STATUTORY INSTRUMENTS

1984 No. 207

HARBOURS, DOCKS, PIERS AND FERRIES

The Inverness Harbour Revision (No. 2) Order 1983

Made - - - -	*28th November* 1983
Laid before Parliament	*21st December* 1983
Coming into Operation	*27th February* 1984

The Secretary of State for Transport in exercise of the powers conferred by section 14 of the Harbours Act 1964(**a**) and now vested in him (**b**) and of all other powers enabling him in that behalf, and on the application of the Trustees of the Harbour of Inverness, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Inverness Harbour Revision (No. 2) Order 1983, and the Inverness Harbour Acts and Orders 1808 to 1978 and this Order may be cited together as the Inverness Harbour Acts and Orders 1808 to 1983 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(**c**).

Interpretation

2.—(1) In this Order:—

"Act of 1847" means the Harbours, Docks and Piers Clauses Act 1847(**d**);

"Deposited plans and sections" means the plans and sections prepared in triplicate, signed by an Assistant Secretary in the Department of Transport and marked "Plans and sections referred to in the Inverness Harbour Revision (No. 2) Order 1983", of which copies are deposited at the offices of the Secretary of State for Transport and the principal office of the Trustees';

"Harbour" means the port and harbour of Inverness;

"Level of highwater" means the level of mean high water springs;

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

(a) 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.
(b) S.I. 1981/238.
(c) 1945 c.18 (9 & 10 Geo. 6); 1965 c.43.
(d) 1847 c.27.

"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;

"Trustees" means the Trustees of the Harbour of Inverness;

"Undertaking" means the undertaking of the Trustees for the time being authorised;

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

(2) This Order shall be read as if the words "or thereabouts" were inserted after each distance mentioned in section 3 (Power to construct works) of this Order.

Power to construct works

3.—(1) Subject to the provisions of this Order the Trustees may in the district of Inverness and in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and section construct and maintain the works hereinafter described, together with all necessary and proper works and conveniences connected with or incidental thereto, that is to say:—

Work No. 1 A quay wall of sheet steel piling commencing at the low water mark some 230 metres downstream of the existing Citadel Quay extension and thence proceeding in a south-westerly direction for a distance of 15 metres, thence turning through 90 degrees and proceeding in a north-westerly direction for a distance of 250 metres and terminating at this point together with an infilling of the bed of the River Ness as impounded by the said wall and the existing embankment and the provision of a deck of reinforced concrete thereover.

Work No. 2 A quay wall of sheet steel piling commencing at the termination point of work No.1 and proceeding in a north-easterly direction for a distance of 90 metres and terminating at that point together with the provision of a deck of reinforced concrete over the length of the quay and 15 metres wide.

Work No. 3 A fixed ramp of sheet steel piling commencing at the termination of work No.2 and proceeding in a north-westerly direction for a distance of 10 metres thence turning through 90 degrees and proceeding in a north-easterly direction for a distance of 30 metres and terminating at this point, together with an infilling of the area impounded by the said ramp and existing embankment and the provision of a deck of reinforced concrete thereover.

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

Subsidiary works

4. Subject to the provisions of this Order, the Trustees may within the limits of deviation from time to time erect, construct and maintain, whether

temporarily or permanently, all such necessary works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance and use of the works.

Power to deviate

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

Tidal works not to be executed without approval of Secretary of State

6.—(1) A tidal work shall not be constructed, reconstructed, renewed, enlarged or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, reconstructed, renewed, enlarged or altered in contravention of this section or of any condition or restriction imposed under this section—

(a) the Secretary of State may by notice in writing require the Trustees at their 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 thirty days from the date when the notice is served upon the Trustees they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be a debt due from the Trustees to the Crown and shall be recoverable accordingly.

Survey of tidal works

7. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work constructed by the Trustees or of the site upon which it is proposed to construct the work and any expenditure incurred by the Secretary of State in any such survey and examination shall be a debt due from the Trustees to the Crown and shall be recoverable accordingly.

Provision against danger to navigation

8.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Trustees shall forthwith notify the Commissioners of Northern

Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Trustees fail to comply in any respect with any provision of this section, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding two hundred pounds and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

9.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Trustees at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work authorised by this Order and consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the Trustees they have failed to comply with the requirments of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be a debt due from the Trustees to the Crown and shall be recoverable accordingly.

Lights on tidal works during construction

10.—(1) The Trustees shall at or near a tidal work during the whole time of the construction, reconstruction, renewal, enlargement or alteration thereof exhibit, every night from sunset to sunrise, such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Trustees fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding two hundred pounds and on conviction on indictment to a fine.

Permanent lights on tidal works

11.—(1) After the completion of a tidal work the Trustees 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.

(2) If the Trustees fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction

to a fine not exceeding two hundred pounds and on conviction on indictment to a fine.

Work to form part of undertaking and application of byelaws

12.—(1) The works shall for all purposes form part of the undertaking.

(2) All byelaws and regulations of the Trustees for the time being in force relating to the undertaking shall as far as applicable apply to the works and may be enforced by the Trustees accordingly.

(3) The works shall be deemed for all purposes to be within the Inverness district of the Highland Region.

Saving for Dumping at Sea Act 1974

13. Nothing in this Order shall affect the operation of the Dumping at Sea Act 1974(**a**).

Saving for Coast Protection Act 1949

14. Nothing in this Order shall exempt the Trustees from the provisions of Part I of the Coast Protection Act 1949(**b**).

Saving for Control of Pollution Act 1974

15. Nothing in this Order shall affect the operation of the Control of Pollution Act 1974(**c**).

Saving for Harbours Act 1964

16. Nothing in this Order shall exempt the Trustees or any other person from the provisions of Sections 9 and 10 of the Harbours Act 1964(**d**).

Saving for Town and Country Planning

17.—(1) Section 274 of the Town and Country Planning (Scotland) Act 1972(**e**) (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session of Parliament held during the regnal years 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Order as if it had been passed during that session; and accordingly the Town and Country Planning (Scotland) Act 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Order.

(**a**) 1974 c.20.
(**b**) 1949 c.74.
(**c**) 1974 c.40.
(**d**) 1964 c.40.
(**e**) 1972 c.52.

(2) In their application to development authorised by this Order, article 3 of, and Class X in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1981(a) (which permit development authorised by any local or private Act or by any order approved by both Houses of Parliament, or by any order made under section 14 or section 16 of the Harbours Act 1964, being an Act or order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Order were limited to development begun within ten years of the coming into operation of this Order.

Crown rights

18.—(1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained shall authorise the Trustees or any licensee of the Trustees to take, use, enter upon or in any manner interfere with any land or interest in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners; or

(b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that goverment department.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

Costs of Order

19. The costs, charges and expenses of and incidental to the preparing and obtaining of this Order, (other than costs, charges and expenses which any person is lawfully ordered to pay by the Secretary of State or a Joint Committee of both Houses of Parliament for any costs incurred in opposing this Order), shall be paid by the Trustees.

Nicholas Ridley,
Secretary of State
for Transport.

28th November 1983.

(a) S.I. 1981/830 (S.86).

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order authorises the Trustees of the Harbour of Inverness to construct a quay wall and a fixed ramp in the district of Inverness and to continue and maintain the said quay wall and said fixed ramp; and to carry out subsidiary works.

The Order being subject to Special Parliamentary Procedure, the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965 determine the date upon which it comes into operation.

The applicants for the Order are the Trustees of the Harbour of Inverness.

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Printed in the UK for Her Majesty's Stationery Office
850/B832451E W.O. D25 C9 3/84

ISBN 0 11 046207 6