

Aviation, Maritime, Freight & Canals

Victoria Quay, Edinburgh EH6 6QQ
T: 0131 244 7488
chris.wilcock@transport.gov.scot



Douglas Waddell
Senior Solicitor
Brodies LLP

Date:
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douglas.waddell@brodies.com

Dear Douglas

1. I refer to the application submitted by Brodies LLP on behalf of your client, Lerwick Port Authority ("the Authority"), for the making of the Lerwick Harbour Revision (Constitution) Order 2019 under section 14 of the Harbours Act 1964 (the 1964 Act). This letter conveys the Ministers' decision following their consideration of the application.

Purpose of the Harbour Revision Order

2. This Order reconstitutes the Lerwick Port Authority in line with the recommendations contained within "Modern Trust Ports for Scotland: Guidance for good governance", as published by Transport Scotland in 2012. It provides for the Board to consist of a body of eleven members with experience in relevant matters. Nine persons will be appointed by the Authority. The Chief Executive and one other senior officer of the Authority will also hold office as members. Under the terms of the Order the appointed members will retire in rotation.
3. The Order also includes other provisions with respect to the Board's constitution including requirements as to publication of its annual statement of accounts, and repeals, revokes or amends certain statutory provisions. It also consolidates provisions contained within the 1999 and 2003 Orders.

Application process

4. The formal application was submitted on 15 January 2019 and public notices were placed in the Edinburgh Gazette on 18 January and the Shetland Times on 18 and 25 January 2019.

Objections

5. The 42 day notice period ended on 1 March 2019 with no objections received.

Scottish Ministers' consideration

6. Section 14(2)(b) of the 1964 Act requires that a Harbour Revision Order shall not be made in relation to a harbour unless the appropriate Minister is satisfied that the making of the Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, or of facilitating the efficient and economical transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships.
7. Our assessment is that the proposed Order is conducive to improving the management of the harbour in an efficient and economical manner.

Right to challenge decision

8. Any person who desires to question its making on the grounds that there was no power to make it or that a requirement of the 1964 Act was not complied with in relation to it may, within six weeks from the date the order comes into force, make an application for this purpose to the Court of Session.
9. Any person thinking of challenging the decision to make the order is advised to seek legal advice before taking any action.

Availability of decision

10. When the order is made, the Authority must:
 - Publish notice of the making of the order in the Edinburgh Gazette and a local paper;
 - Send copies to the people notified of the original application; and
 - Copy the notice to Transport Scotland.
11. A copy of this letter is being sent to all those who were consulted on the order and will be published on the Transport Scotland website.

Yours sincerely



Chris Wilcock
Director
Aviation, Maritime, Freight & Canals