SCOTTISH STATUTORY INSTRUMENTS

2000 No. 233

The Comhairle nan Eilean Siar (Ardveenish) Harbour Revision Order 2000

PART III

HARBOUR REGULATION

Directions to vessels

General directions to vessels

27.—(1) The Comhairle may give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the harbour and, without prejudice to the generality of the foregoing, for any of the following purposes:–

(a) for designing areas, routes or fairways in the harbour which vessels are to use or refrain from using for movement, mooring or anchorage;

(b) for securing that vessels move only at certain times or during certain periods;

(c) for securing that vessels make use of descriptions of aids to navigation specified in the direction;

(d) for prohibiting–

(i) entry into the harbour by a vessel which for any reason would be or likely to become a danger to other vessels in the harbour, or to persons, property, flora or fauna in the harbour or within the harbour premises; and

(ii) entry into or navigation within the main fairways during any temporary obstruction thereof; and

(e) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for effecting any of the purposes of this paragraph.

(2) A direction under this article may apply–

(a) to all vessels or to a class of vessels designated in the direction;

(b) to the whole of the harbour or to a part designated in the direction; or

(c) at all times or at times designated in the direction,

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

(3) The Comhairle may revoke or amend any general direction.

Publication of general directions

28.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in an emergency, be published by the Comhairle as soon as practicable once in a newspaper circulating in the locality of the harbour and, if the notice relates to the giving or amendment of a direction, shall state a place at which copies thereof may be inspected and bought and the price thereof.

(2) In an emergency, notice of the giving of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the Comhairle to be appropriate.

Special directions to vessels

29.—(1) The harbourmaster may give a direction under this article in respect of a vessel anywhere in the harbour for any of the following purposes:–

(a) requiring persons to comply with a requirement made in or under a general direction;

(b) regulating or requiring the movement, berthing, mooring or unmooring of the vessel;

(c) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores and the dispatch of its business at harbour premises;

(d) specifying the precautions to be taken in respect of apparatus, machinery and equipment;

(e) as to the use of the motive power of the vessel;

(f) prohibiting or restricting the use of fires or lights;

(g) as to the use of ballast;

(h) requiring the removal from any part of the harbour of a vessel if–

(i) it is on fire;

(ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink or to constitute a danger to life or property;

(iii) it is making an unlawful use of the harbour or interfering with the reasonable use or enjoyment thereof by other vessels or persons or the dispatch of business there at; or

(iv) its removal is necessary to enable maintenance or repair work to be carried out to harbour premises or to premises adjacent thereto; and

(i) requiring its removal outside the harbour if such removal is considered by the harbourmaster to be necessary in order to avoid danger to life (including wildlife) or to property.

(2) In an emergency the harbour master may give special directions applicable to all vessels or to a particular class of vessels for any of the purposes mentioned in paragraph (1).

(3) A special direction may be given in any manner considered by the harbourmaster to be appropriate.

Failure to comply with directions

30.—(1) The master of a vessel who fails to comply with a general direction or special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Without prejudice to any other defence, it shall be a defence to a charge made pursuant to paragraph (1) that the master had reasonable ground for believing that to comply with the direction in question would have endangered life or imperilled the safety of any vessel or its cargo, or that for other reason such compliance was impracticable.

Enforcement of special directions

31.—(1) Without prejudice to any other remedy available to the Comhairle, if a special direction is not complied with within a reasonable time, the harbourmaster may 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 a vessel to attend to a special direction, the harbourmaster may proceed as if the direction had been given and not complied with.

(3) The powers of paragraph (2) shall not be exercised–

(a) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or

(b) in relation to a lighter unless it is obstructing or interfering with navigation.

(4) Expenses incurred by the Comhairle in the exercise of the powers conferred by paragraphs (1) and (2) shall be recoverable by them as if they were a charge of the Comhairle in respect of the vessel.

Master's responsibility in relation to directions

32. 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, to persons on board the vessel, to the cargo or any other person or property.