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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 6**

The Caledonian Maritime Assets  
(Brodick) Harbour Revision Order 2015

PART 3

WORKS PROVISIONS

**Power to construct works**

5.—(1) CMAL may in the lines and situations, upon the lands delineated and within the limits of deviation and according to the levels shown on the deposited plans construct and maintain the following works—

Work No. 1 - an open piled jetty structure connecting to Work No. 2 and shown on Sheets Nos. 2 and 3 of the deposited plans, forming the berthing and mooring line, and incorporating a fixed and adjustable passenger access gangway extending from Work No. 4 and extending through Work No. 2;

Work No. 2 – the reclamation and infilling of an area of the bed of Brodick Bay and the levelling of that area together with the levelling of the adjoining land and providing access to Works Nos. 1 and 3 and for the marshalling and parking of vehicles and for the site of Works Nos. 4, 5 and 6: to be retained on the seaward limits in part by rock armoured revertments and, as to the remainder, by a solid faced quay wall and shown on Sheets Nos. 2 and 3 of the deposited plans;

Work No. 3 - a mechanically operated single deck linkspan, providing access to and from vessels, extending from the reclaimed area comprising Work No. 2 including supporting piled bankseat and lifting frames with supporting dolphin structures and shown on Sheets Nos. 2 and 3 of the deposited plans;

Work No. 4 – a two storey terminal building to be constructed over reclaimed land forming part of Work No. 2 being the building shown on Sheets Nos. 2, 4 and 5 of the deposited plans; to be used for passenger and baggage handling, sales areas, management offices, staff welfare facilities and stores areas;

Work No. 5 – a single storey split level building being the building shown on Sheets Nos. 2 and 6 of the deposited plans; to be used as ticketing and check-in facilities for passenger and freight vehicles;

Work No. 6 – a water storage tank and pump house building shown on Sheets Nos. 2 and 3 of the deposited plans; to be used for ship supply;

Work No. 7 – lighting columns not exceeding 15 metres in height; and

Work No. 8 – demolition of existing pier and other structures shown hatched black on Sheet No. 2 of the deposited plans.

(2) CMAL may, for the purposes of the works authorised by paragraph (1), remove any vegetation or other objects or materials and demolish and remove any structures or apparatus lying within the limits of deviation and enclose and reclaim so much of the bed of the sea and of the foreshore as lies within the limits of deviation and may use and hold the same as part of the harbour undertaking.

(3) CMAL may, within the limits of deviation, reconstruct, extend, enlarge, replace or relay the works authorised by paragraph (1) and may maintain the same as reconstructed, extended, enlarged, replaced or relaid.

#### **Power to deviate**

6. In carrying out the works authorised by article 5 (power to construct works), CMAL may deviate laterally from the lines or situations as shown on the deposited plans, sections and elevations to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the works as shown on the deposited plans, sections and elevations to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

#### **Subsidiary works**

7.—(1) CMAL may from time to time within the limits of deviation construct, maintain, operate and improve, 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, improvements or use of the works or the harbour; including works for the accommodation or convenience of vessels or for the loading and unloading of goods and the embarking and landing of passengers.

(2) Without prejudice to paragraph (1), CMAL may within the works site provide, construct, maintain and use such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance and use of the works, including:

- (a) works for the accommodation or convenience of vessels (including but not limited to navigation, signals, marks and lights, berthing heads, mooring posts, ladders, buoys, bollards, dolphins, fenders, rubbing strips and fender panels, fender units and pontoons);
- (b) CCTV cameras and security installations; hydrants and drains; paving and surfacing; together with waste water treatment facilities; and a refuelling point with double skinned tank or tanks for storage of diesel and other fuel for the purposes of the operation of the harbour undertaking;
- (c) works to alter the position of apparatus, including mains, sewers, drains, pipes, pipelines, conduits, cables, electrical sub-stations and electrical lines; and
- (d) landscaping, habitat creation and other works to mitigate any adverse effect of the construction, maintenance and operation of the works or to benefit or protect any person or premises affected by the construction, maintenance and operation of the works.

#### **Reclamation of land**

8.—(1) Subject to the provisions of this Order, CMAL may, within the harbour fill up, raise, enclose and reclaim land from the sea and the bed and foreshore of the harbour and for that purpose may place such piles and construct such groynes, retaining walls and other works in and upon the seabed and foreshore as CMAL deems necessary.

(2) CMAL shall not exercise the powers conferred by paragraph (1) in relation to any land not owned by them unless it first obtains the consent in writing of the owner thereof.

