SCOTTISH STATUTORY INSTRUMENTS

2026 No. 273

HARBOURS, DOCKS, PIERS AND FERRIES

The Montrose Harbour Revision Order 2026

Made - - - -	*23rd September 2026*
Coming into force - -	*24th September 2026*

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SCHEDULE — Repeals and revocations

The Scottish Ministers ("the Ministers") make the following Order in exercise of the powers conferred by section 14(1), (2A) and (3) of the Harbours Act 1964(**a**) and all other powers enabling the Ministers to do so.

In accordance with section 14(1) of that Act, this Order is made in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, for achieving objects specified in Schedule 2 to that Act(**b**).

In accordance with section 14(2) of that Act—

(a) this Order is made following a written application to the Ministers by the Montrose Port Authority being the authority engaged in improving, maintaining or managing the port, and

(b) the Ministers are 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, facilitating the efficient and economic transport of goods or passengers by sea and the recreational use of sea-going ships.

Notice has been published by the applicant in accordance with the requirements of paragraph 10 of Schedule 3 to that Act.

The provisions of paragraph 17 of Schedule 3 to that Act(**c**) have been satisfied.

In accordance with paragraph 19(1) of that Schedule(**d**), the Ministers have considered any objections made and not withdrawn.

In accordance with paragraph 19(6)(b) of that Schedule(**e**), Ministers have decided to make this Order in the form of the draft submitted to them.

(**a**) 1964 c. 40; section 14 was relevantly amended by the Transport Act 1981 (c. 56), schedule 6, paragraphs 2, 3, 4(1) and 14 and schedule 12 and the Transport and Works Act 1992 (c. 42), schedule 3, paragraph 1. See sections 14(7) and 57(1) of the Harbours Act 1964 for the definitions of "the appropriate Minister" and "the Minister". The functions of the Minister of the Crown were transferred to the Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**b**) Schedule 2 was relevantly amended by the Transport and Works Act 1992 (c. 42), schedule 3, paragraph 9.

(**c**) Paragraph 17 of schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(g).

(**d**) Paragraph 19(1) of schedule 3 was substituted by S.I. 2017/1070.

(**e**) Paragraph 19(6)(b) of schedule 3 was substituted by S.I. 2017/1070.

PART 1

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the Montrose Harbour Revision Order 2026 and shall come into force on the day after the day on which it is made.

(2) The Montrose Port Orders 1894 to 2003 and this Order may be cited together as the Montrose Port Orders 1894 to 2026.

Interpretation

2.—(1) In this Order—

"the 1847 Act " means the Harbours, Docks and Piers Clauses Act 1847(**a**),

"the 1964 Act" means the Harbours Act 1964(**b**),

"the 1966 Act" means the Docks and Harbours Act 1966(**c**),

"the 1978 Act" Refuse Disposal (Amenity) Act 1978(**d**),

"the 1987 Act" means the Pilotage Act 1987(**e**),

"the 1995 Act" means the Merchant Shipping Act 1995(**f**),

"the 1894 Order" means the Montrose Harbour Order 1894 (**g**),

"the 1974 Order" means the Montrose Harbour Revision Order 1974(**h**),

"the 1991 Order" means the Montrose Harbour Revision Order 1991(**i**),

"the 2003 Order" means the Montrose Port Authority Harbour Revision (Constitution) Order 2003(**j**),

"aids to navigation" includes lights, buoys, beacons and signals including sound and electronic signals and any structure required to house the same,

"the Authority" means the Montrose Port Authority,

"charges" means the charges, rates, tolls and dues which the Authority is for the time being authorised to demand, take and recover in relation to the port undertaking,

"commercial refuelling activities" includes providing, recharging or emptying (in whole or part) a vessel with fuel or alternative power in exchange for financial payment or other valuable consideration,

"the Commissioners of Northern Lighthouses" means the general lighthouse authority for Scotland, a body corporate constituted by section 193 of, and Schedule 8 to, the 1995 Act(**k**),

"enactment" means any enactment whether public general or local and includes an Act of the Scottish Parliament or an instrument made under such an Act, any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment,

"general direction" means a direction given under article 23 of this Order,

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(**a**) 1847 c. 27.
(**b**) 1964 c. 40.
(**c**) 1966 c. 28; section 37(3) was repealed by the Transport and Works Act 1992 (c. 42), Schedule 4 (Part II).
(**d**) 1978 c. 3.
(**e**) 1987 c.21.
(**f**) 1995 c. 21.
(**g**) See 57 & 58 Vict. Ch. cxiii.
(**h**) S.I. 1975/348.
(**i**) S.I. 1991/1745.
(**j**) S.S.I. 2003/258.
(**k**) Schedule 8 was amended by section 55 of the Scotland Act 2016 c. 11.

"the harbour master" means any person appointed as such by the Authority, and includes the duly authorised deputies and assistants of the harbour master and any other person for the time being authorised by the Authority to act, either generally or for a specific purpose, in the capacity of harbour master,

"hovercraft" means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle,

"the level of high water" means the level of mean high water spring tides,

"the level of low water" means the level of mean low water spring tides,

"master", in relation to a vessel, means any person having or taking command, charge or management of the vessel for the time being,

"the Montrose Port Orders 1894 to 2003" means the 1894 Order, the 1974 Order, the 1991 Order and the 2003 Order,

"pleasure craft" means any vessel of not more than 100 tonnes gross used wholly or mainly for recreation or for the carriage of passengers for reward,

"the port" means Montrose port the limits of which include the port premises and are described in article 5 of this Order,

"port facilities" includes, but is not limited to, shipping, fisheries, marine, energy, fuel and alternative power, rail, recreational, residential, leisure, tourism and retail facilities (including buildings),

"port functions" includes the powers and duties at and in connection with the port undertaking, including those authorised by this Order and the Montrose Port Orders 1894 to 2003,

"the port limits plan" means "The Montrose Harbour Revision Order 2026 Port Limits Plan" signed with reference to this Order, one copy of which is deposited at the offices of the Scottish Government, Victoria Quay, Edinburgh, EH6 6QQ and the other at the Authority's port office,

"port premises" means land adjacent to the wet port area vested in, or occupied or administered for the time being by the Authority as part of the port undertaking and occupied wholly or mainly for the purpose of activities there carried on, which may include docks, quays, piers, wharves, berths, locks, breakwaters, landing places, yards, roads, sheds, car parks, other buildings and all other works and conveniences, land and premises which at the date of this Order includes the areas shaded pink on the port premises plans,

