SCOTTISH STATUTORY INSTRUMENTS

1999 No. 172

HARBOURS, DOCKS, PIERS AND FERRIES

The Macduff Harbour Revision Order 1999

Made - - - -	*7th December 1999*
Coming into force - -	*20th December 1999*

Whereas the Aberdeenshire Council has applied in writing for a harbour revision order under section 14 of the Harbours Act 1964(**1**);

And whereas the Scottish Ministers(**2**) in pursuance of sub-paragraph (4) of paragraph A2 of Schedule 3 to the said Act(**3**) notified the Council that the application is not one to which the provisions of sub-paragraph (3) of that paragraph applies;

Now, therefore, the Scottish Ministers, in exercise of the powers conferred on them by section 14 of the said Act(**4**) and of all other powers enabling them in that behalf and being satisfied that the making of this 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:

PART I

PRELIMINARY

Citation, commencement and extent

1.—(1) This Order may be cited as the Macduff Harbour Revision Order 1999 and shall come into force on 20th December 1999.

(2) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order, except where the context otherwise requires–

(**1**) 1964 c. 40; section 14 and Schedule 3 were amended by the Transports 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), Schedule 3, paragraphs 1 and 10.

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

"Council" means the Aberdeenshire Council;

"deposited plan" and "deposited section" mean respectively a plan and section deposited in connection with this Order, two copies of which have been deposited with the Rural Affairs Department at Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY and one copy of which has been deposited at the offices of the Council;

"government department" includes any part of the Scottish Administration, which shall have the meaning defined in section 126 of the Scotland Act 1998(**5**);

"land" includes land covered by water, any interest in land and any servitude or right in, to or over land;

"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 so shown on the deposited plans;

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

"works" means the works authorised by this Order, or as the case may require, any part thereof and includes any work constructed pursuant to Article 3 (Power to carry out works).

(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 that number authorised by this Order.

PART II

WORKS

Power to carry out works

3.—(1) Subject to the provisions of this Order, the Council may, in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and section, carry out and maintain the following works in Aberdeenshire, and on the foreshore and bed of the sea adjacent thereto together with all necessary and proper works and conveniences connected therewith or incidental thereto:–

Work No. 1	A land reclamation and a breakwater extension constructed of reinforced concrete and a rock armour revetment commencing at Point A marked on the deposited plan 25 metres north-east of the fixed point marked on the deposited plan at the north-west corner of Slipway Yard, thence extending west 110 metres to Point B marked on the deposited plan and there terminating, such works to include the demolition and removal of the existing breakwater parapet.

(**5**) 1998 c. 46.

Work No. 2	A reclamation and reconstruction in the Princes Royal Basin, consisting of a pier and a dry dock, constructed of reinforced concrete within the area shown hatched black on the deposited plan commencing at Point C marked on the deposited plan 17 metres south of the fixed point marked on the deposited plan, thence extending to Points D, E, F, G and H respectively marked on the deposited plan and terminating at Point J marked on the deposited plan 60 metres west of the fixed point marked on the deposited plan.
Work No. 3	The deepening by means of excavation of the Princess Royal Basin to a depth of 5.2 metres below the level of low water within the area shown cross-hatched black on the deposited plan commencing at Point H marked on the deposited plan 48 metres west of the fixed point marked on the deposited plan and terminating at Point K marked on the deposited plan 233 metres south west of the fixed point marked on the deposited plan.
Work No. 4A	The construction of an underpinning in the Princess Royal Basin of width 1 metre commencing at Point J marked on the deposited plan 60 metres west of the fixed point marked on the deposited plan and terminating at Point K marked on the deposited plan 233 metres south-west of the fixed point marked on the deposited plan.
Work No. 4B	The construction of an underpinning in the Princess Royal Basin of width 1 metre commencing at Point L marked on the deposited plan 36 metres south-west of the fixed point marked on the deposited plan and terminating at Point M marked on the deposited plan 93 metres west-south-west of the fixed point marked on the deposited plan.
Work No. 4C	The construction of an underpinning in the Princess Royal Basin of width 1 metre commencing at Point N marked on the deposited plan 48 metres south-south-west of the fixed point marked on the deposited plan and terminating at Point P marked on the deposited plan 220 metres south-west of the fixed point marked onthe deposited plan.
Work No. 5	The construction of a spending slope in the Princess Royal Basin, consisting of rock armour stones within the area shown hatched black on the deposited plan commencing

	at Point R marked on the deposited plan 42 metres south-west of the fixed point marked on the deposited plan and terminating at Point S marked on the deposited plan 33 metres south-south-west of the fixed point marked on the deposited plan, such works to include the demolition of the existing revetment.

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

(3) Subject to the provisions of this Order no material dredged at Work No. 3 shall be deposited below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by Scottish Ministers.

Power to deviate

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

Subsidiary works

5.—(1) Subject to the provisions of this Order, the Council 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.

(2) The works shall be deemed for all purposes to be within Aberdeenshire.

Obstructing works

6. Any person who intentionally obstructs any person acting under the authority of the Council in setting out the lines of or in constructing the authorised works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Works to be deemed part of harbour undertaking

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

Tidal works not to be executed without approval of Scottish Ministers

8.—(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.

(2) If a tidal work is demolished, constructed, renewed, reconstructed or altered in contravention of this article or of any condition or restriction imposed under this article–