
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 308

The Port of Cairnryan Harbour Empowerment Order 2007

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Port of Cairnryan Harbour Empowerment Order 2007 and shall come into force on the day after the day on which it is made.

Interpretation

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

“Act of 1847” means the Harbours Docks and Piers Clauses Act 1847⁽¹⁾;

“Act of 1995” means the Merchant Shipping Act 1995⁽²⁾;

“the Company” means Port of Cairnryan Limited;

“deposited plans”, “deposited sections” and “deposited elevations” mean respectively the plans, sections and elevations which have been deposited in connection with this Order, two copies of which have been deposited at the Scottish Executive and one copy of which has been deposited at the offices of the Company;

“government department” includes any part of or any member of the staff of the Scottish Administration which shall have the meaning defined in section 126(6) of the Scotland Act 1998⁽³⁾;

“harbour master” means any person appointed as such pursuant to section 51 of the Act of 1847;

“land” includes land covered by water, any interest in land and any servitude or right in, to or over land;

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

“limits of deviation” means the limits of deviation shown on the deposited plans;

“master” in relation to a vessel means any person for the time being having or taking the command, charge or management thereof;

“port” means the port limits and the port premises;

“port limits” means the limits of the port as defined in article 18 (Limits of port) of this Order;

“port premises” means the quays, berths, landing places, and all other works, land and buildings for the time being vested in or occupied or administered by the Company as part of the undertaking;

⁽¹⁾ 1847 c. 27.

⁽²⁾ 1995 c. 21.

⁽³⁾ 1998 c. 46.

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

“undertaking” means the port undertaking for the time being of the Company;

“vessel” means a ship, boat, raft or water craft of any description however propelled or moved, and includes a displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily); and

“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 4 (Power to construct works) or article 6 (Subsidiary works) of this Order.

(2) All areas, directions, distances, lengths, widths and heights as stated in any description of works, powers or lands other than article 5 (Power to deviate) of this Order shall be construed as if the words “or thereabouts” were inserted after each such area, direction, distance, length and width and any reference in a description of works to a point shall be a reference to that point on the deposited plans.

(3) 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.

Incorporation of Harbours, Docks and Piers Clauses Act 1847

3.—(1) The Act of 1847 (except sections 6 to 25, 28, 31, 33, 42, 48 to 50, 67 and 77), so far as applicable to the purposes and not inconsistent with the provisions of this Order, is hereby incorporated with this Order subject to the modifications stated in paragraphs (2) to (4) below.

(2) Section 63 shall have effect subject to the modification that for the words from “be liable to” to the end of the section there are substituted the words “be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

(3) Section 69 shall have effect subject to the modification that for the words from “shall forfeit” to the end of the section there are substituted the words “shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale”.

(4) In construing the provisions of the Act of 1847 as incorporated with this Order—

- (a) the expression “the special Act” means this Order, the expression “the undertakers” means the Company and the expression “the harbour, dock, or pier” shall mean the port;
- (b) for the definition of the word “vessel” in section 3 of the Act of 1847 there shall be substituted the definition of that word in article 2(1) of this Order;
- (c) section 52 shall have effect subject to the modification that, after the words “may give directions”, there shall be added the words “(which need not be in writing)”;
- (d) section 53 shall have effect subject to the modification that, for the word “made” and for the expression “after notice of such direction by the harbour master served upon him”, there shall be substituted respectively the word “given” and the expression “after being given any such direction by the harbour master”.

Power to construct works

4.—(1) Subject to the provisions of this Order, the Company may in the lines and situations and upon the lands delineated on the deposited plans and within the limits of deviation shown thereon and according to the levels shown on the deposited sections and deposited elevations, construct and maintain in the district of Dumfries and Galloway the works hereinafter described, with all necessary works and conveniences connected therewith—

Work No. 1 – As to part thereof, a solid faced quay wall (including berths for vessels) and, as to the remaining part, a rock armoured revetment with both parts extending into Loch Ryan and together enclosing an area of 2.3 hectares of the bed of Loch Ryan and incorporating part of an existing breakwater and shown on sheet number 2 on the deposited plans; and the enclosed area to be used as hard standing for marshalling and parking vehicles.