"port premises plans" means "The Montrose Harbour Revision Order 2026 Port Premises Plan - Harbour" and "The Montrose Harbour Revision Order 2026 Port Premises Plan - Montrose Commercial Park" signed with reference to this Order, one copy of which is deposited at the office of the Scottish Government, Victoria Quay, Edinburgh, EH6 6QQ and the other at the Authority's port office,

"the port undertaking" means the undertaking carried on by the Authority at and in connection with the port authorised by this Order and the Montrose Port Orders 1894 to 2003,

"special direction" means a direction given under article 25 of this Order,

"tidal work" means so much of any work within the port as is on, under or over tidal waters or land below the level of high water,

"vehicle" includes any vehicle propelled on rails, any machinery on wheels or caterpillar tracks, trailers, caravans, bicycles, and mobile homes and includes a hovercraft or any other amphibious vehicle,

"vessel" includes a ship, boat, houseboat, raft or craft of any description, however propelled or moved, and includes non-displacement craft, watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily),

"watercraft" means any type of craft which—

(a) is capable of moving under its own mechanical power,

(b) is used, navigated or situated wholly or partially in or on water, and

(c) is capable of being used to carry one or more persons,

but does not include a ship or fishing vessel within the meanings given in section 313(1) of the 1995 Act, and

"wet port area" means those parts of the port which are covered by water at the level of low water.

(2) All situations, points, directions, distances, lengths, dimensions, areas and other measurements stated in this Order shall be construed as if the words "or thereabouts" were inserted after each such situation, point, direction, distance, length, dimension, area or other measurement.

(3) In this Order, any reference to co-ordinates is a reference to World Geodetic System 1984 datum.

(4) The definition of "vessel" which shall apply to the provisions of the Montrose Port Orders 1894 to 2003 shall be the definition contained in paragraph (1), and accordingly any reference to "vessel" or "boat" contained in those Orders or in any byelaws, order or regulations made under them shall be construed as a reference to that definition.

Incorporation of provisions of Harbours, Docks and Piers Clauses Act 1847

3.—(1) The 1847 Act, except sections 6 to 20, 22 to 26, 28 to 32, 41, 42, 49, 50, 66, 67, 70, 71, 75, 77, 84 to 92, and 97 to 102, so far as applicable to the purposes and not inconsistent with the provisions of—

(a) this Order,

(b) the 1974 Order, and

(c) the 1894 Order,

is hereby incorporated with this Order, the 1974 Order and the 1894 Order respectively subject to the modifications stated in paragraphs (2) to (7) below, and any existing incorporation of the 1847 Act into the 1974 Order and the 1894 Order shall cease to have effect.

(2) Section 53 of the 1847 Act (penalty on shipmasters not complying with directions of the harbour master) has effect subject to the modification that for the words "level 2" there are substituted the words "level 4"

(3) Section 63 of the 1847 Act (penalty on vessels lying near the entrance of harbour or dock without permission) shall have effect subject to the modification that for the words from "liable to" to the end of the section there are substituted the words "guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale".

(4) Section 68 of 1847 Act (goods may be removed from the quays, &c. after lying there longer than allowed by byelaws) has effect subject to the modification that after the word "byelaws" there is inserted the words "or general direction".

(5) Section 69 of 1847 Act (combustible matter on quays, &c., to be removed) shall have effect subject to the modification that for the words from "shall forfeit" to the end of the section there are substituted the words "shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale".

(6) Section 74 of the 1847 Act (owner of vessel answerable for damage to works) of the 1847 Act shall have effect subject to the modification that the words—

(a) "or person having the charge", and

(b) "provided always" to the end of the section,

are omitted.

(7) In construing the provisions of the 1847 Act as incorporated with this Order, the 1974 Order and the 1894 Order respectively—

(a) the expression "the special Act" means this Order, the 1974 Order and the 1894 Order respectively,

(b) the expression "the undertakers" means the Authority,

(c) the expression "the harbour, dock, or pier" shall mean the port,

(d) "vessel" has the meaning given by paragraph (1) of article 2 (interpretation) of this Order, and

(e) the reference in section 53 of the 1847 Act (penalty on shipmasters not complying with directions of the harbour master) to "notice" of a direction served by the harbour master shall not be construed as requiring the notice to be in writing and may include the communication of the notice orally or otherwise.

PART 2

Duties and powers of the Authority

Continued incorporation

4. The Authority is and shall continue to be incorporated as a body corporate with perpetual succession and a common seal.

Limits of port

5.—(1) The Authority shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the 1964 Act (interpretation) (including jurisdiction for the purposes of pilotage under the 1987 Act), and the powers of the harbour master shall be exercisable, within the port, the limits of which shall comprise—

(a) the area bounded by an imaginary line commencing at a point MPA-PL1 (56°42.14′N 002°26.24′W) on the level of high water, and then proceeding in a straight line in an easterly direction to a point MPA-PL2 (56°42.14′N 002°24.76′W), and then proceeding in a straight line in a northerly direction to a point MPA-PL3 (56°42.49′N 002°24.76′W), and then proceeding in a straight line in a westerly direction to a point MPA-PL4 (56°42.49′N 002°26.99′W) on the level of high water, and then following the level of high water in an overall westerly direction to a point MPA-PL5 (56°42.40′N 002°28.48′W) at the north end of New Bridge, and then proceeding in a straight line in a south-south westerly direction along the east face of New Bridge to a point MPA-PL6 (56°42.30′N 002°28.56′W) at the south end of New Bridge on the level of high water, and then following the level of high water in an overall easterly direction back to the point of commencement at a point MPA-PL1 (56°42.14′N 002°26.24′W), shown for illustrative purposes shaded blue and outlined red on the port limits plan, and

(b) the extent of the port premises not within the area described in sub-paragraph (a), the current extent of which is shown for illustrative purposes shaded pink on the port premises plans.

(2) The port premises shall be deemed to be operational land within the meaning and for the purposes of the Town and Country Planning (Scotland) Act 1997(**a**).

(3) A tidal work consisting of a wharf or any part of it, except a pontoon, which forms part of the port undertaking shall, to the extent that it lies outwith the area of Angus Council, be annexed to and incorporated within that area.

(4) The limits within which the provisions of the Montrose Port Orders 1894 to 2003 are to apply shall comprise the limits of the port described in paragraph (1), and accordingly any

(**a**) "operational land" is defined in section 215 to which there are amendments not relevant to this Order, which section is subject to section 216.

reference to “Harbour”, “the harbour”, “the Harbour” or “The Harbour” contained in those Orders or in any byelaws, order or regulations made under them shall be construed as a reference to “the port” defined in article 2, and any reference to “harbour estate” contained in those Orders or in any byelaws, order or regulations made under them shall be a reference to the “port premises” defined in article 2.

