
STATUTORY INSTRUMENTS

1993 No. 321

**The Caledonian MacBrayne Limited
(Armadale) Harbour Revision Order 1992**

PART II

jurisdiction and powers

Transfer of harbour undertaking

3.—(1) On the coming into force of this Order there shall be transferred to and vested in the Company (subject to article 9 below and to the other provisions of this Order) all the powers of the Regional Council in relation to the undertaking vested in them pursuant to the Harbours Act 1964, section 154 of the Local Government (Scotland) Act 1973⁽¹⁾ and the Order of 1991 together with all property heritable and moveable and all rights pertaining thereto vested in the Regional Council and held by them solely for the purposes of the undertaking.

(2) To enable the Company to complete a title to any property transferred to and vested in it by virtue of this article by notice of title or otherwise, this Order shall have effect as if it were a general disposition or assignment, as the case may be, of such property granted by the Regional Council in favour of the Company on the coming into force of this Order.

Contracts to be binding

4. All purchases, sales, conveyances, deeds, contracts and agreements entered into or made by the Regional Council and in force at the commencement of this Order shall so far as they relate to the undertaking be as binding and of as full force and effect in every respect against or in favour of the Company as they have heretofore been against or in favour of the Regional Council and may be enforced as fully and effectively as if, instead of the Regional Council, the Company had been a party thereto.

Proceedings not to abate

5. All legal and other proceedings begun before the commencement of this Order and relating to any property or liabilities transferred to the Company under this Order may be carried on with the substitution of the Company as a party to the proceedings in lieu of the Regional Council and any such proceedings may be amended in such manner as may be necessary for that purpose.

Power to make agreements

6. Nothing in this Order shall affect the right of the Regional Council and the Company to enter into an agreement for the purpose of regulating the responsibility as between them selves for any liabilities or obligations transferred to the Company by article 4 or 5 above.

(1) 1973 c. 65; section 154 was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), section 20.

Harbour jurisdiction

7.—(1) The Company shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Harbours Act 1964, and the powers of the harbourmaster shall be exercisable within—

- (a) the area lying below the level of high water commencing at a point 46 metres westsouth-west of Armadale Estates Pier on the level of high water latitude 57° 03.964"N, longitude 5° 53.770"W; thence in a south-south-easterly direction for a distance of 53 metres to a point latitude 57° 03.941"N, longitude 5° 53.733"W; thence in an eastnorth-easterly direction for a distance of 128 metres to a point latitude 57° 03.976"N, longitude 5° 53.627"W; thence in an east-south-easterly direction for a distance of 145 metres to a point latitude 57° 03.943"N, longitude 5° 53.498"W; thence in a southsouth-easterly direction for a distance of 113 metres to a point latitude 57° 03.904"N, longitude 5° 53.448"W; thence in a west-south-westerly direction for a distance of 180 metres to a point latitude 57° 03.849"N, longitude 5° 53.606"W; on the level of high water 60 metres south-south-east of the Armadale Pier, and
- (b) the harbour premises.

(2) The Company shall, within the harbour area, be a local lighthouse authority within the meaning of section 634 of the Merchant Shipping Act 1894(2).

Power to maintain harbour premises

8. Subject to the provisions of this Order, the Company may maintain the harbour premises.

Application of Order of 1991

9.—(1) The Order of 1991, so far as it is applicable for the purposes and is not inconsistent with or varied by this Order, shall apply to the undertaking subject as provided in paragraph (2) below, and for that purpose is incorporated with this Order.

(2) In its application to the undertaking, the Order of 1991 shall have effect subject to the following modifications:—

- (a) sections 3, 10, 12, 14, 26, 42 and 64 shall not apply;
- (b) for references to “a harbour area”, “any harbour area”, “any of the harbour areas” and “each harbour area” there shall be substituted references to “the harbour area” (as defined in article 2(1) above), and for references to “the Council” there shall be substituted references to “the Company”;
- (c) references to the 1991 Order shall, unless the context otherwise requires, include references to this Order;
- (d) in section 2, the definitions of “the Council”, “harbour area”, “harbourmaster”, “harbour premises” and “the undertaking”, shall be omitted;
- (e) in section 11, subsection (6) shall be omitted;
- (f)
 - (i) in section 32(2), paragraphs (q) and (s) shall be omitted;
 - (ii) in section 32(3)(c), the words “harbour areas, or for different” shall be omitted; and
 - (iii) in section 32, subsection (4) shall be omitted.

Confirmation of byelaws

10.—(1) The provisions of subsections (4) to (8), (10) and (12) of section 202 and section 203 of the Local Government (Scotland) Act 1973 shall apply to any byelaws made by the Company under the Order of 1991 as if the Company were a local authority, and in the application of the provisions of the said Act of 1973 the Secretary of State shall be the confirming authority and all byelaws and regulations which are in force at the undertaking at the date of this Order coming into force shall be deemed to be byelaws and regulations of the Company and shall continue in force until altered.

(2) Where the Secretary of State proposes to exercise the power of modification conferred on him by subsection (10) of the said section 202 and the modification appears to him to be substantial, he shall inform the Company and require it to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Company and by other persons who have been informed of it.