SCOTTISH STATUTORY INSTRUMENTS

2001 No. 232

HARBOURS, DOCKS, PIERS AND FERRIES

The Lerwick Harbour Revision Order 2001

Made - - - -	*11th June 2001*
Coming into force - -	*15th June 2001*

Whereas Lerwick Port Authority has applied in writing for a harbour revision order under section 14 of the Harbours Acts 1964(**1**);

And whereas the Scottish Ministers(**2**) have, in pursuance of paragraph 5(b) of Schedule 3 to the said Act(**3**), determined that the application for this Harbour Revision Order is made in relation to a project which falls within Annex II to Council Directive 85/337/EEC(**4**) on the assessment of the effects of certain public and private projects on the environment but whose characteristics do not require that it should be made subject to an environmental assessment;

And whereas the making of this Order is not opposed;

And whereas the Scottish Ministers are satisfied as required by subsection (2)(b) of the said section 14;

Now therefore, the Scottish Ministers, in exercise of the powers conferred by section 14 of the said Act and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Lerwick Harbour Revision Order 2001 and shall come into force on 15th June 2001.

(2) This Order and the Lerwick Harbour Acts and Orders 1877 to 1999 may be cited together as the Lerwick Harbour Acts and Orders 1877 to 2001 (hereinafter referred to as "the Harbour Acts and Orders").

(3) This Order extends to Scotland only.

(**1**) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2, 3, 4(1) and 14 and by the Transport and Works Act 1992 (c. 42), section 63 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**) Schedule 3 was substituted by regulation 15(4) of the Harbour Works (Environmental Impact Assessment) Regulations 1999 (S.I.1999/3445).

(**4**) O.J. No. L 175, 5.7.85, p.40; Council Directive 85/337/EEC was amended by Council Directive 97/11/EC (O.J. No. L 73, 14.3.1997, p.5).

Interpretation

2.—(1) In this Order and subject to the provisions of article 4(2) of this Order, the words and expressions assigned meanings by Acts wholly or partly incorporated within this Order shall have those meanings in this Order, and—

"the Authority" means the Lerwick Port Authority;

"the deposited plans" and "the deposited sections" mean respectively the plans and sections signed on behalf of the Scottish Ministers and marked "Plans and sections referred to in the Lerwick Harbour Revision Order 2001", of which copies are deposited with the Scottish Ministers at the Scottish Executive, Victoria Quay, Edinburgh, EH6 6QQ, and with Lerwick Port Authority at their principal office at Albert Building, Esplanade, Lerwick, Shetland, ZE1 0LL;

"harbour" means the Port and Harbour of Lerwick as defined by the Harbour Acts and Orders and shall include the works authorised by this Order;

"level of high water" means the level of mean high-water springs;

"limits of deviation" means the limits of deviation shown on the deposited plans;

"tidal work" means so much of any works authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;

"undertaking" means the undertaking of the Authority as for the time being authorised; and

"works" means the works authorised by this Order or, as the case may require, any part thereof.

(2) All areas, dimensions, directions, distances, lengths, points, situations and other measurements stated in any plan or description of the works, powers or lands shall be construed as if the words "or thereby" were inserted after each such area, dimension, direction, distance, length, point, situation and other measurement.

Power to construct works

3.—(1) Subject to the provisions of this Order, the Authority may in the Shetland Islands Area in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plans and the deposited sections construct, execute and maintain the following works together with incidental works and conveniences connected therewith:—

Work No. 1

An extension of the existing Ferry Terminal Pier at Holmsgarth, Lerwick, by the construction of a berthing dolphin consisting of a steel reinforced concrete deck having a length of eighteen metres and a breadth of six metres supported by tubular steel piling and positioned parallel to and directly opposite the eastmost face of said existing pier and nineteen metres distant therefrom and linked to said pier with steel access walkways braced with tubular steel members.

A mooring dolphin consisting of a steel reinforced concrete deck measuring eight metres in length and breadth supported by tubular steel piling and positioned parallel to and directly opposite the eastmost face of said existing Ferry Terminal Pier and forty-seven metres distant therefrom and linked to Work No. 1 with steel access walkways braced with tubular steel members.

Work No. 2

A mooring dolphin consisting of a steel reinforced concrete deck measuring eight metres in length and breadth supported by tubular steel piling and positioned parallel to and directly opposite the eastmost face of said existing Ferry Terminal Pier and forty-seven metres distant therefrom and linked to Work No. 1 with steel access walkways braced with tubular steel members.

Power to renew, etc. works

4. Subject to the provisions of this Order the Authority may, within the limits of deviation, renew, replace or otherwise alter temporarily or permanently the works.

Power to deviate

5. Subject to the provisions of this Order, in the construction or execution of the works the Authority may deviate laterally from the lines or situations thereof shown on the deposited plans to any extent not exceeding the limits of deviation, and may deviate vertically from the levels of the works shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be necessary or convenient.

Subsidiary works

6. Subject to the provisions of this Order the Authority, for the purposes of or in connection with the works, may within the limits of deviation construct, execute and maintain all such subsidiary or incidental works and conveniences as may be necessary or expedient for or in connection with the works.

Fine for obstructing works

7. Any person who intentionally obstructs any person acting under the authority of the Authority in setting out the lines of the works or who damages, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale, and shall in addition be liable to repay to the Authority as a debt any expenses incurred by them in making good any damages resulting from such obstruction, damage, moving or removal.

Tidal works not to be executed without approval of the Scottish Ministers

8.—(1) A tidal work shall not be constructed, executed, renewed, replaced or altered except in accordance with plans and sections approved by the Scottish Ministers and subject to any conditions and restrictions imposed by the Scottish Ministers before the work is begun.

(2) If a tidal work is constructed, executed, renewed, replaced or altered in contravention of this article—

(a) the Scottish Ministers may by notice in writing require the Authority at its own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the Authority it has failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice; or

(b) if it appears to the Scottish Ministers urgently necessary to do so, they may themselves remove the tidal work or part of it and restore the site to its former condition,

and any expenditure incurred by the Scottish Ministers in so doing shall be recoverable from the Authority as a debt.

Lights on tidal works during construction

9.—(1) During the whole time of demolition, construction, renewal or alteration of any tidal work the Authority shall at the outer extremity thereof every night from sunset to sunrise exhibit such lights, if any, and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.