(5) In the event of any discrepancy between the descriptions of the boundaries of the port referred to in this article and the boundaries shown on the port limits plan and the port premises plans, the descriptions in question shall prevail over the said plans.

(6) The Authority must keep, and make available for inspection at its port office and on its port website from the day on which this Order comes into force, an illustrative plan.

(7) The Authority must update the illustrative plan to reflect any alterations to the extent of the port premises within the period of 30 days beginning with the day on which the alterations are made.

(8) In this article “illustrative plan” means a plan showing, for illustrative purposes only, the port limits as described in this article.

(9) For and incidental to the performance of its port functions, the Authority may employ and appoint harbour masters.

(10) The Authority shall, within the port, be a local lighthouse authority within the meaning of sections 193 (general and local lighthouse authorities) and 201 (powers of harbour authorities) of the 1995 Act.

General powers of Authority

6.—(1) The Authority may take such steps from time to time as it considers necessary or expedient for the improvement, maintenance and management of the port and the accommodation and facilities afforded in the port or connected with the port undertaking.

(2) For those purposes, and without affecting the generality of paragraph (1), the Authority may—

(a) improve, maintain, retain, regulate, manage, mark and light the port and provide port facilities in the port,

(b) construct, reconstruct, extend, enlarge, alter, replace, relay or demolish structures and works in the port,

(c) acquire land,

(d) acquire any undertaking or part of an undertaking,

(e) subscribe for or acquire shares or securities of any body corporate,

(f) lend money to any person for the purposes of any undertaking carried on by that person or, where that person is a body corporate, any undertaking carried on by a subsidiary of that body corporate,

(g) maintain such reserve funds as it thinks fit,

(h) invest any sums not immediately required for the purposes of the port undertaking and turn its resources to account so far as not required for those purposes, and

(i) do all other things which in its opinion are necessary or expedient to facilitate the proper carrying on or development of the port undertaking.

(3) This article does not limit any powers of the Authority under or by virtue of any other enactment (including this Order).

Development of land, etc.

7. The Authority may, alone or with others (including through forming, investing in and promoting, a company), subject to obtaining the necessary rights in or over land—

(a) develop land—

(i) required for the purposes of the port undertaking,

(ii) not required for the purposes of the port undertaking with the view to disposing of the land or of interests in it, or

(b) acquire land by agreement for the purpose of developing it, alone or together with other land,

provided that it is conducive to the improvement, maintenance or management of the port undertaking in an efficient and economical manner.

Powers to grant tenancies and to dispose of land

8.—(1) The Authority may, for the purposes of or in connection with the carrying on of the port undertaking, lease or grant the use or occupation of, or any right or interest in or over, any lands, works, buildings, machinery, equipment or other property forming part of the port undertaking, in such manner, for such period, at such rents and other considerations and on such terms and conditions as it thinks fit.

(2) A lease or grant made or given under paragraph (1) may include provisions delegating to the lessee or grantee any of the port functions of the Authority other than those specified in sub-paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the 1964 Act.

(3) The Authority may also dispose of any lands, works, buildings, machinery, equipment or other property vested in it if it considers that—

(a) the property is surplus to that which is required for the purpose of the port undertaking, or

(b) it is conducive to the improvement, maintenance, operation or management of the port undertaking in an efficient and economical manner for the property to be held by a person other than the Authority,

in such manner, for such consideration and on such terms and conditions as it thinks fit.

Other commercial activities

9.—(1) The Authority may, in addition to any other powers conferred on the Authority—

(a) carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person, and

(b) form, invest in and promote, or join with another person in forming, investing in and promoting, a company, for either or both of the following—

(i) subject to article 10, carrying on any part of the port undertaking,

(ii) carrying on at any place a trade or business of any kind,

provided that it is conducive to the improvement, maintenance, operation or management of the port undertaking in an efficient and economical manner.

(2) Except as is otherwise provided by any enactment, the powers of a company referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Authority would not itself have the power to do that thing.

(3) The powers of the Authority under this article are additional to the powers of the Authority under section 37 of the 1966 Act (power of harbour authorities to acquire a harbour business or shares in a harbour business).

Power to delegate functions

10. Subject to paragraph 9B of Schedule 2 to the 1964 Act (functions which cannot be delegated under a power conferred by a harbour revision order), the Authority may delegate the performance of any of its port functions to be carried out by any such company as is referred to in article 9(1)(b).

Moorings

11.—(1) The Authority may provide, place, lay down, maintain, renew, use or remove such moorings, buoys and similar apparatus within the port as it considers necessary or desirable for the convenience of vessels.

(2) The Authority may from time to time, on such terms and conditions as it thinks appropriate, give consent to any person to place, lay down, maintain, renew and use moorings, buoys and similar apparatus for vessels in the port.

(3) In respect of moorings already lawfully laid down in the port at the date this Order comes into force, consent under paragraph (2) must be obtained by the owner or user of the mooring within 12 weeks of that date and thereafter renewed.

(4) Any person who, without reasonable excuse, places, lays down, maintains, renews or uses a mooring, buoy or similar apparatus for vessels within the port except under and in accordance with the terms and conditions of a consent given under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) Any consent given under paragraph (2) shall be valid for any period which may from time to time be considered appropriate by the Authority when granting consent.

(6) The Authority may charge a reasonable fee for the giving of a consent under this article.

(7) Consent given by the Authority under this article does not affect any requirement to obtain the consent of the owner of the sea bed, nor does any consent by the owner of the sea bed affect the requirement to obtain the Authority's consent under this article.

Power to regulate pleasure craft

12.—(1) A person shall not within the port—

(a) let for hire to the public a pleasure craft except with the written approval of the Authority in accordance with this article, or

(b) carry, or permit to be carried, passengers for hire in a pleasure craft unless the craft, and the person in charge of the craft and the navigator, are approved in writing by the Authority.

(2) Any such approval may be given for such period as the Authority may think fit, and may be suspended or revoked by the Authority whenever it shall deem such suspension or revocation to be necessary or desirable in the interests of public safety.

(3) The existence of the power to suspend or revoke the approval shall be stated plainly in the approval itself.

(4) A person taking on hire a pleasure craft for purposes other than for profit does not require to be approved under paragraph (1)(b).

(5) Approval under this article shall not be required for—

(a) any craft which has a relevant certificate issued by the Maritime and Coastguard Agency and valid for the voyage intended or, in the case of hovercraft within the meaning of the Hovercraft Act 1968(**a**), a certificate of safety valid for the voyage intended,

(b) a pleasure craft which is licensed under section 94 of the Public Health Acts Amendment Act 1907(**b**).

