SCOTTISH STATUTORY INSTRUMENTS

2001 No. 457

HARBOUR, DOCKS, PIERS AND FERRIES

The Fraserburgh Harbour Revision (Constitution) Order 2001

Made - - - -	*11th December 2001*
Coming into force - -	*12th December 2001*

Whereas the Fraserburgh Harbour Commissioners have applied for a harbour revision order under section 14 of the Harbours Act 1964(**1**);

And whereas the making of this Order is not opposed;

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:—

PART I

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Fraserburgh Harbour Revision (Constitution) Order 2001 and shall come into force on 12th December 2001.

(2) The Fraserburgh Harbour Order Confirmation Act 1985(**3**), the Fraserburgh Harbour Order Confirmation Act 1990(**4**), the Fraserburgh Harbour Revision Order 1995(**5**), the Fraserburgh Harbour Revision Order 1999(**6**) and this Order may be cited together as the Fraserburgh Harbour Orders 1985 to 2001.

Interpretation

2. In this Order—

"the 1990 Act" means the Fraserburgh Harbour Order Confirmation Act 1990;

(**1**) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 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).
(**3**) 1985 c. xlv.
(**4**) 1990 c. xxxii.
(**5**) S.S.I. 1995/1527.
(**6**) S.S.I. 1999/40.

"application date" in 2001 means 21st December and for all other years means the first Friday in November;

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

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

"the Commissioners" means the Fraserburgh Harbour Commissioners holding office either under the 1990 Act or this Order as the case may require;

"election date" means the second Friday in January;

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

"parish" means the parish of Fraserburgh in Aberdeenshire; and

"senior salaried official" means any of the Harbour Master, the Harbour Superintendent, the Harbour Treasurer or the Harbour Clerk.

PART II

CONSTITUTION

Constitution of Commissioners

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

(a) four persons nominated and elected by the shipowners, qualified as hereinafter provided;

(b) four persons nominated and elected by the harbour ratepayers, qualified as hereinafter provided;

(c) two persons nominated and elected by the parishioners, qualified as hereinafter provided;

(d) one person appointed by the Commissioners who is a senior salaried official of the Commissioners; and

(e) one person appointed by the Commissioners having been nominated by Aberdeenshire Council

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

(2) The arrangements for election and appointment of Commissioners shall be as follows—

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

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

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

(iii) one Commissioner shall be appointed in accordance with sub-paragraph (1)(d) above;

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

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

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

(iii) one Commissioner shall be appointed in accordance with sub-paragraph (1)(e) above;

(c) on the election date in the year 2004 and every third year thereafter,

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

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

(iii) two Commissioners shall be elected in accordance with sub-paragraph (1)(c) above.

(3) The term of office for all Commissioners shall be three years.

Application procedure

4.—(1) All persons seeking election or appointment under article 3(1) shall submit an application form to the Commissioners by the application date in the year preceding the election date.

(2) The Commissioners shall cause the said application date and application format set out in paragraphs (3) to (5) below to be advertised in at least one newspaper published or circulating in Fraserburgh not less than six days previous to the application date.

(3) 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) for applications made under article 3(1)(c), a statement that the applicant appears on the electoral register as defined in article 6(1)(c);

(d) for applications made under article 3(1)(d), a statement that the applicant is a qualifying staff member of the Commissioners;

(e) for applications made under articles 3(1)(d) and 3(1)(e), a declaration of interests as set out in Schedule 1;

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

(4) 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 four 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 four 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 four nomination papers from persons whose names appear on the electoral register as defined in article 6(1)(c).

(5) Nomination papers shall contain a statement that the nominating person nominates the person seeking election 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 Commissioners unless the Convenor has made an application under article 4, in which case another Commissioner nominated by the Commissioners;

(b) a person who is not a Commissioner, who shall be nominated by the Commissioners and considered to represent the interests of one or more groups of persons interested in Fraserburgh Harbour; 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) The appointing body shall decide whether those persons who have applied under articles 3(1)(a), (b) and (c) shall be candidates in the election.

(5) The appointing body shall decide which persons who have applied under articles 3(1)(d) and (e) shall be appointed as Commissioners.

(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 Commissioners 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) any other skills and matters considered relevant from time to time by the Commissioners 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) The Commissioners shall cause the following lists to be made up:—

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

(i) who have a place of business in the parish; and

(ii) on 1st November preceding the application date whose names appear in the register of British fishing vessels under Part II of the Merchant Shipping Act 1995 as owner or part-owner of a fishing vessel;

(b) a list of harbour ratepayers, being those persons—

(i) who reside or have their place of business in the parish and,

(ii) during the year ending 31st October preceding the application date, have paid as principal £50 or more of rates to the Commissioners; and

(c) a list of parishioners, being those persons who appear on the register of electors for the electoral wards of Buchan North, Buchan North East, Central Buchan, Fraserburgh East,

Fraserburgh North, Fraserburgh South, Fraserburgh West and Lonmay & St. Fergus held by Aberdeenshire Council and last published in the year preceding the application date.

(2) For the purpose of making up the list of ratepayers of the harbour, the Commissioners shall cause to be entered in a book or books kept by them the name and designation of every such person and the total amounts of such rates paid by such person during the period of 12 months ending 31st October in that year, which book or books shall be open to public inspection at all times during the hours of business.

(3) Where rates are paid or a ship or share in a ship is owned by any company or partnership consisting of two or more members or partners having a place of business within the parish, such company or partnership may, before expiration of the first week of November immediately preceding the election, intimate in writing to the Commissioners the name of any one of the members or partners by whom such payment shall be deemed to have been made or by whom such ship or share in a ship shall be deemed to be owned, and such payment or such ship or share in a ship, as the case may be, shall, for the purposes of the election, be deemed to be made or owned, as the case may be, by the member or partner so named, if resident within the parish, and the member or partner so named shall be qualified to be an elector, and to nominate the elected Commissioners, in the same manner as if such payment had been made or such ship or share in a ship had been owned by that person as an individual, provided that the amount of rates paid by such company or partnership, be sufficient to afford the qualification in sub-paragraph (1)(b) above in respect of rates to each of the members or partners so named.

Elections

7. The following rules shall be observed with respect to the elections for Commissioners under articles 3(1)(a), (b) and (c):—

(1) At least 7 days previous to each election the Commissioners shall make available for inspection at the office of the Commissioners and at the office of the clerk a copy of the lists of electors made up in the manner prescribed in article 6;

(2) The convenor of the Commissioners shall fix the place of the elections, which shall be within the parish;

(3) The Commissioners shall cause the day and place of the election to be advertised in at least one newspaper published or circulating in Fraserburgh not less than thirteen days previous to the election;

(4) The returning officer shall be the Sheriff Principal of the sheriffdom of Grampian, Highlands and Islands or such other person as may be appointed by the Sheriff Principal and the returning officer shall preside at the polling place;

(5) The convenor of the Commissioners may be appointed returning officer under paragraph (4) of this article provided that the convenor is not a candidate at the elections;

(6) 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;

(7) 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 Commissioners or in some conspicuous place on the outside thereof and advertised in one or more newspapers published or circulating in Fraserburgh, and shall give notice that as the number nominated for election 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 Commissioners, and on the day of the election the persons so proposed shall accordingly be deemed to be duly elected;