Work No. 2 – A jetty of open piled construction comprising a concrete deck supported on bearing piles, commencing on the existing breakwater and shown on sheet number 2 on the deposited plans.

Work No. 3 – A mechanically operated double deck linkspan supported on bearing piles providing access to and from vessels and shown on sheet number 2 on the deposited plans.

Work No. 4 – As to part thereof, a solid faced quay wall (including berths for vessels) and, as to the remaining part, a rock armoured revetment with both parts extending into Loch Ryan and together enclosing an area of 10.1 hectares of the bed of Loch Ryan and shown on sheet number 2 on the deposited plans; and the enclosed area to be used as hard standing for marshalling and parking vehicles and as sites for Works Nos. 7 to 10 and 15, and as part of the site for Work No. 11.

Work No. 5 – A floating single deck linkspan incorporating two elevated passenger walkways together with a jetty and a series of dolphins forming a berthing and mooring line; both commencing by a junction with Work No. 4 and shown on sheet number 2 on the deposited plans.

Work No. 6 – A roundabout forming a junction with the A77 to provide an entrance and exit to the port for vehicular traffic shown on sheet number 2 on the deposited plans.

Work No. 7 – A four storey terminal building to be constructed over reclaimed land forming part of Work No. 4 being the building shown on sheet number 5 on the deposited plans; to be used for passenger and baggage handling, sales areas, management offices, a police port unit and as a canteen.

Work No. 8 – A two storey building to be constructed over reclaimed land forming part of Work No. 4 being the building shown on sheet number 6 on the deposited plans; to be used as a commercial kitchen with food storage facilities and as management and vessel control offices.

Work No. 9 – A two storey building to be constructed over reclaimed land forming part of Work No. 4 being the building shown on sheet number 7 on the deposited plans; to be used as a maintenance workshop and as accommodation for staff engaged in docking vessels and as offices.

Work No. 10 – A gate security building to be constructed over reclaimed land forming part of Work No. 4 being the building shown on sheet number 8 on the deposited plans; to be used for the inspection and search of vehicles and as offices, staff accommodation, search and interview rooms and toilets.

Work No. 11 – An exit gate security building to be constructed mainly over existing land and partly over reclaimed land forming part of Work No. 4 being the building shown on sheet number 9 on the deposited plans; to be used for the off line inspection of passenger and freight vehicles.

Work No. 12 – A two storey building to be constructed over reclaimed land forming part of Work No. 4 being the building shown on sheet number 10 on the deposited plans; to be used as accommodation for port police and as offices, store rooms and interview and detention rooms, police welfare facilities and reception areas.

Work No. 13 – Security fences intersected by buildings and having a height not exceeding 3.0 metres to be constructed along the lines shown on sheet number 3 on the deposited plans.

Work No. 14 – A two storey building shown on sheet number 11 on the deposited plans; to be used as a workshop with accommodation for maintenance staff and offices.

Work No. 15 – A series of single storey buildings (having a canopy and incorporating two weigh bridges) to be constructed over reclaimed land forming part of Work No. 4 being the buildings shown on sheet number 12 on the deposited plans; to be used as ticketing and check-in facilities for passenger and freight vehicles.

(2) Subject to the provisions of this Order, the Company may, for the purposes of the works authorised by paragraph (1) above, demolish and remove any structures or apparatus lying within the limits of deviation (including, and without prejudice to the generality of the foregoing, the existing linkspan and so much of the existing breakwater as may be deemed necessary or convenient) and enclose and reclaim so much of the bed of Loch Ryan and of the foreshore as lies within the limits of deviation and may hold and use the same as part of the undertaking.

