

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2019 No. 296**

**The Caledonian Maritime Assets (East  
Loch Tarbert) Harbour Revision Order 2019**

**PART 3**

**DUTIES AND POWERS OF CMAL**

**Limits of harbour**

**16.**—(1) The limits of the harbour within which CMAL is to exercise jurisdiction as the harbour authority and within which the powers of the Harbour Master are exercisable are—

- (a) the seaward limits, being the area of East Loch Tarbert shown on the harbour limits plans—
  - (i) bounded by a red line following the level of mean high water or, where applicable, the seaward boundary of the harbour land referred to in paragraph (b), and
  - (ii) enclosed by a straight red line commencing at a point 1 at 57° 53.68'N, 06° 46.15'W and extending from there in a south-westerly direction to a point 2 at 57° 53.14'N, 06° 47.02'W, and
- (b) the harbour land being the land (together with existing or future works) now vested in or administered by CMAL as part of the harbour and being the area shown hatched black on the harbour limits plans.

(2) Section 5 (Harbour limits at East Loch Tarbert) of the 1984 Order is revoked.

(3) The harbour land referred to in paragraph (1)(b) shall be deemed to be operational land within the meaning and for the purposes of the Town and Country Planning (Scotland) Act 1997(1).

(4) The limits within which the provisions of the 1873 Order and, so far as relating to East Loch Tarbert, the 1984 Order are to apply shall comprise the limits of the harbour defined in paragraph (1); and accordingly any reference to the harbour limits contained in the 1873 Order or the 1984 Order (as so relating) or in any byelaws, order or regulations made under them shall be construed as a reference to those limits.

(5) In paragraph (1), any reference to co-ordinates is a reference to World Geodetic System 1984 datum.

**General power in respect of harbour**

**17.**—(1) CMAL may improve, maintain, regulate, manage, mark and light the harbour and provide accommodation and harbour facilities in the harbour.

(2) For those purposes, and without affecting the general power conferred under paragraph (1), CMAL may construct, reconstruct, extend, enlarge, alter, replace, relay or demolish structures and works in the harbour including works authorised by this Order.

---

(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.

(3) The powers conferred by this article are additional to and do not affect any powers of CMAL under or by virtue of any other enactment (including any other provision of this Order).

**Power to appropriate parts of harbour, etc.**

**18.**—(1) Notwithstanding anything in this or any other statutory provision of local application, CMAL may from time to time set apart or appropriate any part of the harbour, or any lands, works, buildings, machinery, equipment or other property of CMAL in the harbour, for the exclusive, partial or preferential use or accommodation for any particular trade, activity, person, vessel or class of vessels or goods, subject to the payment of such reasonable charges (other than ship, passenger and goods dues) and to such terms and conditions as CMAL thinks fit.

(2) No person or vessel shall, otherwise than in accordance with the setting apart or appropriation, make use of any part of the harbour, or any lands, works, buildings, machinery, equipment or other property, so set apart or appropriated without the consent of the harbour master or other duly authorised officer of CMAL.

(3) The harbour master or, as the case may be, any such authorised officer may order any person or vessel contravening paragraph (2) to leave or be removed from the site of the contravention.

(4) Section 58 of the 1847 Act shall extend and apply with appropriate modifications to any vessel moored or otherwise positioned in contravention of paragraph (2) above.

(5) In exercising its powers to appropriate or set apart any part of the harbour under paragraph (1), CMAL shall have regard to the facilitation of—

- (a) the public right of navigation in the harbour, and
- (b) any public rights of way affecting the harbour,

such that CMAL shall not restrict such rights more than is necessary for the purpose for which the part of the harbour is appropriated or set apart.

**Power to lease, etc.**

**19.**—(1) CMAL may at any time lease or grant the use or occupation of, or any right or interest in, over or relating to, any lands, works, buildings, equipment or other property forming part of the harbour for such period or periods and on such terms and conditions as may be agreed between CMAL and the persons taking the same.

(2) Any such lease or grant shall be subject to any existing public rights of way affecting the subject area of such lease or grant.

