SCOTTISH STATUTORY INSTRUMENTS

2000 No. 233

HARBOUR, DOCKS, PIERS AND FERRIES

The Comhairle nan Eilean Siar (Ardveenish) Harbour Revision Order 2000

Made - - - -	*12th July 2000*
Coming into force - -	*14th July 2000*

Whereas Comhairle nan Eilean Siar has applied in writing to the Scottish Ministers for a harbour revision order under section 14 of the Harbours Act 1964(**1**);

And whereas the Scottish Ministers(**2**) have, in pursuance of paragraph A2 of Part 1 of Schedule 3 to the said Act(**3**), determined that the application for this Harbour Revision Order is made in relation to a project which falls within Annex II to Council Directive No.85/337/EEC(**4**) on the assessment of the effects of certain public and private projects on the environment but whose characteristics do not require that it should be made subject to an environmental assessment;

And whereas the making of this Order is not opposed;

And whereas the Scottish Ministers are satisfied as required by subsection (2)(b) of the said section 14;

Now therefore, the Scottish Ministers, in exercise of the powers conferred upon them by section 14 of the said Act, and of all other powers enabling them in that behalf, hereby make the following Order:

(**1**) 1964 c. 40; Section 16 and Schedule 3 were amended by the Transport Act 1981 (c. 56) section 18 and Schedule 6, paragraphs 2 to 4, 12 and 14; and by the Transport and Works Act 1992 (c. 42) section 63 and Schedule 3, paragraphs 1 and 10; and Schedule 3 was further amended by regulations 4 to 8 of the Harbour Works (Assessment of Environment Effects) Regulations 1998 (S.I.1998/1336) as applied and amended in relation to Scotland by the Harbour Works (Assessment of Environmental Effects) Regulations 1992 (S.I. 1992/1421).

(**2**) The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**3**) Schedule 3 was amended by the Transport Act 1981, section 18 and Schedule 6, paragraph 4(2) to (7) and (12) and by the Transport and Works Act 1992, Schedule 3, paragraph 10. Paragraph A2 was inserted by the Harbour Works (Assessment of Environment Effects) (Amendment) Regulations 1996 (S.I. 1996/1946).

(**4**) O.J. No. L175, 5.7.85, p.40.

PART I

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Comhairle nan Eilean Siar (Ardveenish) Harbour Revision Order 2000 and shall come into force on 14th July 2000.

(2) The Ardveenish Harbour Orders 1980(**5**), the Western Isles Island Council (Ardveenish) Harbour Revision Order 1992(**6**) and this Order may be cited together as the Ardveenish Harbour Orders 1980 to 2000.

Interpretation

2.—(1) In this Order–

"the 1980 Order" means the Ardveenish Harbour Order 1980;

"the 1995 Order" means the Western Isles Islands Council (Various Harbours Jurisdiction and Byelaws) Harbour Revision Order 1995(**7**);

"the authorised works" means the works authorised by this Order, or as the case may require any part thereof, and includes any work constructed pursuant to article 7 below;

"the Comhairle" means Comhairle nan Eilean Siar;

"the deposited plan" and "the deposited sections" means the plan and sections signed on behalf of the Scottish Ministers and marked "Plan and sections referred to in the Comhairle nan Eilean Siar (Ardveenish) Harbour Revision Order 2000" of which copies are deposited with the Scottish Ministers at the Scottish Executive, Victoria Quay, Edinburgh EH6 6QQ and with the Comhairle at Sandwick Road, Stornoway, Isle of Lewis HS1 2BW;

"general direction" means a direction given under article 27 below;

"the harbour" means the harbour of Ardveenish, the area of which is described in article 3 of, and Schedule 1 to, this Order;

"the harbour map" means the map referred to in article 3 below;

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

"the harbour premises" means the quays, piers, landing places and all other works, land and buildings for the time being vested in, or occupied or administered by, the Comhairle as part of the harbour undertaking;

"the harbour undertaking" means the harbour undertaking of the Comhairle at Ardveenish authorised by the Ardveenish Harbour Orders 1980 to 2000;

"the level of high water" means the level of mean high-water springs;

"the limits of deviation" means the limits of deviation for the authorised works shown on the deposited plan;

"special direction" means a direction given under article 29 below;

"tidal work" means so much of any authorised work as is on, under or over tidal waters or tidal lands below the level of high water; and

(**5**) 1980 c.i, amended by S.I. 1992/1975(L).
(**6**) S.I. 1992/1975(L).
(**7**) S.I. 1995/2007.

"vessel" means every description of vessel, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water, a seaplane on or in the water, a hovercraft and a hydrofoil.

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

(3) Reference points specified in this Order shall be construed as references to Ordnance Survey National Grid Reference points.