(6) A person shall not carry or permit to be carried in any pleasure craft within the port a greater number of passengers for hire than are specified in the approval applying to such craft, and every owner of any such craft shall before permitting the same to be used for carrying passengers for hire within the port, permanently display in letters and figures not less than three centimetres in height and one half centimetre in breadth, on a conspicuous part of the craft, their own name and

(**a**) 1968 c. 59.
(**b**) 1907 c. 53.

also the number of persons which it is approved to carry, in the form "Approved to carry [ ] persons".

(7) Any person who acts in contravention of paragraph (1) or (6) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(8) Any person aggrieved by the withholding, suspension or revocation of any approval or by any term or condition subject to which an approval has been given under this article may appeal to the sheriff.

Bunkering

13.—(1) The Authority may from time to time grant to a person with or without conditions a licence to carry out commercial refuelling activities related to vessels in the port.

(2) Nothing in any licence granted under paragraph (1) shall entitle a person to carry out commercial refuelling activities from or on land not owned or leased by that person or by the Authority, without the consent of the owner of the land.

(3) Any licence granted under paragraph (1) shall be valid for a period which may from time to time be considered appropriate by the Authority when granting the licence.

(4) The Authority may charge for a licence granted under paragraph (1) such reasonable fee as the Authority may from time to time prescribe.

(5) Any person who without reasonable excuse carries out or permits a commercial refuelling activity related to a vessel in the port except in accordance with a licence issued by the Authority under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Aids to navigation

14.—(1) In addition to its powers under section 201 of the 1995 Act (powers of harbour authorities as local lighthouse authorities) but subject to obtaining any necessary interest in or over land, the Authority may erect or place, alter, discontinue or remove aids to navigation in any place adjacent to the port.

(2) The Authority must not exercise the powers of paragraph (1) without the approval of the Commissioners of Northern Lighthouses.

Power to dredge

15.—(1) The Authority may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the sea as lie within the port and any materials dredged, taken or collected by the Authority in the exercise of the powers of this article (other than wreck within the meaning of section 255 (interpretation) of the 1995 Act) shall be the property of the Authority and may be used, sold, deposited or otherwise disposed of as the Authority thinks fit.

(2) No such materials 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 otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Ministers.

Repair of landing places, etc.

16.—(1) In this article, "relevant feature" means any landing place, jetty, wall, pontoon, pile, embankment, bridge, structure, groyne, aids to navigation or other work in the port or on land immediately adjoining the waters of the port other than one under the control or management of the Authority.

(2) The Authority may by notice require the owner, lessee or occupier of a relevant feature which in the opinion of the Authority is, or is likely to become, by reason of its insecure condition or want of repair—

(a) dangerous to persons or vessels using the port, or

(b) a hindrance to the navigation in the port,

to remedy its condition to the Authority's reasonable satisfaction within a reasonable time, not being less than 21 days, specified in the notice.

(3) If a person fails without reasonable excuse to comply with a notice served on them under this article within the time stated in the notice or such time as the Ministers may substitute on appeal—

(a) that person shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale, and

(b) the Authority may carry out the work required by the notice and recover the reasonable expenses of so doing from that person.

(4) A notice under paragraph (2) must have annexed to it a copy of this article.

(5) A person aggrieved by a notice served by the Authority under this article may, during the period of 21 days beginning with the date on which the notice was served, appeal to the Ministers against the notice.

(6) An appeal under paragraph (5) must be made by notice in writing stating the grounds of the appeal.

(7) A person who appeals under paragraph (5) must give to the Authority notice of the appeal accompanied by a copy of the statement of appeal, and the Authority shall, within 21 days of receipt of the notice, be entitled to furnish to the Ministers its observations on the appeal.

(8) On an appeal under paragraph (5), the Ministers shall either quash the notice, modify its requirements or dismiss the appeal.

(9) In this article, "owner", "lessee" and "occupier", in relation to a relevant feature, means the person who was the "owner", "lessee" or "occupier" of the relevant feature at the date the notice under paragraph (2) is served, or if the "owner", "lessee" or "occupier" of the relevant feature is not readily identifiable, the "owner", "lessee" or "occupier" of the land on which the relevant feature is situated at the date the notice is served.

Obstruction of works

17. Any person who—

(a) intentionally obstructs any person acting under the authority of the Authority in setting out the lines of, or in construction of, any works authorised by any enactment, or

(b) without reasonable excuse interferes with, moves or removes any pole, stake, station point or bench mark established for the purposes 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 it in making good any damage resulting from such obstruction, interference, moving or removal.

Parking places and related facilities

18. The Authority may provide facilities within the port for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences and make reasonable charges for the use of such facilities.

Removal of vehicles

19.—(1) If a vehicle is left—

(a) in a parking place provided by the Authority within the port premises for a longer period than authorised by the Authority,

(b) in any part of the port premises where the parking of vehicles is prohibited by notice erected by the Authority, or

(c) in any place within the port premises where it is likely to obstruct or interfere with the use of the port premises,

the Authority may cause it to be removed to a place of safe custody.

(2) Any such notice as is referred to in paragraph (1)(b) shall be conspicuously posted in or in proximity to the place to which it relates.

(3) Where the Authority in exercise of the powers of this article causes a vehicle to be removed, the reasonable expenses of and incidental to its removal and safe custody shall be recoverable by the Authority from the person responsible.

(4) If the Authority in exercise of the powers conferred by this article causes a vehicle to be removed, it shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 2002(**a**), at that person's last known address or registered address, or the address where the vehicle is ordinarily kept, notice that the Authority has exercised the powers of this article and of the place to which the vehicle has been removed.

(5) A notice stating the general effect of paragraph (1) shall be displayed in a prominent position at each entrance to any parking place provided by the Authority and at each place where a road accessible to vehicles enters any part of the port premises, and shall be endorsed on any tickets issued to persons leaving vehicles in such parking place or elsewhere at the port premises.

(6) In paragraph (3), "person responsible", in relation to a vehicle, means—

(a) the owner of the vehicle at the time when it was put in the place from which it was so removed, unless the owner of the vehicle shows that the vehicle was put there without that person's knowledge or involvement,

(b) any person by whom it was put in that place, or

(c) any person convicted of an offence under section 2 of the 1978 Act in consequence of the putting of the vehicle in that place.

(7) This article does not apply to any part of any public road within the port premises.

Power to deal with unserviceable vessels

20.—(1) In addition to the powers conferred on the harbour master by section 57 of the 1847 Act (unserviceable vessels to be altogether removed from harbour) and on the Authority by section 252 of the 1995 Act (powers of harbour and conservancy authorities in relation to wrecks) the Authority may sell, break up or otherwise dispose of any vessel which is unserviceable and has been laid by or neglected in the port or immediately adjoining the port.

