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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 167**

**The Millport Harbour Revision Order 2023**

**PART 3**

**Harbour regulations**

**General byelaws**

**10.**—(1) The Council may from time to time make byelaws for the efficient management and regulation of the harbour.

(2) Without prejudice to the generality of paragraph (1), byelaws made under this article may provide for—

- (a) regulating the use, operation, maintenance and superintendence of the harbour and the berths, quays, piers, warehouses, sheds, landing places, equipment, works, moorings and conveniences in the harbour,
- (b) regulating the admission to, and the movement within, and the departure of vessels from, the harbour, or the removal of vessels, and for the good order and government of the harbour,
- (c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the harbour,
- (d) regulating the navigation, berthing, mooring and anchoring of vessels within the harbour, their speed and the use of tugs or other craft for ship or craft towage within the harbour,
- (e) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour,
- (f) regulating the conduct of all persons and the use and parking of all vehicles within the harbour not being members of or vehicles used by a police force or officers or servants of the Crown whilst in the execution of their duties,
- (g) preventing and removing obstructions or impediments within the harbour,
- (h) prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) in or into the harbour,
- (i) regulating or prohibiting the activities in the harbour of divers, swimmers, snorkelers, surfers, water skiers, kite surfers, wake boarders and parasailers and other persons engaged in similar recreational pursuits,
- (j) regulating the launching of vessels within the harbour,
- (k) prohibiting persons entering the harbour from smoking therein,
- (l) regulating the use of fires, fireworks and lights within the harbour and within any vessel within the harbour,
- (m) making the carrying out of specified harbour operations, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbourmaster, and

(n) the conservation of the fauna, avifauna and flora in the harbour.

(3) Where byelaws under this section make the carrying out of specified activities, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbour master as mentioned in paragraph (2)(m), the harbour master may take such action as may be reasonably required in default of compliance with any such approval, condition, control or direction.

(4) Byelaws made under this article may—

- (a) provide for fines on summary conviction not exceeding level 3 on the standard scale for breach of any approval, condition, direction or requirement imposed under the byelaws,
- (b) relate to the whole of the harbour or to any part thereof, and
- (c) make different provision for different parts of the harbour or in relation to different classes of vessels or vehicles.

### **Confirmation of byelaws**

**11.**—(1) Byelaws made by the Council under this Order shall not come into operation until they have been confirmed by the Ministers.

(2) Not later than one month before an application for confirmation of byelaws is made by the Council to the Ministers, notice of the intention to apply for confirmation and of the place at which and time during which a copy of the byelaws shall be open to inspection shall be published as follows—

- (a) once in the Edinburgh Gazette, and
- (b) once in each of two successive weeks in a newspaper circulating in the area in which the harbour is situated.

(3) Not later than the first date on which the notice under paragraph (2) is published, the Council shall send a copy of the notice to the Ministers.

(4) For a period of at least one month before an application is made for confirmation of byelaws, the Council shall keep a copy of the byelaws open to public inspection at their principal office at all reasonable hours and publish a copy of the byelaws in a prominent place on the Council's website.

(5) The Council shall supply a copy of the byelaws or of part of the byelaws to a person on request.

(6) During the period of one month beginning with the last date of publication of any notice required by paragraph (2), any person may make, in writing to the Ministers, any objection to or representation about the byelaws to which the notice relates.

(7) The Ministers may confirm the byelaws (with or without modifications) or may refuse to confirm them.

(8) Where the Ministers propose to make a modification that appears to them to substantially affect the character of the byelaws, they shall inform the Council and require it to take any steps the Ministers consider necessary for informing persons likely to be concerned with the modification.

(9) For the purposes of paragraph (8), the Ministers shall give the Council and any person who is to be informed of a proposed modification the opportunity to make representations in writing about that proposed modification during a period determined by the Ministers and the Ministers shall take such representations into account before making a decision under paragraph (7).

(10) The Council shall—

- (a) keep a copy of confirmed byelaws open to public inspection at all reasonable hours, at the Council's principal office, and
- (b) provide a copy of the byelaws to any person on request.

### **General directions to vessels**

**12.**—(1) The Council may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland, Clydeport and such other persons as the Council considers are representative of users of the harbour and in order to promote or secure conditions conducive to the ease, convenience or safety of navigation or the safety of persons, give general directions for any of the following purposes—

- (a) for designating areas, routes or channels in the harbour which vessels are to use or refrain from using, for movement or mooring,
- (b) for securing that vessels move only at certain times, at certain speeds or during certain periods, or
- (c) for requiring the master of any vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for the purposes of this paragraph.

(2) Directions given under paragraph (1) may apply—

- (a) to all vessels or to a class of vessel designated, or the designations of which is provided for, in that direction,
- (b) to the whole of the harbour or to a designated area, or the designation of which is provided for in the direction, and
- (c) at all times or at times designated, or the designation of which is provide for, in the direction

and every direction given under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a) to (c).

(3) The Council may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland, Clydeport and such other persons as the Council considers are representative of users of the harbour, revoke or amend any general direction.

### **Publication of general directions**

**13.**—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Council as soon as practicable, once in the Edinburgh Gazette and in one or more newspapers circulating in the locality in which the harbour is situated.

(2) The Council shall also make the notice available for inspection on a web-site maintained by the Council together with, if the notice relates to the giving or amendment of a general direction, a copy of the direction or the direction as amended.

(3) If the notice relates to the giving or amendment of a general direction, the notice shall state a place at which copies may be obtained and particulars of the web-site where a copy of the direction or the direction as amended may be viewed.

(4) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Council considers appropriate.

### **Special directions to vessels**

**14.**—(1) The harbour master may give a special direction—

- (a) requiring a vessel anywhere within the harbour limits to comply with a requirement made in or under a general direction,
- (b) for regulating the time at which and the manner in which a vessel shall enter into, go out of, or lie in or at the harbour,
- (c) for securing that a vessel moves only at certain times or during certain periods,

- (d) prohibiting the mooring of a vessel in any particular part or parts of the harbour,
  - (e) regulating or requiring the movement, berthing, mooring or unmooring of a vessel, and
  - (f) regulating the manner in which a vessel takes in or discharges (from ship to shore or shore to ship) passengers, cargo, fuel, water, ship's stores or ballast in the harbour.
- (2) A special direction may be given in any manner considered by the harbour master to be appropriate.
- (3) The harbour master may revoke or amend a special direction.

#### **Master's responsibility to be unaffected**

15. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

#### **Failure to comply with directions**

16. The master of a vessel who fails without reasonable excuse to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Enforcement of special directions**

17.—(1) Without prejudice to any other remedy available to the Council, if a special direction is not complied with within a reasonable period of time, the Council may, where practicable put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board the vessel to comply with a special direction, the Council may proceed as if the direction had been given and not completed with, but it shall not do so unless after reasonable enquiry has been made, the master cannot be found.

(3) Expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Council from the owner of the vessel.

#### **Precedence of Clydeport and the Clydeport Harbour Master over the Clydeport jurisdictional area**

18. In relation to the Clydeport jurisdictional area, if there is a conflict between a special direction given by the Clydeport Harbour Master, a general direction given or byelaw made by Clydeport, or other regulation applying to the Clydeport jurisdictional area, and—

- (a) any special direction given by the harbour master,
- (b) any general direction given by or byelaw made by the Council, or
- (c) any regulation in this Order

the special direction of the Clydeport Harbour Master, general direction given or byelaw made by Clydeport, or other regulation applying to the Clydeport jurisdictional area, will take precedence.