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STATUTORY INSTRUMENTS

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**1997 No. 209 (S.16)**

**HARBOURS, DOCKS, PIERS AND FERRIES**

The Western Isles Council (Brevig)  
Harbour Revision Order 1997

*Made* - - - - 28th January 1997

*Coming into force* - - 3rd February 1997

Whereas the Secretary of State has, in pursuance of paragraph A2 of Part I of Schedule 3 to the Harbours Act 1964(1), determined that the application for this Harbour Revision Order is made in relation to a project which falls within Annex II to Council Directive No 85/337/EEC(2) on the assessment of the effects of certain public and private projects on the environment but whose characteristics do not require that it should be made subject to an environmental assessment:

And whereas the making of this Order is not opposed:

Now therefore, the Secretary of State, in exercise of the powers conferred on him by section 14 of the said Act, and of all other powers enabling him in that behalf, on the written application of the Western Isles Council, and being satisfied that the making of the Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner hereby makes the following Order:

**PART I**

**Preliminary**

**Citation and commencement**

1. This Order may be cited as the Western Isles Council (Brevig) Harbour Revision Order 1997 and shall come into force on 3rd February 1997.

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(1) 1964 c. 40; Section 14 and Schedule 3 were amended by the Transport Act 1981 (c. 56) section 18 and Schedule 6, paragraphs 2 to 4, 12 and 14, and by the Transport and Works Act 1992 (c. 42) section 63 and Schedule 3, paragraph 1 and 10; and Schedule 3 was further amended by regulations 4 to 8 of the Harbour Works (Assessment of Environmental Effects) Regulations 1988 (S.I. 1988/1336) as applied and amended in relation to Scotland by the Harbour Works (Assessment of Environmental Effects) Regulations 1992 (S.I. 1992/1421) and by the Harbour Works (Assessment of Environmental Effects) Regulations 1996 (S.I. 1996/1946).

(2) OJ No. L175, 5.7.85, p.40.

## Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the authorised works” means the works authorised by this Order, or as the case may require any part thereof, and includes any work constructed pursuant to article 7 (Subsidiary works) below;

“the Council” means the Western Isles Council;

“the deposited plan” and “the deposited sections” means the plan and sections signed on behalf of the Secretary of State and marked “Plan and sections referred to in the Western Isles Council (Brevig) Harbour Revision Order 1997” of which copies are deposited at the offices of the Secretary of State for Scotland, Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY (Tel: 0131 244 6063) and with the Council at Sandwick Road, Stornoway, Isle of Lewis, HS1 2BW;

“the level of high water” means the level of mean high water springs;

“the limit of deviation” means the limit of deviation shown on the deposited plan;

“tidal work” means so much of any authorised work as is on, under or over tidal waters or tidal lands below the level of high water; and

“the 1993 Order” means the Western Isles Islands Council (Brevig) Harbour Empowerment Order 1993(3).

(2) All situations, points, directions, distances, lengths, dimensions, areas and other measurements stated in this Order shall be construed as if the words “or thereabouts” were inserted after each situation, point, direction, distance, length, dimension, area or other measurement.

(3) Reference points specified in this Order shall be construed as references to Ordnance Survey National Grid Reference points.

(4) Unless the context otherwise requires, any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

## PART II

### Works

#### Power to construct works

3. Subject to the provisions of this Order, the Council may, within the limit of deviation shown on the deposited plan and according to the levels shown on the deposited sections, construct, execute and maintain the works hereinafter described, together with all necessary works and conveniences connected therewith, in the Coll Electoral Division, parish of Stornoway on the island of Lewis in the Western Isles Area—

#### **Work No. 1**

An access channel excavated from the rock sea bed, commencing at a point in the existing access channel at reference point NB 148261 938947, extending south west for a distance of 55 metres to reference point NB 148213 938922 then south for 45 metres and terminating at reference point NB 148226 938882, and in conjunction with this excavation, the removal of part of the existing concrete wall, toe wall and rock armour.

#### **Work No. 2**

A rubble mound breakwater protected on its external faces by rock armour commencing at reference point NB 148322 938975 by a reconstruction of the existing breakwater, extending across the mouth of the existing access channel and extending south west along the southern side of Work No. 1 to reference point NB 148234 938915 including, where it adjoins Work No 1, a concrete sea wall.

