
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 262

**The Comhairle nan Eilean Siar (Aird Mhor,
Barra) Harbour Empowerment Order 2001**

**PART II
WORKS**

Power to construct works

5. Subject to the provisions of this Order, the Comhairle may, within the limits of deviation, and according to the levels shown on the deposited sections, construct, execute and maintain the works described in Schedule 2 to this Order, together with all necessary works and conveniences connected therewith, in the Barra and Vatersay Electoral Division, parish of South Uist and Barra, in na h'Eileanan an Iar.

Power to renew, etc. works

6. Subject to the provisions of this Order the Comhairle may, within the limits of deviation, renew, replace, or otherwise alter temporarily or permanently the authorised works.

Power to deviate

7. Subject to the provisions of this Order, in the construction or execution of the authorised works the Comhairle may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation, and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be necessary or convenient.

Subsidiary works

8. Subject to the provisions of this Order the Comhairle, for the purposes of or in connection with the authorised works, may within the limits 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.

Reclamation of land

9.—(1) Subject to the provisions of this Order, the Comhairle may, within the harbour fill up, raise, enclose and reclaim land from the sea and the bed and foreshore of the harbour and for that purpose may place such piles and construct such groynes, retaining walls and other works in and upon the seabed and foreshore as the Comhairle deem necessary.

(2) The Comhairle shall not exercise the powers conferred by paragraph (1)–

- (a) in relation to any land not owned by them unless they first obtain the consent in writing of the owner thereof; or

- (b) in relation to any part of the harbour in front of or adjoining land belonging to Her Majesty in right of her Crown or to a government department or held in trust for Her Majesty for the purposes of a government department and protected by article 39 (Crown Rights) below, without the consent in writing of the Crown Estate Commissioners or, as the case may be, the government department.

Power to dredge

10.—(1) Subject to the provisions of this Order, the Comhairle may from time to time deepen, dredge, scour, cleanse, alter and improve the harbour for the purpose of affording uninterrupted means of access to the harbour or any part of it or for the accommodation of vessels.

(2) Subject to paragraph (3) below the Comhairle may use, appropriate or dispose of any material (other than any wreck within the meaning of Part IX of the Merchant Shipping Act 1995(1)) from time to time dredged by them from the harbour.

(3) No material referred to in this article shall—

- (a) be disposed of in contravention of any enactment relating to the disposal of waste; or
- (b) be deposited below the level of mean high water except in such places and in accordance with such conditions and restrictions as may be approved or directed by the Scottish Ministers.

Fine for obstructing works

11. Any person who intentionally obstructs any person acting under the authority of the Comhairle in setting out the lines of the works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale, and shall in addition be liable to repay to the Comhairle as a debt any expenses incurred by them in making good any damage resulting from such obstruction, moving or removal.

Works deemed to be within na h'Eileanan an Iar

12. So much of the authorised works as is not within the administrative area known as na h'Eileanan an Iar shall be deemed for all purposes to be within that area.

Tidal works not to be executed without approval of the Scottish Ministers

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

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

- (a) the Scottish Ministers may by notice in writing require the Comhairle 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 Comhairle they have failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice; or
- (b) if it appears to the Scottish Ministers urgently necessary to do so, they may themselves remove the tidal work or part of it and restore the site to its former condition,

(1) 1995 c. 21.

and any expenditure incurred by the Scottish Ministers in so doing shall be recoverable from the Comhairle as a debt.

Lights on tidal works during construction

14.—(1) During the whole time of demolition, construction, renewal or alteration of any tidal work the Comhairle shall at the outer extremity thereof every night from sunset to sunrise exhibit such lights, if any, and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Comhairle fail to comply in any respect with paragraph (1) above 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

15.—(1) After the completion of a tidal work the Comhairle 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 Comhairle 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

16. The Scottish Ministers may at any time they deem 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 them in such survey or examination shall be recoverable from the Comhairle.

Provision against danger to navigation

17.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Comhairle shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps as the Commissioners of Northern Lighthouse shall from time to time direct.

(2) If the Comhairle fail to comply in any respect with the provisions of 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

18.—(1) Where a tidal work is abandoned or suffered to fall into decay the Scottish Ministers may by notice in writing require the Comhairle 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 Scottish Ministers think 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 the 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 Scottish Ministers 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 Comhairle, they have failed to comply with the requirements of the notice, the Scottish Ministers

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may execute the works specified in the notice and any expenditure by them in so doing shall be recoverable from the Comhairle as a debt.