(2) The Authority may retain out of the proceeds of sale of such vessel, or any part of such proceeds, any reasonable expenses incurred by it in respect of the vessel, or in marking, buoying, lighting or otherwise controlling the vessel or warning shipping of its presence and any expenses incurred by the harbour master under section 57 of the 1847 Act and must pay the surplus, if any, to the person or body entitled to that surplus.

(3) If the proceeds of the sale are insufficient to reimburse the Authority for the said expenses, or there is no sale, the Authority may recover the deficiency, or where there is no sale, the whole of the expenses, from the owner as a debt.

(4) Except in the case of emergency, the Authority must, before exercising its powers under this article, give 14 days' notice in writing of its intention to do so to the registered owner of the vessel and by advertisement in each of two successive weeks in a local newspaper circulating the area of the port, provided that, if the registered owner or their place of business or address is not known to the Authority or is outside of the United Kingdom, the notice may be given by displaying it at the port office of the Authority and on the port website for two successive weeks.

(**a**) S.I. 2002/2742.

Removal of obstructions other than vessels, vehicles or wrecks

21.—(1) The Authority may remove under the powers of this article anything which is causing or likely to become an obstruction or impediment to the proper use of any part of the port other than—

(a) a vessel or vehicle, or

(b) a wreck within the meaning of Part 9 of the 1995 Act.

(2) If anything removed by the Authority under paragraph (1) is known to the Authority to be, or is so marked as to be readily identifiable as, the property of any person, the Authority shall within one month of its coming into its custody give notice, in accordance with paragraph (6), to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period become the property of the Authority.

(3) If the ownership of anything removed by the Authority under paragraph (1) is not so known or marked and the ownership cannot within 3 months of its coming into the custody of the Authority be proved to the Authority's reasonable satisfaction, it shall become the property of the Authority.

(4) The Authority may at such time and in such manner as it thinks fit dispose of anything which is of a perishable or obnoxious nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Authority under this article, and if it is sold the proceeds of sale shall be applied by the Authority in payment of the reasonable expenses incurred by it under this article in relation to the thing, and any balance—

(a) shall be paid to any person who within 3 months from the time when the thing came into custody of the Authority proves to its reasonable satisfaction that such person was the owner thereof at that time, or

(b) if within the said period no person proves ownership at the said time, shall become the property of the Authority.

(5) If anything removed under this article—

(a) is sold by the Authority and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred in the exercise of its powers of removal, or

(b) is unsaleable,

the Authority may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner when the thing removed came into the custody of the Authority or who was the owner at the time of its abandonment or loss.

(6) A notice given under paragraph (2) shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Authority possession may be retaken at a place specified in the notice within the time specified therein, being not less than 14 days after the date when the notice is served.

(7) The Authority shall not under the powers of this article move anything placed or constructed by any person under the provisions of any enactment or of a consent or licence.

Power to remove goods

22.—(1) If any goods are left on or in any part of the port premises the Authority may require the owner of the goods to remove them, and if the goods are not so removed within six hours after such requirement the Authority may cause them to be removed to the Authority or any other public warehouse or store, and such removal shall be carried out at the expense and risk of the owner.

(2) Notwithstanding such removal on behalf of the Authority, the goods shall be subject to a lien for the cost of removal, and for any charges or goods dues payable to the Authority by the owner in respect of the goods under this Order or the 1964 Act.

(3) In this article, "goods" includes equipment of any description.

PART 3

Port regulations

General directions to vessels

23.—(1) The Authority may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland and such other persons as the Authority considers are representative of users of the port and in order to promote or secure conditions conducive to the ease, convenience or safety of navigation or the safety of persons, and for the conservation of the port's flora, fauna and geographical and physiographical features of special interest, give general directions for any of the following purposes—

(a) designating areas, routes or fairways in the port which vessels are to use, or refrain from using, for movement, mooring or anchorage,

(b) securing that vessels move within the port only at certain times or during certain periods,

(c) securing that vessels make use of descriptions of aids to navigation specified in the direction,

(d) prohibiting entry into or navigation within any of the main fairways within the port or the approaches leading to it during any temporary obstruction of the fairways,

(e) regulating the admission to, and the movement within, and the departure of vessels from, the port, or the removal of vessels, and for the good order and government of vessels whilst within the port,

(f) prohibiting entry into or movement in the port by vessels at times of poor visibility due to the weather or to the presence of dust or smoke provided that no such direction shall prevent the entry into the port or the approaches of any vessel seeking refuge from stress of weather,

(g) regulating the navigation, berthing, mooring and speed of vessels within the port,

(h) regulating the use of ferries within the port,

(i) regulating the use within the port of yachts, sailing boats, sailboards, rowing boats, rowing punts, watercraft, pleasure craft, e-foils and other small craft,

(j) regulating the launching of vessels within the port,

(k) regulating the use of tugs within the port, or

(l) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for the purposes of this paragraph.

(2) A general direction under this article may apply—

(a) to all vessels or to a class of vessels designated, or for which the designation is provided for, in the direction,

(b) to the whole of the port or to a part designated, or for which the designation is provided for, in the direction,

(c) at all times or at times designated, or for which the designation is provided for, in the direction,

and every direction under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c).

(3) The Authority may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland and such other persons as the Authority consider are representative of users of the port, revoke or amend any general direction.

(4) The consultation requirements in paragraph (1) and (3) do not apply where in the interests of navigational safety, or the safety of persons, the Authority proposes to give, amend or revoke a general direction in an emergency.

(5) Any general direction made or amended without consultation will be in force only for the period of the emergency.

Publication of general directions

24.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Authority as soon as practicable, once in one or more newspapers circulating in the locality in which the port is situated.

(2) The Authority shall also make the notice available for inspection on a website maintained by the Authority together with, if the notice relates to the giving or amendment of a general direction, a copy of the direction or the direction as amended.

(3) If the notice relates to the giving or amendment of a general direction, the notice shall state a place at which copies may be obtained and particulars of the website where a copy of the direction or the direction as amended may be viewed.

(4) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Authority considers appropriate.

Special directions to vessels

25.—(1) The harbour master may give a special direction in respect of a vessel anywhere in the port for any of the following purposes—

(a) requiring a person to comply with a requirement made in or under a general direction,

(b) regulating or requiring the movement, anchorage, berthing, mooring or unmooring of the vessel,

(c) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores, and the dispatch of its business at the port premises,

(d) specifying the precautions to be taken in respect of apparatus, machinery and equipment,

(e) prohibiting or restricting the use of fires or lights,

(f) regulating the discharge or use of ballast,

(g) requiring the removal of the vessel from any part of the port if the vessel—

(i) is on fire,

(ii) is in such condition as to be liable to become immobilised or waterlogged, to sink or to constitute a danger to life (including wildlife) or property,

(iii) is making an unlawful use of the port or interfering with the reasonable use or enjoyment of the port by other vessels or persons or the dispatch of business in the port, or

(iv) needs to be removed to enable maintenance or repair work to be carried out to the port premises, or

(h) requiring the vessel be removed to a place outside the port if such removal is considered by the harbour master to be necessary in order to avoid danger or potential danger to life (including wildlife) or to property.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

(3) The harbour master may revoke or amend a special direction.

