 1 to this Order (or a declaration to that effect); 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 Board shall, unless it is not reasonably practicable to do so, be filled by the appointment of a member by the Board in accordance with article 4(2) and (3) above.

(2) A member appointed to fill a casual vacancy under this article shall, subject to articles 7 and 9 of, and paragraph 12 of Schedule 2 to, this Order, hold office during the remainder of the term for which the member whom he replaces was appointed.

Disqualification of members

9.—(1) If the Board are satisfied that a member—

(a) has without the permission of the Board been absent from meetings of the Board—

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

(ii) for a period of three consecutive months;

whichever of those periods is the longer; or

(b) 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 Board may declare his office as a member to be vacant and thereupon his office shall become vacant.

(2) Subject to article 4(1)(b) and (c) above, an officer or other employee of the Board shall be disqualified from being appointed as a member of the Board during the period that he is such an officer or employee.

Indemnity insurance for Board

10. The Board 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 Board

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

Publication of Board's annual statement of accounts

12. As soon as reasonably practicable after their annual statement of accounts is prepared, the Board shall make available a copy of the statement for a period of three months at the offices of the Board for inspection free of charge by members of the public and shall, subject to the payment of a reasonable charge, supply a copy of the statement to any person who requests to be supplied with a copy.

Borrowing powers

13. The Board 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 Board under this article, the Board 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

14. 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.

Victoria Quay,Edinburgh
24th June 2002

DAVID M HART
A member of the staff of the Scottish Executive

S C H E D U L E S

SCHEDULE 1

Article 7

FORM OF DECLARATION BY MEMBERS

ABERDEEN HARBOUR BOARD

ABERDEEN HARBOUR ORDERS 1960 TO 2002

DECLARATION

I, [FULL NAME] do solemnly declare

(1) that I will faithfully and impartially, according to the best of my skill and judgement, execute all the powers and authorities vested in me as a member of the Aberdeen Harbour Board by virtue of the Aberdeen Harbour Orders 1960 to 2002;

(2) that I have read and understood the Standing Orders of the Board and the documents entitled "Note for Guidance of members on the Disclosure of Financial and Other Interests" and "Duties of members" and that I will comply with the requirements as to the disclosure of such interests, laid down by paragraph 18 of Schedule 2 to the Aberdeen Harbour Revision (Constitution) Order 2002, and in particular that:

(a) I have disclosed to the Chief Executive details of every financial or other interest such as is mentioned in those Standing Orders and documents;

(b) I will in future notify the Chief Executive forthwith of any alteration in those interests, of any new interest, such as is mentioned in those Standing Orders and documents, which I may acquire.

Made and signed in Aberdeen, on the ……... day of ……	)))	…… (signature)
Witnessed by the Chief Executive…….. as a member of the Aberdeen Harbour Board	))))	…… (signature)

Note:- Where the declaration is to be made by the Chief Executive, the Form shall be amended so that, for references to "the Chief Executive", there are substituted references to "the chair"