SCOTTISH STATUTORY INSTRUMENTS

2000 No. 32

HARBOURS, DOCKS, PIERS AND FERRIES

Scrabster (Inner Harbour Development) Harbour Revision Order 2000

Made - - - -	*21st February 2000*
Coming into force - -	*29th February 2000*

Whereas the Trustees of the Scrabster Harbour Trust have applied in writing for a harbour revision order under section 14 of the Harbours Act 1964(**1**):

And whereas it appears to the Scottish Ministers(**2**), in pursuance of paragraph A2 of Schedule 3 to the said Act(**3**), determined that the application 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 and whose characteristics require that it should be made subject to an environmental assessment, has directed the applicant to supply them with the information referred to in Annex III to the Directive;

And whereas the Scottish Ministers have complied with the requirements of paragraph 3, 3A(**5**) and 4 of Schedule 3 to the said Act;

Now, therefore, the Scottish Ministers, in exercise of the powers conferred on them by section 14 of the said Act(**6**) and of all other powers enabling them in that behalf and being satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, hereby make the following Order:

(**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), 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 amended by the Transport Act 1981, section 18 and Schedule 6, paragraphs 4(2) to (3) and (12) and by the Transport and Works Act 1992, Schedule 3, paragraph 10. Paragraph A2 was inserted by the Harbour Works (Assessment of Environmental Effects) Amendment Regulations 1996 (S.I.1996/1946).

(**4**) O.J. No. L175, 5.7.85, p.40.

(**5**) Paragraph 3A was inserted by the Harbour Works (Assessment of Environmental Effects) Regulations 1998 S.I. 1998/1336 and were extended to Scotland by the Harbour Works (Assessment of Environmental Effects) 1992 S.I. 1992/1421 and amended by S.I. 1996/1946.

(**6**) The Scottish Ministers are the "appropriate Minister" under section 14(7) of the Harbours Act 1964 (c. 46).

PART I

PRELIMINARY

Citation, commencement and extent

1.—(1) This Order may be cited as the Scrabster (Inner Harbour Development) HarbourRevision Order 1999 and shall come into force on 29th February 2000.

(2) The Scrabster Harbour Acts and Orders 1841 to 1998 and this Order may be cited together as the Scrabster Harbour Acts and Orders 1841 to 2000.

(3) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order–

"Act of 1841" means the Act passed in the fourth and fifth years of the reign of Her Late Majesty Queen Victoria intituled "An Act for making and maintaining a Harbour at Scrabster Roads in the Bay of Thurso and County of Caithness, and Road thereto"(**7**);

"area of works" means the area within the limits of deviation, or any part of that area;

"deposited plan and sections" means the plan and sections prepared in duplicate and signed by a member of the Scottish Executive and marked "Plan and sections referred to in the Scrabster (Inner Harbour Development) Harbour Revision Order 2000" of which one is deposited with the Rural Affairs Department at Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY and the other at the harbour office of the Trust;

"enactment" means any Act, whether general, local or personal and any order other than (including this Order) or other instrument made thereunder and any provision in any such Act, order or instrument and includes Acts of the Scottish Parliament and any order or instrument made thereunder;

"government department" includes any part of, or any member of the staff of the Scottish Administration which shall have the meaning defined in section 126 of the Scotland Act 1998(**8**);

"harbour" means the harbour of Scrabster as authorised by the Act of 1841, the Scrabster Harbour Order 1897(**9**) and the Scrabster Harbour Order 1989(**10**) together with the lands, buildings, works, plant, property and conveniences connected therewith or any part thereof as the case may be;

"harbour undertaking" means the undertaking of the Trustees in connection with the harbour;

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

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

"limits of deviation" means the limits of deviation shown on the deposited plan and sections;

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

"Trust" means Scrabster Harbour Trust as constituted and incorporated by the Act of 1841;

"Trustees" means the Trustees for the time being of the Trust;

(**7**) 1841.c.1.
(**8**) 1998 c. 46.
(**9**) 1897 c. lxxx.
(**10**) 1989 c. v.

"works" means the works authorised by article 3 (power to carry out works) of this Order or, as the case may require, any part thereof.

(2) All areas, directions, distances, lengths and widths as stated in any description of works, powers or lands other than article 4 (power to deviate) of this Order shall be construed as if the words "or thereabouts" were inserted after each such area, direction, distance, length and width and any reference in a description of works to a point shall be a reference to that point on the deposited plan.

(3) Any reference in this Order to a work identified by the number of such work, shall be construed as a reference to the work of the same number authorised by article 3 of his Order.

