

2021 No. 192

HARBOURS, DOCKS, PIERS AND FERRIES

The Stornoway Port Authority Harbour Revision Order 2021

Made - - - - *21st April 2021*

Coming into force - - *22nd April 2021*

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The Scottish Ministers (the “Ministers”) make the following Order in exercise of the powers conferred by section 14(1), (2A) and (3) of the Harbours Act 1964^(a) and all other powers enabling Ministers to do so.

In accordance with section 14(1) of that Act, this Order is made in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, for achieving objects specified in schedule 2 of that Act^(b).

(a) 1964 c. 40.

(b) Schedule 2 was relevantly amended by the Transport and Works Act 1992 (c.42), schedule 3, paragraph 9.

In accordance with section 14(2) of that Act—

- (a) this Order is made following a written application to Ministers by Stornoway Port Authority (“the applicant”) being the authority engaged in improving, maintaining or managing the harbour, and
- (b) (except in so far as this Order is made for achieving objects mentioned in section 14(2A) of that Act), Ministers are satisfied that the making of this Order is desirable in the interests of securing the improvement, maintenance, or management of the harbour in an efficient and economical manner, facilitating the efficient and economic transport of goods or passengers by sea and the recreational use of sea-going ships.

In accordance with section 14(2A) of that Act, the objects for achieving which this Order is made include repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour and consolidating any statutory provisions of local application affecting the harbour.

The provisions of paragraph 17 of Schedule 3 to that Act(a) have been satisfied. No objections to the application have been made.

In accordance with paragraph 19(6)(b) of that Schedule(b), Ministers have decided to make this Order in the form of the draft submitted to them.

In accordance with paragraph 4 of schedule 3 of that Act (c), Ministers have decided that the application relates to a project which falls within Annex I to Council Directive 2011/92/EU(d).

In accordance with paragraph 20D of that schedule, Ministers have made a deferral direction because Ministers are satisfied that an assessment of the effects on the environment of the project in question has been, is being, or will be carried out by another consenting authority. Accordingly, the steps referred to in paragraph 20E(1) of that schedule do not require to be carried out.

Notice has been published in accordance with the requirements of paragraph 10 of that schedule(e).

PART 1 PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Stornoway Port Authority Harbour Revision Order 2021 and comes into force on the day after the day on which it is made.

(2) The Stornoway Harbour Order Confirmation Act 1976, the Stornoway Harbour Revision (Constitution) Order 2003, the Stornoway Harbour Revision (Constitution) Order 2008, the

(a) Paragraph 17 of schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(g).
(b) Paragraph 19(6) of schedule 3 was substituted by S.I. 2017/1070.
(c) Paragraph 4 of schedule 3 was substituted by S.I. 2017/1070.
(d) O.J. L. 26, 28.1.2012, p.1, as relevantly amended by Council Directive 2014/52/EU (O.J. L. 124, 25.4.2014, p.1).
(e) Schedule 3 was substituted by S.I. 1999/3445 and relevantly amended by the Transport (Scotland) Act 2005 (asp 12), section 46(5) and by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5).

Stornoway Port Authority Harbour Revision Order 2019 and this Order may be cited together as the Stornoway Harbour Act and Orders 1976 to 2021.

Interpretation

2.—(1) In this Order—

“the 1976 Act” means the Stornoway Harbour Order Confirmation Act 1976(a),

“the 2003 Order” means the Stornoway Harbour Revision (Constitution) Order 2003(b),

“the 2008 Order” means the Stornoway Harbour Revision (Constitution) Order 2008(c),

“the 2019 Order” means the Stornoway Port Authority Harbour Revision Order 2019(d) and

“the Authority” means Stornoway Port Authority,

“Commissioners of Northern Lighthouses” means the general lighthouse authority for Scotland, a body corporate constituted by section 193 and schedule 8 of the Merchant Shipping Act,

“deposited plans” means the plans, sections and elevations, referred to in article 4 which are bound together, signed and dated with reference to this Order and marked “The Stornoway Port Authority Harbour Revision Order 2020 Plans, Sections and Elevations” copies of which have been deposited at the Scottish Government, Transport Scotland, AMFC Directorate, Victoria Quay, Edinburgh, EH6 6QQ and at the principal office of the Authority, Amity House, Esplanade Quay, Stornoway, HS1 2XS,

“harbour” means the harbour of Stornoway as defined by the Act and Orders as comprised within the harbour limits and shall include the works authorised by this Order,

“limits of deviation” means the limits delineated on sheet 3A,

“works” means the works authorised by the 2019 Order as amended by this Order, or as the case may require, any part thereof and includes any work constructed under article 4 of this Order (power to construct works) or article 16 of the 2019 Order (subsidiary works).

