
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 4

The Lerwick Harbour Revision Order 2015

PART II

WORKS

Power to construct works

3. The Authority may in the lines and situations and within the limits of deviation and according to the levels shown on the deposited plans and sections construct and maintain the following works—

Work No. 1 - The construction at Dales Voe of a solid quay adjoining and extending the existing Dales Voe jetty and comprising: (First) a steel sheet pile wall as shown on Sheet No. 2 on the deposited plan and extending as follows:- along the southern perimeter of the existing jetty from Point 1A to Point 1B for a distance of fourteen metres, from there for a distance of twenty two metres in north westerly direction to Point 1C, from there continuing in a south westerly direction for a distance of seventy five metres to Point 1D, from there in a south easterly direction for a distance of twenty eight and a half metres to Point 1E, from there in a south westerly direction for a distance of six and half metres to Point 1F, and from there in a south easterly direction for a distance of twenty metres and terminating at Point 1G; and (Second) a rock armour revetment shown delineated in black and in shaded by a network of small open hexagons as shown on Sheet No. 2 on the deposited plan commencing at Point 1G on the said steel sheet pile wall and extending as follows:- in a north westerly direction for a distance of twenty metres to Point 1F, from there in a north easterly direction for a distance of six and a half metres to Point 1E, from there in a north westerly direction for a distance of twenty three metres and thirty centimetres to Point 1H, from there in a south westerly direction for a distance of twenty one metres to Point 1J, from there in a south easterly direction for a distance of twenty eight metres to Point 1K, from there a south easterly direction for a distance of twenty metres and then terminating at Point 1L where the new revetment meets the existing shore mooring point.

Work No. 2 - The construction of a reclamation area and slope protection with a mixture of concrete slab, bitmac and hardcore surfacing shown delineated in black and inshaded by a network of small open hexagons as shown on Sheet No. 4 on the deposited plan and extending as follows:- along the north western perimeter of the existing jetty from Point 2A to Point 2B for a distance of six metres, from there north for a distance of fourteen metres to Point 2C, from there in a north easterly direction for a distance of ninety four metres to Point 2D, from there in a south easterly direction for a distance of ninety one metres to Point 2E, from there in a westerly direction for a distance of sixteen metres to Point 2F, from there in a north westerly direction for a distance of fifty eight metres to Point 2G, from there in a south westerly direction for a distance of eighty four metres and then terminating at Point 2A.

Power to renew, etc. works

4. Subject to the provisions of this Order the Authority may, within the limits of deviation, renew, replace, extend or otherwise alter temporarily or permanently the works authorised by article 3 of this Order.

Power to deviate

5. Subject to the provisions of this Order, in the construction or execution of the renewal, replacement, extension or alteration of the works the Authority may deviate laterally from the lines or situations shown on the deposited plans and sections to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the works shown on the deposited plans and sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be necessary or convenient.

Rights of navigation to be interfered with

6. On the day on which this Order comes into force any rights of navigation within the harbour shall be extinguished to the extent only that the exercise of such rights would be prevented or hindered by the construction, presence, use or maintenance of the works authorised by article 3 (power to construct works) or the following works—

Work No. 3 – Area A - the portion of the existing quay and the portion of the existing rock armour revetment as shown shaded pink on the deposited plan Sheet No. 6 extending to one thousand and fifty metres squared constructed with a rock infill with a hardcore top surface area being bounded on the north east by the adjoining portion of the existing rock armour revetment and extending as follows: - along the existing rock armour revetment and quay from Point 3A to Point 3B for a distance of forty five and half metres, from there in a south westerly direction for a distance of thirty three and a half metres to Point 3C, from there north for a distance of eighteen metres sixty centimetres to Point 3D, from there in a north westerly direction for a distance of thirty six metres seventy centimetres to Point 3E and from there in north easterly direction for a distance of twenty five metres seventy centimetres and then terminating at Point 3A.

Work No. 3 – Area B - the portion of the existing rock armour revetment as shown shaded blue on the deposited plan Sheet No. 6 extending to sixty metres squared constructed with a rock infill with a hardcore top surface area being bounded on the north west by the adjoining portion of the existing rock armour revetment and the existing shore mooring point and centred on Point 3F.

Work No. 3 – Area C - the portion of the existing rock armour revetment as shown shaded yellow on the deposited plan Sheet No. 6 extending to one hundred and twenty five metres squared constructed with a rock infill with a hardcore top surface area being bounded on the north west by the adjoining portion of the existing rock armour revetment and centred on Point 3G.

