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Joe Durkin Esq
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Your ref:
DURKINJ/177102

Our ref:

Date:
20 September 2011

Dear Joe

HARBOURS ACT 1964 - ULLAPOOL HARBOUR REVISION (CONSTITUTION) ORDER 2011

1. I refer to the application submitted on behalf of your client, the Ullapool Harbour Trust on 14 June 2011 for the making of the Ullapool Harbour Revision (Constitution) Order (the "HRO") under section 14 of the Harbours Act 1964 ("the 1964 Act"). This letter conveys the Scottish Ministers' decision on this application.

Purpose of HRO

2. The purpose of the HRO is to modernise the constitution of the Trust Port and bring it in line with the principles outlined in Modernising Trust Ports: A Guide to Good Governance. The HRO also confers general powers on the Trustees in respect of Ullapool Harbour; empowers the Trustees to form wholly-owned subsidiaries for carrying on activities which they have power to carry on and (by themselves or jointly with any other person), companies for carrying on certain specified businesses; provides for the Trustees to make reasonable charges for services and facilities provided by them; and authorises the Trustees to borrow moneys as they think necessary.

The Application

3. Ullapool Harbour is a registered Trust port and as such is administered by an appointed Board of Trustees under the terms of the Harbour Revision (Constitution) Order 2005.

4. Ullapool Harbour Trust submitted an application for an HRO to the Scottish Government on 14 June 2011. Notices of the application were advertised in the Ullapool News on 17 and 24 June 2011 and in the Edinburgh Gazette on 17 June 2011.

Objections

5. Scottish Ministers received no objections to the HRO within the statutory period of forty-two days provided for in Schedule 3 of the Harbours Act 1964.

Consideration of Environmental Impact

6. As the HRO does not authorise any works there was no requirement to consider the need for an Environmental Statement or Appropriate Assessment.

The Scottish Ministers' Consideration

The Decision

7. Section 14 of the 1964 Act sets out the objectives for the achievement of which a harbour revision order may be made. The Scottish Ministers are satisfied that this HRO meets these objectives and that the HRO should be made in the interests of securing the improvement, maintenance and management of the harbour in an efficient and economical manner.

8. The Scottish Ministers have decided to make the Order with modifications which do not appear to them to substantially affect the character of the order. The proposed modifications are:

- In article 5 (Interviews and appointments by the appointing body), change number of terms of office a Trustee can serve from four to three, and for Convenor from five to four, to bring this in line with the policy outlined in Modernising Trust Ports: A Guide to Good Governance.
- In paragraph (2) of new article 6 (Appointment and terms of office of first Trustees), substitute "Convenor" for "chair".
- In paragraph (2) of new article 6 (Appointment and terms of office of first Trustees), substitute "1 December 2011" for "the new constitution date".

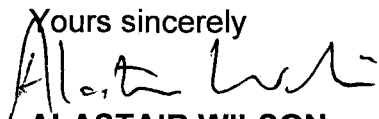
Right to Challenge Decision

9. The foregoing decision of the Scottish Ministers is final but any person who desires to question the making of the HRO on the ground that there was no power to make the HRO or that a requirement of the 1964 Act was not complied with in relation to the HRO may, within six weeks from the date on which the HRO becomes operative, make an application for the purpose to the Court of Session as the case may be.

A person who thinks they may have grounds for challenging the decision to make the HRO is advised to take legal advice before taking any action.

Availability of Decision

10. A copy of this letter has been sent to all those who were consulted on the order and will be published on the Scottish Government website.

Yours sincerely

ALASTAIR WILSON
Director