### **Work No. 3**

An extension of the existing reclaimed area on the western side of Brevig Harbour, comprising a broadly rectangular infilled area protected on its seaward face by rock armour between reference points NB 148130 939055, NB 148147 939022, NB 148147 939000, NB 148199 938952, NB 148220 938963 and NB 148233 938962, and, in conjunction with this infill, a reconstruction of the head of the existing entrance breakwater.

### **Authorisation of existing infill**

4. The Council may retain and maintain the existing area of infill shown cross hatched on the deposited plan and it shall be deemed for the purpose of this Order or any other enactment to be a work authorised by this Order.

### **Power to renew, etc., works**

5. Subject to the provisions of this Order the Council may, within the limit of deviation, renew, replace, or otherwise alter temporarily or permanently the authorised works.

### **Power to deviate**

6. Subject to the provisions of this Order, in the construction or execution of the authorised works the Council may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limit of deviation, and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 2 metres upwards or downwards.

### **Subsidiary works**

7. Subject to the provision of this Order the Council for the purposes of or in connection with the authorised works may within the limit of deviation construct, execute and maintain all such subsidiary or incidental works and conveniences as may be necessary or expedient for or in connection with the authorised works.

### **Works deemed to be within Western Isles Area**

8. So much of any work constructed or placed pursuant to this Order and of the existing area of infill referred to in article 4 above as is not within the Western Isles Area shall be deemed for all purposes to be within that area.

### **Tidal works not to be executed without approval of Secretary of State**

9.—(1) A tidal work shall not be constructed, executed, renewed, replaced or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, executed, renewed, replaced or altered in contravention of this article—

- (a) the Secretary of State may by notice in writing require the Council at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition,

and if, on the expiration of 30 days from the date when the notice is served upon the Council they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

- (b) if it appears to the Secretary of State urgently necessary to do so, he may himself remove the tidal work or part of it and restore the site to its former condition,

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Council.

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

**10.**—(1) The Council shall at or near a tidal work during the whole time of the construction, execution, renewal, replacement or alteration thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation, as the Secretary of State may from time to time direct.

(2) If the Council fail to comply in any respect with a direction given under this article they 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**

**11.**—(1) After the completion of a tidal work the Council shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Council fail to comply in any respect with a direction given under this article they 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.

### **Survey of tidal works**

**12.** The Secretary of State may at any time he deems it expedient order a survey and examination of a tidal work or of the site upon which it is proposed to construct and execute the work and any expenditure incurred by him in such survey or examination shall be recoverable from the Council.

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

**13.**—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Council shall forthwith 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 the Council fail to notify the Commissioners of Northern Lighthouses as required by this article or to comply in any respect with a direction given under this article they 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**

**14.**—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Council at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work authorised by this Order consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that

part of the work on or over 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 Secretary of State may include that part of the work, or any portion thereof, 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 the Council, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Council.

## PART III

### Miscellaneous

#### **Authorised works to form part of undertaking**

**15.** The authorised works shall for all purposes form part of the undertaking as defined in the 1993 Order and accordingly Parts II and III and article 34 of the 1993 Order shall have effect as if the authorised works formed part of the harbour at Brevig referred to in that enactment.

#### **Crown rights**

**16.—**(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 the generality of the foregoing, nothing in this Order authorises the Council to take, use, enter upon or in any manner interfere with, any land or interest in land (including any portion of the shore or bed of the sea or of any river channel, creek, bay or estuary) or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
- (b) 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) above may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate.

St Andrew's House,  
Edinburgh  
28th January 1997

*Raymond S Robertson*  
Parliamentary Under Secretary of State Scottish  
Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises the Western Isles Council as the harbour authority for Brevig harbour on the island of Lewis in the Western Isles Area to construct works to form a new approach to the harbour, to extend an area of reclaimed land and retain an existing reclaimed area of land adjacent to the harbour. The Order also confers on the Council duties and powers in relation to the authorised works. The applicant for the Order is Comhairle Nan Eilean, Western Isles Council, Sandwick Road, Stornoway HS1 2BW.