(4) Any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

Harbour jurisdiction

3.—(1) The area within which the Comhairle shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Harbours Act 1964, and within which the powers of the harbour master may be exercised, shall be the area described in Schedule 1 to this Order and shown edged in red on the harbour map together with so much of the harbour premises as is not situated within that area.

(2) In the event of any discrepancy between the boundaries of the harbour as described in paragraph (1), and in Schedule 1 to this Order, and the boundaries shown on the harbour map, the harbour map shall prevail.

(3) All enactments conferring rights, powers, privileges or immunities or imposing duties, obligations or liabilities upon the Comhairle or the harbourmaster, and all byelaws, regulations and directions made by the Comhairle which immediately before the date of the coming into force of this Order related to or had effect within the harbour, as it existed immediately before that date, shall relate to or have effect throughout the harbour as described in paragraph (1), and in Schedule 1 to this Order.

(4) In section 2 of the 1980 Order, for the definition of "the harbour", there shall be substituted–

""the harbour" means the area described in article 3(1) of, and in Schedule 1 to, the Comhairle nan Eilean Siar (Ardveenish) Harbour Revision Order 2000."

(5) Section 16 (Limits of the harbour) of, and the Schedule to, the 1980 Order are hereby repealed.

PART II

WORKS

Power to construct works

4. Subject to the provisions of this Order, the Comhairle may, within the limits of deviation, and according to the levels shown on the deposited sections, construct, execute and maintain the works described in Schedule 2 to this Order, together with all necessary works and conveniences connected therewith, in the Barra and Vatersay Electoral Division, parish of Barra, na h'Eileanan an Iar.

Power to renew, etc. works

5. Subject to the provisions of this Order the Comhairle may, within the limits of deviation, renew, replace, or otherwise alter temporarily or permanently the authorised works.

Power to deviate

6. Subject to the provisions of this Order, in the construction or execution of the authorised works the Comhairle 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 necessary or convenient.

Subsidiary works

7. Subject to the provisions of this Order the Comhairle, for the purposes of or in connection with the authorised works, may within the limits of deviation construct, execute and maintain all such subsidiary or incidental works and conveniences as may be necessary or expedient for or in connection with the authorised works.

Fine for obstructing works

8. Any person who intentionally obstructs any person acting under the authority of the Comhairle in setting out the lines of the works or who moves or removes any pole, stake, station point or bench mark established for the purpose 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 Comhairle as a debt any expenses incurred by them in making good any damage resulting from such obstruction, moving or removal.

Works deemed to be within na h'Eileanan an Iar

9. So much of the authorised works as is not within the administrative area known as na h'Eileanan an Iar shall be deemed for all purposes to be within that area.

Conservation powers, interpretation and education

10. The Comhairle may carry out works in the harbour and do anything which they consider expedient for the purpose of interpreting the history, fauna, flora or geological or physiographical features of the harbour for the benefit or education of persons visiting the harbour or its surroundings.

Tidal works not to be executed without approval of the Scottish Ministers

11.—(1) A tidal work shall not be constructed, executed, renewed, replaced or altered except in accordance with plans and sections approved by the Scottish Ministers and subject to any conditions and restrictions imposed by the Scottish Ministers before the work is begun.

(2) If a tidal work is constructed, executed, renewed, replaced or altered in contravention of this article–

(a) the Scottish Ministers may by notice in writing require the Comhairle 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 30 days from the date when the notice is served upon the Comhairle they have failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice; or

(b) if it appears to the Scottish Ministers urgently necessary to do so, they may themselves remove the tidal work or part of it and restore the site to its former condition,

and any expenditure incurred by the Scottish Ministers in so doing shall be recoverable from the Comhairle as a debt.

Lights on tidal works during construction

12.—(1) During the whole time of demolition, construction, renewal or alteration of any tidal work the Comhairle 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 Comhairle fail to comply in any respect with paragraph (1) they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Permanent lights on tidal works

13.—(1) After the completion of a tidal work the Comhairle shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Comhairle fail to comply in any respect with a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Survey or tidal works

14. The Scottish Ministers may at any time they deem it expedient order a survey and examination of a tidal work or of the site upon which it is proposed to construct and execute the work and any expenditure incurred by them in such survey or examination shall be recoverable from the Comhairle.

Provision against danger to navigation

15.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Comhairle shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Comhairle fail to comply in any respect with the provisions of this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

16.—(1) Where a tidal work is abandoned or suffered to fall into decay the Scottish Ministers may by notice in writing require the Comhairle 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 Scottish Ministers think proper.

(2) Where a work authorised by this Order 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 the 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 Scottish Ministers may include that part of the work, or any portion thereof, in any notice under this article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Comhairle, they have failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Comhairle as a debt.