(3) Subject to the provisions of this Order, the Company may, within the limits of deviation, reconstruct, extend, enlarge, replace or relay the works authorised by paragraph (1) above and may maintain the same as reconstructed, extended, enlarged, replaced or relaid.

(4) Nothing in paragraph (1) above shall in respect of the construction of Work No. 6 constitute the consent of the roads authority in terms of section 56 of the Roads (Scotland) Act 1984⁽⁴⁾

Power to deviate

5.—(1) Subject to the provisions of this Order, in carrying out the works authorised by article 4 (Power to construct works) of this Order the Company may deviate laterally from the lines or situations thereof as shown on the deposited plans to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the works as shown on the deposited sections and deposited elevations to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

(2) In carrying out Work No. 13, the Company may deviate laterally from the lines or situations shown on the deposited plans to an extent not exceeding 10 metres in any direction.

Subsidiary works

6. Subject to the provisions of this Order, the Company may from time to time within the limits of deviation construct, maintain and operate, whether temporarily or permanently, such other works as may be necessary or convenient for the purposes, or in connection with or in consequence, of the construction, maintenance or use of the works or the Company's undertaking; including works for the accommodation or convenience of vessels or for the loading and unloading of goods and the embarking and landing of passengers.

Power to dredge

7.—(1) Subject to Part 5 of the Schedule to this Order, the Company may, for the purposes of constructing and maintaining the works and of affording access to the works by vessels from time to time deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of Loch Ryan as lie within the limits of the port and within the approaches and the channels leading to those limits and may blast any rock in the area so described and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Act of 1995⁽⁵⁾), from time to time dredged by them.

(2) No such materials shall be laid down or deposited—

(4) 1984 c. 54.

(5) 1995 c. 21, see section 255(1).

- (a) in contravention of the provisions of any enactment as respects the disposal of waste; or
- (b) in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Scottish Ministers.

Obstruction of work

8. Any person who intentionally obstructs any person acting under the authority of the Company in setting out the lines of or in constructing the works, or who interferes with, 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.

Works to be deemed part of undertaking

9. The works shall be deemed for all purposes to be part of the undertaking and all byelaws, directions, rules and regulations of the Company for the time being in force relating to the undertaking shall apply to the works and may be enforced by the Company accordingly.

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

10.—(1) A tidal work shall not be demolished, constructed, renewed, reconstructed 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 or while work is still in progress.

(2) If a tidal work is demolished, constructed, renewed, reconstructed or altered in contravention of this article or of any condition or restriction imposed under this article—

- (a) the Scottish Ministers may by notice in writing require the Company 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 Company 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,

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

Survey of tidal works

11. The Scottish Ministers may at any time if they deem it expedient order a survey and examination of a tidal work or a site upon which it is proposed to construct the work and any expense incurred by them in such a survey and examination shall be recoverable from the Company as a debt.

Provision against danger to navigation

12.—(1) In the case of injury to or destruction or decay of a tidal work or any part thereof, the Company 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 Company 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

13.—(1) Where a tidal work is abandoned or suffered to fall into decay the Scottish Ministers may by notice in writing require the Company 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 and 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 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 Company they have failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Company as a debt.

Lights on tidal works during construction

14.—(1) During the whole time of the demolition, construction, renewal, reconstruction or alteration of a tidal work the Company 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 Company 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

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

Period for completion of works

16.—(1) Subject to paragraph (2) below, if the works are not completed within five years from the coming into force of this Order or such extended time as the Scottish Ministers may on the application of the Company allow, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to the Company for making and maintaining the works shall cease except as to so much thereof as is then substantially commenced.

(2) Nothing in paragraph (1) above shall apply to any works carried out under paragraph (3) of article 4 (Power to construct works) or article 6 (Subsidiary works) of this Order.

Port premises to be within area of Dumfries and Galloway Council

17. The port premises shall, to the extent that they lie outwith the area of the Dumfries and Galloway Council, be annexed to and incorporated within that area.

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