(2) In this Order, all areas, directions, distances, lengths, widths and heights as stated in any description of works, powers or lands other than article 14 of the 2019 Order (power to deviate) shall be construed as if the words “or thereabouts” were inserted after each such area, direction, distance, length, width and height and any reference in a description of works to a point shall be a reference to that point on the deposited plans.

(3) Any reference in this Order to a work identified by a number is a reference to the work of that number authorised by the 2019 Order as amended by this Order.

(4) Any reference in this Order to a numbered sheet is a reference to that numbered sheet in the deposited plans.

PART 2

WORKS

Amendment of 2019 Order

3.—(1) The 2019 Order is amended by the deletion in article 12 of the descriptions of Works No. 8, 9, 9A, 9B, 10, 11, 12, 13, 14 and 15 and the substitution therefor of the Works Nos. 8, 9, 10, 11, 12 and 13 described in article 4 of this Order.

(a) 1976 c. xxi.
(b) S.S.I. 2003/435.
(c) S.S.I. 2008/422.
(d) S.S.I. 2019/76.

(2) The Authority shall have available to it in respect of the said works so substituted all powers and defences granted to it in respect of works under the 2019 Order as if they had been made under that Order.

Power to construct works

4. 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. 8 – Deep Water Port - The reclamation and infilling of an area comprising 66,000 square metres of the seabed and foreshore and the excavation by blasting and levelling of 50,000 square metres of adjacent land, to form quayside working areas, laydown and storage areas, marshalling and parking areas for a freight ferry, and development areas, having berthing quay walls at its east and north edges, rock armoured revetted slopes at the south edges of the reclamation and rock faces around the edges of the excavated area, the location of which is shown on sheet 3A, with the limits of deviation shown in red, and sections of which are shown on sheet 4A.

Work No. 9 – A pier of open piled construction, 114 metres in length and 15 metres in width, connected to the south east corner of Work No.8, the location of which is shown on sheet 3A, with the limits of deviation shown in brown, and sections of which are shown on sheet 4A.

Work No. 10 – A steel linkspan bridge 40 metres long and varying from 10 to 20 metres in width, supported at its landward end on Work No. 8; and at its seaward end, on two dolphins, one partially piled and partially supported on the quay, the other partially piled and partially founded on the seabed in concrete; the location of which is shown on sheet 3A, with the limits of deviation shown in purple, and sections of which are shown on sheet 5A.

Work No. 11 – A road 350 metres long and 8 metres wide connecting Work No. 8 to the existing Arnish access road, constructed by excavation by blasting and levelling and with bituminous surfacing, the location of which is shown on sheet 3A, with the limits of deviation shown in blue, and sections of which are shown on sheet 5A.

Work No. 12 – A road 800 metres long and 25 metres wide, connecting Work No. 8 to the Arnish Fabrication Yard, constructed variously by excavation by blasting, levelling, reclamation and infilling, the location of which is shown on sheet 3A, with the limits of deviation shown in green, and sections of which are shown on sheet 6A.

Work No. 13 – The reclamation and infilling of an area comprising 4,000 square metres of the seabed through the excavation by blasting and levelling of adjacent land, adjoining Work No. 12, to form an access causeway, mooring points and working area, having rock armoured revetted slopes around its perimeter, the location of which is shown on sheet 3A, with the limits of deviation shown in yellow, and sections of which are shown on sheet 7A.

Rights of navigation to be interfered with

5. 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 4 (power to construct works).

PART 3
MISCELLANEOUS AND GENERAL

Saving for Commissioners of Northern Lighthouses

6. Nothing in this Order shall prejudice or derogate from any of the, rights, duties, or privileges of the Commissioners of Northern Lighthouses.

Crown rights

7.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to that generality, nothing in this Order authorises the Authority to take, use, enter upon or in any manner interfere with any land or any rights of whatsoever description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of the Crown estate without the consent in writing of the Crown Estate Commissioners,
- (b) belonging to Her Majesty in right of the Crown and not forming part of the Crown estate without the consent in writing of the government department having management of that land or (as the case may be) the relevant person, or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and shall be deemed to have been given in writing where it is sent electronically.

KARL ZACZEK

A member of the staff of the Scottish Ministers

St Andrew's House,
Edinburgh
21st April 2021

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the descriptions of certain works authorised by the Stornoway Port Authority Harbour Revision Order 2019 for the Authority to construct and maintain works in the harbour.

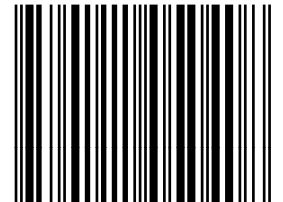
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