Failure to comply with directions

26.—(1) A person who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) In any proceedings for an offence under paragraph (1) it shall be a defence for the person charged to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Enforcement of special directions

27.—(1) If a special direction is not complied with within a reasonable time, the harbour master may put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) Paragraph (1) does not restrict the use of any other remedy available to the Authority.

(3) If there is no one on board a vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with, but the harbour master shall not do so unless, after reasonable inquiry has been made, the master cannot be found.

(4) Reasonable expenses incurred by the Authority in the exercise of the powers conferred by paragraph (1) are recoverable by the Authority as if they were a charge of the Authority in respect of the vessel.

Obstruction of officers, etc.

28. Any person who intentionally obstructs an officer of the Authority or other person acting in execution of this Order or of any enactment relating to the port shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Master's responsibility to be unaffected

29. The giving of a general direction or special direction shall not diminish or in any other way affect the responsibility of the master of the vessel in relation to which the direction is given, to persons on board the vessel, to the cargo or any other person or property.

Boarding of vessels and vehicles

30.—(1) Any duly authorised officer of the Authority may enter and inspect a vessel or vehicle in the port, subject to producing their authority where requested—

(a) for the purposes of any enactment relating to the Authority, byelaw or general direction of the Authority including its enforcement, or

(b) to prevent or extinguish fire.

(2) Such advance notice as is reasonably practicable in the circumstances must be given to the owner or master of the vessel or the owner of the vehicle before a duly authorised officer of the Authority enters and inspects a vessel or vehicle under paragraph (1) except—

(a) in an emergency, or

(b) where the giving of advance notice would obstruct the purpose of exercising the power.

(3) If the owner or master of the vessel or the owner of the vehicle cannot be identified after reasonable enquiries have been made, notice may be given by affixing it to the vessel or vehicle.

Byelaws

31.—(1) The Authority may from time to time make byelaws for the efficient management and regulation of the port and for the conservation of the natural beauty of all parts of all or any part of the port or any of the fauna, flora or physiographical features in the port and all other natural features.

(2) Without prejudice to the generality of paragraph (1), byelaws made under this article may provide for—

(a) regulating the use, operation and superintendence of the port and the docks, berths, wharves, quays, piers, jetties, landing places, equipment, works and conveniences (including moorings),

(b) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods, including marine creatures of any type, within the port,

(c) regulating the berthing and mooring of vessels within the port and their speed and the use of tugs within the port,

(d) preventing damage or injury to the port or any vessels, goods, vehicles, plant, machinery, property or persons within the port,

(e) regulating the conduct of all persons in the port not being members of a police force or officers or servants of the Crown whilst in the exercise of their duties,

(f) regulating the placing and maintenance of moorings within the port,

(g) preventing and removing obstructions or impediments within the port,

(h) regulating the use of ferries within the port,

(i) regulating in the port the use of yachts, sailing boats, sailboards, rowing boats, pleasure craft, e-foils and other small craft,

(j) regulating the use of watercraft in the port,

(k) regulating the holding of regattas and other public events in the port,

(l) regulating or prohibiting the activities in the port of divers, surfers, water skiers and other persons engaged in similar recreational pursuits but not so as to prohibit the use for navigation of the vessels referred to in sub-paragraph (i),

(m) prohibiting persons in or entering the port, or any part thereof, from smoking therein,

(n) regulating the movement, use of and parking of vehicles within the port (including speed limits, restricted and prohibited areas and removal from the port),

(o) regulating the exercise of the powers vested in the harbour master, or

(p) the purposes set out in section 83 of the 1847 Act.

(3) Byelaws made under this article may—

(a) provide for imposing upon persons found guilty on summary conviction of offending against them, or against any condition, requirement or direction imposed, made or given thereunder on summary conviction, fines not exceeding level 4 on the standard scale,

(b) relate to the whole of the port, or to any part thereof, or

(c) make different provisions for different parts of the port, or in relation to different classes of vessels or vehicles.

Confirmation of byelaws

32.—(1) Byelaws made by the Authority under this Order or the 1847 Act shall not come into operation until they have been confirmed by the Ministers.

(2) At least one month before an application for confirmation of byelaws is made by the Authority to the Ministers, notice of the intention to apply for confirmation and of the place at which and times during which a copy of the byelaws shall be open to inspection shall be published as follows—

(a) once in the Edinburgh Gazette, and

(b) once in each of two successive weeks in a newspaper circulating in the area in which the port is situated.

(3) Not later than the first date on which the notice under paragraph (2) is published, the Authority shall send a copy of the notice to the Chief Executive of Angus Council and to the Ministers.

(4) During a period of at least one month before application is made for confirmation of the byelaws, a copy of the byelaws shall be kept by the Authority at the port office and will be available for inspection without payment.

(5) The Authority shall supply a copy of the byelaws or of part of the byelaws to a person who shall apply for it.

(6) During the period of one month after the date of first publication of any notice required by paragraph (2), any person may make in writing to the Ministers any objection to or representation respecting the byelaws to which the notice relates.

(7) Subject to paragraph (8), the Ministers may confirm the byelaws in the form submitted to them, with such modifications as they think fit or may refuse to confirm them.

(8) Where the Ministers propose to make a modification that appears to them to substantially affect the character of the byelaws they shall inform the Authority and require it to take any steps the Ministers consider necessary for informing persons likely to be concerned with the modification, and the Ministers shall not make decision under paragraph (7) until such period has elapsed as the Ministers think reasonable for consideration of, and comment upon, the proposed modification by the Authority and by other persons who have been informed of it.

(9) In making a decision under paragraph (7) the Ministers shall have regard to any comments that may have been received under paragraph (8).

(10) A copy of the byelaws when confirmed shall be printed and deposited by the Authority at the port office of the Authority and shall at all reasonable hours be open to public inspection without payment, and a copy of the byelaws shall on application be furnished to any person on request.

Saving for existing directions, byelaws, etc.