#### **Power to dredge**

9.—(1) CMAL may from time to time deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the sea as lie within the harbour limits and within the approaches and the channels leading to those limits and may blast any rock in the area so described as may be

required for the purpose of forming or maintaining the works or any existing berthing pocket, turning area, channel within or approach or channel leading to the harbour limits, to enable uninterrupted means of access to the harbour by vessels and enabling the use of harbour at all states of the tide.

(2) The power to dredge described in paragraph (1) includes the power to carry out such additional dredging as may be required to provide side slopes or otherwise secure the dredged areas against siltation, scouring or collapse.

(3) Any materials dredged, taken or collected by CMAL in the exercise of the powers of this article (other than wreck within the meaning of Part 9 of the Merchant Shipping Act 1995) shall be the property of CMAL and may be used, sold, deposited or otherwise disposed of as CMAL thinks fit.

(4) No such materials shall be laid down or deposited in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Scottish Ministers.

### **Obstruction of works**

10. Any person who—

- (a) intentionally obstructs any person acting under the authority of CMAL in setting out the lines of or in constructing the works; or
- (b) without reasonable excuse interferes with, 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 CMAL as a debt any expenses incurred by it in making good any damage resulting from such obstruction, moving or removal.

### **Works to be deemed part of undertaking**

11. The works shall be deemed for all purposes to be part of the undertaking and all byelaws, directions, rules and regulations of CMAL for the time being in force relating to the harbour shall apply to the works and may be enforced by CMAL accordingly.

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

12.—(1) A tidal work shall not be demolished, constructed, renewed, reconstructed 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 or while work is still in progress.

(2) If a tidal work is demolished, constructed, renewed, reconstructed or altered in contravention of this article or of any condition or restriction imposed under this article—

- (a) the Scottish Ministers may by notice in writing require CMAL 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 CMAL 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 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 CMAL as a debt.

(3) Paragraph (1) shall not apply to any work authorised by paragraphs (1) and (2) of article 5 (power to construct works) and any related works authorised by article 7 (subsidiary works).

### **Survey of tidal works**

13. The Scottish Ministers may at any time if they deem it expedient order a survey and examination of a tidal work or a site upon which it is proposed to construct the work and any expense incurred by them in such a survey and examination shall be recoverable from CMAL as a debt.

### **Provision against danger to navigation**

14.—(1) In the case of injury to or destruction or decay of a tidal work or any part of it, CMAL 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 CMAL fails to comply in any respect 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 or decayed**

15.—(1) Where a tidal work is abandoned or has fallen into decay, the Scottish Ministers may by notice in writing require CMAL 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 the tidal work to its former condition, to such an extent and within such limits as the Scottish Ministers think proper.

(2) Where a work 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 30 days from the date when a notice under this article is served upon CMAL it has failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in this notice and any expenditure incurred by them in so doing shall be recoverable from CMAL as a debt.

### **Lights on tidal works during construction**

16.—(1) During the whole time of the demolition, construction, renewal, reconstruction or alteration of a tidal work CMAL 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 CMAL 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.

### **Permanent lights on tidal works**

17.—(1) After completion of a tidal work CMAL 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 CMAL 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.

### **Period for completion of works**

18.—(1) If the works authorised by paragraphs (1) and (2) of article 5 (power to construct works) are not substantially commenced within five years from the date of the coming into force of this Order or such extended time as the Scottish Ministers may on the application of CMAL allow by consent given in writing, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to CMAL for making and maintaining those works shall cease except as to so much of those works as is then substantially commenced.

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

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

(4) During the period of one month beginning with the date on which any notice is published in a local newspaper under paragraph (3), a copy of the consent referred to in that notice shall be kept by CMAL at the registered office of CMAL and shall at reasonable hours be open to public inspection without payment.

(5) The works shall be deemed to have been substantially commenced for the purposes of paragraph (1) where so much of Work No. 1 has been constructed as will enable other works to be constructed, maintained and managed together with that part of Work No. 1 for the efficient and economic transport of goods or passengers by sea.

### **Operational land and land within area of North Ayrshire Council**

19. The land situated within the harbour limits shown edged red on the harbour map shall—

- (a) be deemed to be operational land within the meaning and for the purposes of the Town and Country Planning (Scotland) Act 1997(1); and
- (b) to the extent that it lies outwith the area of the North Ayrshire Council, be deemed to be part of that area.

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(1) 1997 c.8; “operational land” is defined in section 215, to which there are amendments not relevant to this Order, which section is subject to section 216.