(3) Any arrangements made under paragraph (1) are, and in their terms must be expressly declared to be, entirely without prejudice to the functions and statutory duties of the Company.

**Power to enter into arrangements to provide supplies**

**20.** CMAL may make arrangements for the purpose of providing and supplying fuel and such other requirements as may be made available to vessels using the harbour and in respect of the supply, laying down and maintaining of pipelines, storage tanks, plant, equipment and other apparatus and the execution of ancillary and necessary works for that purpose within the harbour.

**Parking places**

**21.** CMAL may provide facilities within the harbour for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences.

## **Moorings**

22.—(1) CMAL may provide, place, lay down, maintain, renew, use or remove such moorings, buoys and similar apparatus within the harbour as it considers necessary or desirable for the convenience of vessels.

(2) CMAL may from time to time, on such terms and conditions as they think appropriate, give consent to any person to place, lay down, maintain, renew and use moorings, buoys and similar apparatus for vessels in the harbour.

(3) Any person who, without reasonable excuse, places, lays down, maintains, renews or uses a mooring, buoy or similar apparatus for vessels within the harbour except under and in accordance with the terms and conditions of a consent given under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any consent given under paragraph (2) shall be valid only for a period of one year commencing with the date on which it takes effect.

(5) CMAL may charge a reasonable fee for the giving of a consent under this article.

(6) Consent given by CMAL under this article does not affect any requirement to obtain the consent of the owner of the sea bed; nor does any consent by the owner of the sea bed affect the requirement to obtain CMAL's consent under this article.

## **Power to licence tugs**

23.—(1) It shall not be lawful for any person, except in an emergency, to operate a vessel exceeding 5 tonnes gross for fee or reward for the purpose of moving or controlling the movement of any other vessel within the harbour except under and in accordance with the terms and conditions of a licence granted by CMAL in that behalf.

(2) CMAL may charge a reasonable fee for the grant of any licence under this article.

(3) Any person who contravenes paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any person aggrieved by the withholding, suspension or revocation of any licence or by any term or condition subject to which a licence has been granted under the provisions of this article may appeal to the sheriff.

## **Power to regulate pleasure craft**

24.—(1) A person shall not within the harbour—

(a) let for hire to the public a pleasure craft except with the written approval of CMAL in accordance with this article, or

(b) carry, or permit to be carried, passengers for hire in a pleasure craft unless the craft, and the boatmen in charge of the craft and the navigator, are approved in writing by CMAL.

(2) Any such approval may be given for such period as CMAL may think fit, and may be suspended or revoked by CMAL whenever it shall deem such suspension or revocation to be necessary or desirable in the interests of public safety.

(3) The existence of the power to suspend or revoke the approval shall be stated plainly in the approval itself.

(4) A person taking on hire a pleasure craft for purposes other than for profit does not require to be approved as a boatman.

(5) Approval under this article shall not be required for any craft which has a relevant certificate issued by the Maritime and Coastguard Agency and valid for the voyage intended or, in the case

of hovercraft within the meaning of the Hovercraft Act 1968<sup>(2)</sup>, a certificate of safety valid for the voyage intended.

(6) A person shall not carry or permit to be carried in any pleasure craft within the harbour a greater number of passengers for hire than are specified in the approval applying to such craft, and every owner of any such craft shall before permitting the same to be used for carrying passengers for hire within the harbour, permanently display in letters and figures not less than three centimetres in height and one half centimetre in breadth, on a conspicuous part of the craft, their own name and also the number of persons which it is approved to carry, in the form “Approved to carry [ ] persons”.

(7) Any person who acts in contravention of paragraph (1) or (6) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) Any person aggrieved by the withholding, suspension or revocation of any approval or by any term or condition subject to which an approval has been given under this article may appeal to the sheriff.

(9) In this article “pleasure craft” means any vessel of not more than 100 tonnes gross used wholly or mainly for recreation or for the carriage of passengers for reward.

---

(2) 1968 c.59.