STATUTORY INSTRUMENTS

1983 No. 1605

HARBOURS, DOCKS, PIERS AND FERRIES

The Rothesay Harbour Revision Order 1983

Made - - - -	10*th March* 1983
Laid before Parliament	23*rd June* 1983
Coming into Operation	28*th October* 1983

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 Strathclyde Regional Council hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Rothesay Harbour Revision Order 1983 and this Order and The Rothesay Harbour Act and Orders 1831 to 1937 may be cited together as the Rothesay Harbour Act and Orders 1831 to 1983.

(2) This Order 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. In this Order, unless the context otherwise requires:—

"The Rothesay Harbour Act and Orders 1931 to 1937" means:—

(i) The Rothesay Harbour Act 1831(**d**) and

(ii) The Rothesay Harbour Order 1867(**e**) and

(iii) The Rothesay Harbour Order 1882(**f**) and

(iv) The Rothesay Harbour Order 1898(**g**) and

(v) The Rothesay Harbour Order 1908(**h**) and

(vi) The Rothesay Harbour Order 1937(**i**)

"the Trustees" means the Rothesay Harbour Trustees incorporated by the Rothesay Harbour Order 1882;

(**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**) 1831 c. xxxiv (1 & 2 William iv).
(**e**) 1867 c. xxxiii (30 Vict.).
(**f**) 1882 c. lviii (45 & 46 Vict.).
(**g**) 1898 c. xcvi (61 & 62 Vict.).
(**h**) 1908 c. cxxxvii (8 Edw. 7).
(**i**) 1937 c. v (1 & 2 Geo. 6).

"the harbour" means the harbour of Rothesay as defined by the Rothesay Harbour Order 1937;

"the harbour undertaking" means and includes the harbour and the offices, works and conveniences connected therewith and the accesses from and to the same respectively and all other property and pertinents to be used or held in connection therewith and the right to levy rates duties and charges and all other powers, rights, authorities and privileges relating thereto conferred on or vested in the Trustees and the entire undertaking of the Trustees in connection with the harbour;

"the Regional Council" means Strathclyde Regional Council

Transfer of harbour undertaking

3. As from the commencement of this Order the harbour undertaking and all rights, interests and privileges heretofore possessed, used or enjoyed by the Trustees therein subject to the existing debts, liabilities, obligations, encumbrances, contracts and engagements affecting the same shall be and may, by virtue of this Order and without the necessity of any assignation or of recording in the Register of Sasines any conveyance, notarial instrument, notice of title or other deed or writing, be, and the same are hereby transferred to and vested in, the Regional Council and the Regional Council shall exercise jurisdiction as the harbour authority.

Dissolution of the trust

4. The Rothesay Harbour Trust incorporated by the Rothesay Harbour Order 1882 is hereby dissolved.

Contracts to be binding

5. All purchases, sales, conveyances, deeds, contracts and agreements entered into or made by the Trustees and in force at the commencement of this Order shall be as binding and of as full force and effect in every respect against or in favour of the Regional Council as they have heretofore been against or in favour of the Trustees and may be enforced as fully and effectively as if instead of the Trustees the Regional Council had been a party thereto.

Proceedings not to abate

6. All legal and other proceedings begun before the commencement of this Order and relating to any property or liabilities transferred to the Regional Council under this Order may be carried on with the substitution of the Regional Council as a party to the proceedings in lieu of the authority from whom the property or liabilities was or were transferred and any such proceedings may be amended in such manner as may be necessary for that purpose.

Repeals

7. The provisions of the Rothesay Harbour Act 1831, the Rothesay Harbour Order 1882, the Rothesay Harbour Order 1898 and the Rothesay Harbour Order 1937 set out in the schedule to this order to the extent specified in the third column thereof are hereby repealed.

Amendments to the Rothesay Harbour Act and Orders 1831 to 1937

8. The Rothesay Harbour Act and Orders 1831 to 1937 so far as not repealed by the provisions of this Order shall be read and have effect as if:

(1) for the word "Trustees" wherever the same shall appear, there were substituted the words "Regional Council" and

(2) for the word "clerk" wherever the same shall appear there were substituted the words "Chief Executive of Strathclyde Regional Council"

Byelaws

9. The provisions of sections 201 to 204 of the Local Government (Scotland) Act 1973(**a**) shall apply to any byelaws made by the Regional Council under the Harbours, Docks and Piers Clauses Act 1847(**b**) or the Rothesay Harbour Order 1882 or the Rothesay Harbour Order 1937. All byelaws and regulations which are in force in the Harbour at the date of this Order coming into force shall be deemed to be byelaws and regulations of the Regional Council and shall continue in force until altered.

Power to borrow

10. The borrowing powers of the Regional Council in regard to the harbour undertaking are contained in section 16 and Schedule 3 of the Local Government (Scotland) Act 1975(**c**) as amended by section 27 of the Local Government (Miscellaneous Provisions) (Scotland) Act 1981(**d**).

Crown rights

11. Nothing in this Order shall affect prejudicially any estate, power privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained shall authorise the Regional Council to take, use or in any way interfere with any portion of the shore or bed of the sea or any river, channel or creek, bay or estuary or any land, heritages, subjects or rights of whatsoever description 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 on behalf of Her Majesty first had and obtained for that purpose; or 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 department.

Savings for Harbours Act 1964

12. Nothing in this Order shall exempt the Regional Council or any other person from the provisions of sections 9 and 10 of the Harbours Act 1964.

Costs of Order

13. All costs, charges and expenses of and incidental to the preparing for and obtaining of this Order or otherwise in relation thereto (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 or any costs incurred in opposing this Order) shall be paid by the Regional Council.

(**a**) 1973 c. 65.
(**b**) 1847 c. 27.
(**c**) 1975 c. 30.
(**d**) 1981 c. 23.

David Howell,
Secretary of State for Transport.

10th March 1983.

SCHEDULE

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
1 and 2 William IV c. xxxiv	The Rothesay Harbour Act 1831	Sections 1 to 8
30 Vict. c. xxxiii	The Rothesay Harbour Order 1867	Articles 13 and 14
45 and 46 Vict. c. lviii	The Rothesay Harbour Order 1882	Articles 2, 3, 22, 23 and 27
61 and 62 Vict. c. xcvi	The Rothesay Harbour Order 1898	Articles 3, 4, 15, 23 and 24
1 and 2 Geo. VI c. v	The Rothesay Harbour Order 1937	Articles 17 to 23, 26, 28 to 32 and 35

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order transfers to and vests in Strathclyde Regional Council the Rothesay Harbour undertaking and all rights, interests and privileges presently vested in or used by the Rothesay Harbour Trust. The Rothesay Harbour Trust is dissolved on commencement of the Order. Provision is made for all conveyances, contracts, agreements or deeds entered into by Rothesay Harbour Trust to remain binding and in full force against or in favour of Strathclyde Regional Council and for all legal or other proceedings to be carried on with substitution of Strathclyde Regional Council as a party to the proceedings in lieu of the Rothesay Harbour Trust. This Order also provides that Sections 201 to 204 of the Local Government (Scotland) Act 1973 shall apply to byelaws for the harbour made by the Regional Council and that byelaws and Regulations in force when this Order comes into operation shall continue in force.

Printed in the UK for HMSO
850/U0073 Q28 C9 11/83
75p net
ISBN 0 11 037605 6