33. Any direction, byelaw, regulation, licence, lease, consent or other agreement made, issued, entered into or granted by the Authority in relation to the port undertaking and in force immediately on or before the date on which this Order comes into force, shall, notwithstanding the amendments set out in articles 50, 51, 52 and 53 and the repeals and revocations set out in article 54 and the Schedule to this Order, continue to have effect.

PART 4

Financial provisions

Borrowing powers

34. The Authority may from time to time borrow, by any methods and on such terms as it sees fit, such sums of money as it thinks necessary for the purposes of the port undertaking, and where moneys are borrowed by the Authority under this article, the Authority may, if it sees fit, borrow those moneys upon the security of some or all of its assets or of some or all of its revenues or of some or all of both its assets and revenues, and the Authority may effect such arrangements as it sees fit to mitigate against any financial risk incurred for those purposes.

Temporary borrowing powers

35. The Authority may borrow temporarily, by way of overdraft or otherwise, such sums of money as the Authority may require for the purposes of the port undertaking.

Charges other than ship, passenger and goods dues

36. In addition to its power to demand, take and recover ship, passenger and goods dues under section 26 of the 1964 Act, the Authority may demand, take and recover in respect of any vessel, dracone or floating dock, crane, rig, drilling rig, floating plant, or any other manufactured floating

article which is not a ship as defined by section 57 of the 1964 Act, entering, using, within or leaving the port such reasonable charges, including in relation to goods or passengers carried, as it thinks fit, and sections 30 and 31 of that Act shall with any necessary modifications apply to the charges authorised by this article as they apply to ship, passenger and goods dues.

Charges for services and facilities

37.—(1) The Authority may demand, take and recover such reasonable charges for services and facilities provided by it, or on its behalf, in relation to the port or in connection with the port undertaking as it may from time to time determine.

(2) In paragraph (1) "charges" does not include ship, passenger and goods dues as defined by section 57 of the 1964 Act.

Payment of charges

38.—(1) The charges which the Authority is for the time being authorised to demand, take and recover in respect of vessels and goods or otherwise under any enactment—

(a) are payable before the removal from the port of any vessel or goods in respect of which they are payable, and

(b) may be demanded, taken and recovered—

(i) by such persons,

(ii) at such places,

(iii) at such times, and

(iv) under such terms and conditions,

as the Authority may from time to time specify in its published list of charges.

(2) Charges payable to the Authority on or in respect of—

(a) a vessel, shall be payable by the owner or master, and

(b) goods, shall be payable by the owner, consignee or shipper of the goods.

(3) Where charges payable to the Authority may be recovered by it from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

(4) Without limitation to paragraph (1), the terms and conditions as to the payment of charges which the Authority may from time to time specify may include the time when a charge falls due for payment and may require such information to be given to the Authority by the owner or master of a vessel or a person using a service or facility of the Authority as the Authority may require in connection with the assessment or collection of a charge.

(5) Where charges payable to the Authority have not been paid by the time they fall due for payment, the Authority may at any time thereafter detain within or refuse entry to, or require removal from the port of—

(a) the vessel or goods to which the charges relate, and

(b) any other vessels or goods that the owner or master of the vessel or goods to which the charges relate is also the owner or master of,

until such charges have been paid in full.

Recovery of charges by seizure, etc.

39.—(1) If default is made in the payment of any charge in respect of a vessel or its cargo the harbour master may, on producing if so required their authority, board the vessel with such assistance as the harbour master deems necessary and take, seize or arrest the vessel and the tackle and cargo thereof, and if the charge remains unpaid for 7 days after the seizure or arrestment may cause any of the matters so seized or arrested to be sold, and the surplus (if any) of the proceeds of sale over the amount of the charge and over the expenses of taking, keeping, appraising and selling the matters aforesaid shall be paid to the owner on demand.

(2) If any dispute arises as to the amount of charge due, or of the expenses of seizure or arrestment by virtue of this article, the harbour master may detain the matters so seized or arrested until the amount aforesaid, subject to any costs of the application payable by either party, has been determined upon application to the sheriff.

Power to grant exemptions, rebates, etc., in respect of charges

40.—(1) The Authority may confer total or partial exemptions from, allow rebates to or make compositions with any person with respect to charges, and may vary or extinguish any such exemption or composition.

(2) Nothing in section 30 of the 1964 Act shall require the Authority to include in the list of ship, passenger and goods dues kept at the port office, as required by subsection (1) of that section, charges reduced by a total or partial exemption or reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in the said list.

Security for charges

41. The Authority may require a person who incurs or is about to incur a charge to deposit with it, or to guarantee, such sum of money as is, in the opinion of the Authority, reasonable having regard to the amount or probable amount of the charge, and where such a person fails to deposit or guarantee the sum of money required the Authority may detain the vessel in the port or goods on or in port premises, in respect of which the charge has been or will be incurred, until the requirement has been complied with or the charge paid.

Liens for charges

42.—(1) A person who by agreement with the Authority collects charges on its behalf and who pays or gives security for the payment of charges on goods in that person's possession shall have a lien on those goods for the amount paid or security given in respect of the amount.

(2) A wharfinger or carrier who is not liable for the payment of charges may pay or by agreement with the Authority give security for charges on goods in its custody, and in that event it shall have a like lien on the goods for the amount of those charges as it would have in respect of its charges for safe custody or carriage of the goods, as the case may be.

Refusal to pay charges for a landing place, etc.

43. An officer of the Authority may prevent a vessel from using a landing place or any other facilities provided by the Authority, if the master of the vessel refuses to pay the charges for such use.

Exemptions from ship, passenger and goods dues

44.—(1) Except in so far as may be agreed between the Authority and the government department or person concerned or as may be specifically laid down by statute, nothing in any enactment authorising the Authority to levy charges shall extend to authorise it to demand ship, passenger and goods dues on—

(a) a vessel—

(i) belonging to or in the service of His Majesty,

(ii) in the service of the Commissioners of Customs and Excise and not carrying goods for reward,

(iii) in the service of the Commissioners of Northern Lighthouses and not carrying goods for reward, or

(iv) belonging to or used by the lifeboat service whilst employed in or in connection with the functions of that service,

(b) the Commissioners of Customs and Excise in respect of a vessel or goods under customs seizure,

(c) troops landed at the port premises or a person employed by the Secretary of State for Defence while in the execution of their duty, and

(d) goods or stores belonging to the Secretary of State for Defence.

(2) Officers of the Department for Transport and of the Ministers in the execution of their duty shall at all times be exempt from such charges in respect of their vessels and otherwise.

Recovery of charges

45.—(1) In addition to any other remedy given by this Order and by the 1847 Act as incorporated with this Order, the Authority may recover any charges payable to it as a debt in any court of competent jurisdiction.

