SCOTTISH STATUTORY INSTRUMENTS

2002 No. 294

HARBOURS, DOCKS, PIERS AND FERRIES

The Peterhead Bay Authority (Constitution) Revision Order 2002

Made - - - -	*5th June 2002*
Coming into force - -	*10th June 2002*

Whereas the Peterhead Bay Authority have applied for a harbour revision order under section 14 of the Harbours Act 1964(**1**) (hereinafter called "the Act"):

And whereas objections to the application made pursuant to paragraph 3(2)(a) of Schedule 3 to the Act have been withdrawn:

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 Peterhead Bay Authority (Constitution) Revision Order 2002 and shall come into force on 10th June 2002.

(2) The Peterhead Bay Harbour Trust and Transfer Order 1983(**3**) and this Order may be cited together as the Peterhead Bay Authority Orders 1983 and 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 1983 Order" means the Peterhead Bay Harbour Trust and Transfer Order 1983;

"the Authority" means the Peterhead Bay 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**) S.I. 1983/316.

"the new constitution date" means 1st April 2002.

Constitution of Authority

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

(a) 45 eight persons appointed by the Authority; and

(b) the Chief Executive of the Authority.

(2) Each member appointed under paragraph (1)(a) above shall be a person who appears to the Authority to have special knowledge, experience or ability appropriate to the efficient, effective 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) 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 government and local community interests;

(p) any other skills and matters 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, effective and economic discharge by them of their functions.

(3) In making an appointment under paragraph (1) above or article 8(1) below, 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) 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 March 2002.

(2) Of the first members appointed by the Authority—

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

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

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

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

(3) Any person appointed before the new constitution date by the Scottish Ministers—

(a) on the nomination of Aberdeenshire Council to hold office as a member until 30th June 2002 shall, if he is a member immediately before the new constitution date, be deemed to have been appointed by the Authority as a member under paragraph 2(a) above;

(b) on the nomination of the Trustees of the Harbour of Peterhead to hold office as a member until 31st March 2003 shall, if he is a member immediately before the new constitution date, be deemed to have been appointed by the Authority as a member under paragraph 2(a) above;

(c) to hold office as a member for three years from 1st September 2001 shall, if he is a member immediately before the new constitution date, be deemed to have been appointed by the Authority as a member under paragraph 2(b) above.

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 10 of, Schedule 2 to, this Order, hold office for the period of three years from 1st April 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 Authority shall, unless it is not reasonably practicable to do so, be filled by the appointment of a member by the Authority 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 10 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. 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 those periods is the longer; or

(b) has had an award of sequestration made against his estate or has made a trust deed for behoof of his creditors or a composition arrangement; 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 Authority

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 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.

Extension of area of jurisdiction of Authority

13.—(1) The definition of "the Harbour" in article 2(1) of the 1983 Order shall be amended by deleting the words "and shown on the plan annexed as Schedule 6 to this order".

(2) The definition of "the seaward limit" in paragraph 1(1) of Schedule 2 to the 1983 Order shall be amended by substituting for that definition the following:—

> ""the seaward limit" means the area bounded by a line drawn from the root of the North Breakwater commencing at a point:– 57° 30.04' N 001° 46.18'W, thence extending in a south-easterly direction to a point at 57° 29.90'N 001° 45.83'W, thence extending in an easterly direction to a point at 57° 29.90'N 001° 44.10'W, thence extending in a southerly direction to a point at 57° 28.31'N 001° 44.10'W, thence extending in a westerly direction to a point at 57° 28.31'N 001° 45.10'W, thence extending in a north-westerly direction to a point at 57° 28.73'N 001° 45.97'W, thence extending in a north-easterly direction to a point at 57° 28.87'N 001° 45.73'W, thence extending in a north-westerly direction to a point at 57° 28.98'N 001° 45.95'W, thence extending in a south-westerly direction to a point at 57° 28.85'N 001° 46.18'W thence extending in a north-westerly direction to a point at 57° 29.31'N 001° 47.12'W and there terminating, which point joins onto the outward extent of the inland limit.".

(3) Schedule 6 to the 1983 Order shall be revoked.

(4) The harbour limits which are described in Schedule 2 to the 1983 Order as amended by paragraph (2) above are, for the purpose of identification only, shown hatched black on the plan prepared in triplicate, signed by the Scottish Ministers and marked "Plan referred to in the Peterhead Bay Authority (Constitution) Harbour Revision Order 2002", two copies of which have been deposited at that Department and one copy of which has been deposited at the offices of the Authority, Bath House, Bath Street, Peterhead AB42 1DX.

(5) The references to co-ordinates in paragraph (2) above are references to WGS84 (ETRS89) datum.

Consequential amendment of 1983 Order

14. In paragraph 1 of Schedule 3 to the 1983 Order for the words "may employ such", there shall be substituted the words "shall employ a chief executive and such other".

Revocations

15. 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
5th June 2002

LEWIS MACDONALD
Authorised to sign by the Scottish Ministers