Subsidiary works

7. The Authority may from time to time within the limits of deviation construct, maintain and operate, whether temporarily or permanently, such other works as may be necessary or convenient for the purposes, or in connection with or in consequence of the construction, maintenance or use of the works of the port; including works for the accommodation or convenience of vessels or for the loading and unloading of goods and the embarking and landing of passengers.

Power to dredge

8.—(1) Without prejudice to any other powers which may be exercisable by the Authority within the harbour, the Authority may, for the purposes of constructing and maintaining the works, the existing works or the harbour undertaking, and of affording access to the works, the existing works and the harbour undertaking by vessels, from time to time deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the harbour as lie within the limits of the harbour and within the approaches and the channels leading to those limits may blast any rock in the area so described and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995), from time to time dredged by them.

(2) No such materials shall be laid down or deposited—

- (a) in contravention of the provisions of any enactment as respect to the disposal of waste; or
- (b) in any place below the level of high water otherwise than in such a position and under such conditions and restrictions as may be approved or prescribed by the Scottish Ministers.

(3) The Authority shall not blast any rock except with the consent of the Scottish Ministers, and in accordance with any conditions and restrictions imposed by the Scottish Ministers before blasting operations have begun or while blasting operations are still in progress.

Fine for obstructing works

9. Any person who intentionally obstructs any person acting under the authority of the Authority in setting out the lines of or constructing the works or who damages, 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.

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

10.—(1) A tidal work shall not be constructed, executed, renewed, replaced, extended, altered or demolished 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, extended, altered or demolished in contravention of this Article or of any condition or restriction under this article—

- (a) the Scottish Ministers may by notice in writing require the Authority at its own expense to remove the tidal work or any part of it and restore the site of the tidal work to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the Authority it has 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 works 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 Authority as a debt.

(3) Paragraph (1) shall not apply to any work authorised by article 3 (power to construct works) and any related works authorised by article 7 (subsidiary works).

(4) Subject to paragraph (3), the works referred to in paragraph (1) shall be deemed to be “harbour works” within the meaning and for the purposes of the Marine Works (Environmental Impact Assessment) Regulations 2007(1).

(1) [S.I. 2007/1518](#); “harbour works” is defined in regulation 2(1).

Lights on tidal works during construction

11.—(1) During the whole time of demolition, construction, renewal, replacement, extension or alteration of any tidal work the Authority shall at the outer extremity of that work 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 Authority fail to comply in any respect with a direction given under paragraph (1) it 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

12.—(1) After the completion of a tidal work the Authority 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 Authority fails to comply in any respect with a direction given under this article it 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 of tidal works

13. 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 Authority as a debt.

Provision against danger to navigation

14.—(1) In case of injury to or destruction or decay of a tidal work or any part of it the Authority shall as soon as reasonably practicable notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Authority fails to comply with the provisions of this Article it 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 and decayed

15.—(1) Where a tidal work is abandoned or has fallen into decay the Scottish Ministers may by notice in writing require the Authority at its own expense either to repair and restore the work or any part of it, or to remove the work and restore the site of it 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 and consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or has fallen 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 of it, in any notice under this Article.

(3) If, on the expiration of 60 days from the date when a notice under this Article is served upon the Authority it has 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 Authority as a debt.

Period for completion of works

16.—(1) Subject to paragraph (2), if the works are not substantially completed within five years from the coming into force of this Order or such extended time as the Scottish Ministers may on the application of the Authority allow by consent in writing, then on the expiration of that period or such extended time (as the case may be) the powers granted by this Order to the Authority for making and maintaining the works shall cease except as to those works as are at that time substantially commenced.

(2) Nothing in paragraph (1) shall apply to any works carried out under article 4 (power to renew works) or article 7 (subsidiary works).

(3) A consent given under paragraph (1) may be given unconditionally or subject to terms and conditions.

(4) As soon as reasonably practicable after a consent is given under paragraph (1), the Authority shall arrange for a notice to be published in the Edinburgh Gazette and in a local newspaper circulating in the area where the harbour is situated and the notice shall contain a concise summary of that consent.

(5) During the period of one month beginning with the date on which any notice is published in a local newspaper under paragraph (4), a copy of the consent referred to in that notice shall be kept by the Authority at the office of the Authority situated at the harbour and shall at reasonable hours be open to public inspection without payment.