(2) Where the master of a vessel in respect of which a charge is payable to the Authority refuses or neglects to pay the same or any part thereof, paragraph (1) applies whether or not the Authority's collector has gone on board the vessel and demanded the charge pursuant to section 44 of the 1847 Act (recovery of tonnage rates by distraint of ship and tackle).

Harbour master may prevent sailing of vessels

46. The harbour master may prevent the removal or sailing from the port of any vessel until evidence has been produced to the harbour master of the payment of any charges payable in respect of—

(a) the vessel,

(b) passengers of the vessel, or

(c) goods imported or exported on the vessel.

PART 5

Miscellaneous and general

Notices

47.—(1) Except where this Order expressly provides otherwise, a notice or other document required or authorised to be served for the purposes of this Order, or any direction given under this Order, must be in writing and must be served by first class post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) Where a person on whom a notice or other document is to be served has agreed in writing that service may be by email, or other electronic means, the Authority may provide notices by that means until such time as the person informs it in writing that they are no longer willing to receive notices or documents by email or by such other electronic means.

(4) For the purposes of section 7 of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of a person in relation to the service on them of a notice or document under paragraph (1) is, if they have given an address for service that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and

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(**a**) 1978 c. 30.

(b) in any other case, their last known address at the time of service.

(5) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person whose name and address cannot be ascertained after reasonable inquiry—

(a) in the case of a notice or document to be served on a person as having an interest in or as the occupier of, any land, it may be served by—

(i) addressing it to them by name or by the description of "owner", or as the case may be "occupier", of the land (describing it), and

(ii) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land,

(b) in the case of a notice or document relating to a vessel (including a wreck), it may be served by exhibiting it in a conspicuous position on or near the vessel (unless it would not be reasonably practicable to exhibit the notice or document in this manner or if the notice or document would not be likely to be seen if it were so exhibited) or by handing it to a member of the crew, and

(c) in the case of any other notice or document or a notice or document that is not capable of being served in accordance with sub-paragraph (b) it may be served by displaying it at the port office for the period of its duration.

Saving for the Commissioners of Northern Lighthouses

48. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of the Commissioners of Northern Lighthouses.

Crown rights

49.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to that generality, nothing in this Order authorises the Authority to take, use, enter upon or in any manner interfere with any land or any rights of whatsoever description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to His Majesty in right of the Crown and forming part of the Crown estate without the consent in writing of Crown Estate Scotland,

(b) belonging to His Majesty in right of the Crown and not forming part of the Crown estate without the consent in writing of the government department having management of that land or (as the case may be) the relevant person, or

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

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions, and shall be deemed to have been given in writing where it is sent electronically.

Amendment of the 1894 Order

50.—(1) The 1894 Order is amended as follows.

(2) For article 1 substitute—

"**1.**—(1) This Order may be cited as the Montrose Harbour Order 1894.

(2) References in this Order to "harbour master" shall mean the harbour master as defined in article 2(1) of the Montrose Harbour Revision Order 2026.".

(3) In article 8 (statements of takes of fish to be delivered) after "on arrival" insert "in the harbour".

Amendment of the 1974 Order

51.—(1) The 1974 Order is amended as follows—

(2) In article 1(1) omit from "and the" to the end of the paragraph.

(3) In article 8(1) for the words "five pounds" substitute "level 4 on the standard scale".

Amendment of the 1991 Order

52.—(1) The 1991 Order is amended as follows.

(2) In article 9 (restriction of works and dredging)—

(a) in paragraph (3) after sub-paragraph (b) insert—

"(c) any operations or works authorised by a moorings consent granted under article 11 of the Montrose Harbour Revision Order 2026.", and

(b) in paragraph (4) for "level 3" substitute "level 4".

(3) In article 11 (licensing of works) for paragraph (7) substitute—

"(7) As a condition of the granting of a licence, the Authority may require a licensee, being an applicant to whom a licence has been granted or the applicant's successor, where works are constructed pursuant to the licence, to pay such reasonable fees in respect of the Authority's administrative expenses and overheads in supervising or inspecting where necessary the construction or maintenance of the works.".

(4) In article 12(4) for "Part IX of the Merchant Shipping Act 1894" substitute "Part 9 of the Merchant Shipping Act 1995".

(5) In article 15 (power to acquire and dispose of business or shares) in paragraph (2) omit sub-paragraph (c).

Amendment of the 2003 Order

53.—(1) The 2003 Order is amended as follows.

(2) In Schedule 2 (incidental provisions relating to Authority) in paragraph 9 (meetings of Authority)—

(a) for sub-paragraph (2) substitute—

"(2) The Authority shall meet at least nine times per annum with no more than one meeting occurring in any calendar month.", and

(b) after sub-paragraph (2) insert—

"(3) In addition to the meetings held in accordance with sub-paragraph (2), the Authority may hold such additional meetings as it considers necessary.".

Repeals and revocations

54. On the date of this Order the enactments mentioned in the first and second columns of the Schedule to this Order shall be revoked or repealed (as appropriate) to the extent specified in the third column of that Schedule.

CHRIS WILCOCK
A member of the staff of the Scottish Ministers

St Andrew's House,
Edinburgh
23rd September 2026

SCHEDULE

Article 54

Repeals and revocations

Number	*Short Title*	*Extent of Revocation/Repeal*
1837 c. xcix (1 Vict).	The Montrose Harbour Act 1837.	Whole Act.
1850 c. xliii (13 & 14 Vict).	The Montrose Harbour Act 1850.	Whole Act.
1866 c. cii (29 & 30 Vict).	The Montrose Harbour Act 1866.	Whole Act.
1878 c. cxv (41 & 42 Vict).	Pier and Harbour Orders Confirmation Act 1878 (No. 2).	Whole of the Montrose Harbour Order 1878.
1894 c. cxiii (57 & 58 Vict).	Pier and Harbour Order Confirmation (No. 4) Act 1894.	Whole of the Montrose Harbour Order 1894 apart from articles 1 and 8 to 10.
S.I. 1975 No. 348.	Montrose Harbour Revision Order 1974.	Whole Order apart from articles 1, 3, 4 to 15, 20 and 24.
S.I. 1991 No. 1745.	Montrose Harbour Revision Order 1991.	Whole Order apart from articles 1 to 3, 4(8) and 7 to 16.
S.I. 1993 No. 1592.	Montrose Harbour Revision Order 1993.	Whole Order.
S.S.I. 1999 No. 200.	Montrose Harbour Revision Order 1999.	Whole Order.
S.S.I. 2003 No. 258.	Montrose Port Authority Harbour Revision (Constitution) Order 2003.	Article 12.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made on the application of the Montrose Port Authority, modernises and consolidates the statutory harbour powers applying in relation to Montrose Port.

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