PART II

WORKS

Power to carry out works

3.—(1) Subject to the provisions of this Order, the Trust may, in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plans and sections, carry out and maintain the following improvement works in the parish of Thurso, County of Caithness, Highland, and on the foreshore and the bed of the sea adjacent thereto together with all necessary and proper works and conveniences connected therewith and incidental thereto:–

(Work No.1) A quay of open construction with a concrete deck commencing at a point 3 metres east and 11 metres north of the north-east corner of the building marked "RNMDSF" on the plan at a point ND 31000 97031 and extending 219 metres east-north-east to terminate at the west face of the existing Ice Plant Quay at a point ND 31020 97039, with a berthing face on the south side thereof.

(Work No.2) A quay of solid construction commencing at a point 9 metres east and 5.5 metres north of the north-east corner of the building marked "RNMDSF" on the plan at a point ND 31000 97031 and extending 18 metres south-south-east and thereafter turning and extending 103 metres south-east to terminate at a point ND 97020 31005 with a berthing face and with a reclamation of the seabed by infilling, levelling and surfacing.

(Work No.3) Dredging of an area of seabed commencing at a point 5 metres north and 31 metres east of the south-east corner of the building marked "RNMDSF" on the plan at a point ND 31004 97027 and extending 187 metres or thereabouts east-north-east to terminate at a point ND 31021 97034.

(Work No.4) Dredging of an area of seabed commencing at a point 49 metres south and 8 metres west of the south-west corner of the Ice House marked on the plan at a point ND 31022 97026 and extending 276 metres or thereabouts south-east and thence turning and extending 69 metres or thereabouts east-south-east and thence turning and extending 63 metres or thereabouts east-north-east to terminate at a point ND 31055 97008.

(Work No.5) A finger pier and breakwater of solid construction commencing at a point 78 metres east and 108 metres south of the south-east corner of the Fishmarket Building marked on the plan at a point ND 31021 97003 and extending 60 metres or thereabouts north-east and thence turning and extending 76 metres or thereabouts north and thence turning and extending 12 metres or thereabouts north-west to terminate at a point ND 31025 97014 with a berthing face on the north-west and west sides thereof and with a reclamation of the seabed by infilling, levelling and surfacing.

(Work No.6) A reclamation of the seabed commencing at a point 172 metres south and 67 metres east of the south-west corner of the Pentland Firth Yacht Club Clubhouse marked on the plan at a point ND 30999 96984 and extending 175 metres or thereabouts north to terminate at a point ND 30999 97001 by infilling, levelling and surfacing and all necessary spending slopes.

(2) The Trust may, within the limits of deviation, maintain, renew, reconstruct and alter temporarily or permanently the works.

Power to deviate

4. Subject to the provisions of this Order, in carrying out the works the Trust may deviate laterally from the lines or situations thereof as shown on the deposited plan to any extent not exceeding the limits of deviation shown on the said plan and may deviate vertically from the levels of the works as shown on the deposited sections to any extent not exceeding 1 metre upwards and to such extent downwards as may be found necessary or convenient.

Subsidiary works

5. Subject to the provisions of this Order, the Trust may within the limits of deviation from time to time erect, construct, maintain and operate, whether temporarily or permanently, all such subsidiary or incidental works and conveniences as may be necessary or expedient for the purposes of or in connection with the construction, maintenance and use of the works.

Power to dredge

6.—(1) Subject to the provisions of this Order the Trust may from time to time deepen, dredge, scour, cleanse, alter and improve the harbour for the purpose of affording uninterrupted means of access to the harbour or any part of it or the accommodation of vessels thereat.

(2) The Trust may use, appropriate or dispose of any material (other than a wreck within the meaning of Part IX of the Merchant Shipping Act 1995)(**11**) from time to time dredged by them from the harbour.

(3) Subject to the provisions of this Order no materials so dredged shall be laid down or deposited–

(a) in contravention of the provisions of any enactment as respects the disposal of waste; or

(b) in any place below the level of high water other than in such position and under such conditions and restrictions as may be approved or directed by the Scottish Ministers.

Obstructing works

7. Any person who intentionally obstructs any person acting under the authority of the Trust in setting out the lines of or in constructing the works, or who 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.

Works to be deemed part of harbour undertaking

8. The works shall be deemed for all purposes to be part of the harbour undertaking and all byelaws, rules and regulations of the Trust for the time being in force relating to the harbour undertaking shall apply to the works and may be enforced by the Trust accordingly.

Tidal works not to be executed without approval of Scottish Ministers

9.—(1) A tidal work shall not be demolished, constructed, renewed, reconstructed 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 or while work is still in progress.

(**11**) 1995 c. 21