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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 188**

**The Dumfries and Galloway Council  
(Kirkcudbright) Harbour Revision Order 2018**

**PART I  
PRELIMINARY**

**Citation and commencement**

**1.** This Order may be cited as the Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018 and comes into force on the day after the day on which it is made.

**Interpretation**

**2.** In this Order—

“1847 Act” means the Harbours, Docks and Piers Clauses Act 1847<sup>(1)</sup>;

“charges” means charges, dues and tolls of every description for the time being payable under any enactment to the Council in relation to the harbour undertaking;

“the Council” means Dumfries and Galloway Council;

“government department” includes any part of, or member of staff of the Scottish Administration (within the meaning of section 126(6) of the Scotland Act 1998);

“general direction” means a direction given by the Council under article 16;

“the harbour” means the harbour at Kirkcudbright comprised within the harbour limits;

“the harbour limits” means the limits of the harbour as described in article 4 and in Schedule 1 to this Order and shown on the harbour maps;

“harbour maps” means the maps referred to in article 5 of which copies are signed, dated and deposited at the offices of the Scottish Ministers at the Scottish Government, Victoria Quay, Edinburgh, EH6 6QQ and with the Council at Militia House, English Street, Dumfries, DG1 2HR;

“harbour master” means any person appointed as such by the Council and includes that person’s deputies and assistants and any other person for the time being authorised by the Council to act, either generally or for a specific purpose, in the capacity of harbour master;

“harbour premises” means the quays, piers, landing places and all other works, land and buildings for the time being vested in, or occupied or administered by the Council as part of the harbour undertaking as shown on the harbour maps;

“harbour undertaking” means the harbour undertaking of the Council at Kirkcudbright;

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

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(1) 1847 c.27.

“relevant person” in relation to any property, rights or interests to which section 90B(5) of the Scotland Act 1998 applies means the person who manages that property, or those rights and interests;

“special direction” means a direction given by the harbour master under article 18 (special direction);

“vessel” means a ship, boat or craft of any description and includes anything constructed or adapted for floating on or being submersed in water (whether permanently or temporarily).

### **Incorporation of the 1847 Act**

**3.**—(1) Sections 1 to 4, 27, 29, 33, 35, 36, 52, 54, 57 and 60 to 65 of the 1847 Act are incorporated with this Order subject to the modifications stated in paragraphs (2) to (4).

(2) Section 63 (penalty on vessels lying near the entrance of harbour or dock without permission) 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 65 (harbour master may remove vessel for purposes of repairing harbour or dock if the master neglects or refuses to do so) shall have effect subject to the omission of the words from “Provided always” to the end of the section.

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

- (a) the expression “the special Act” means this Order, the expression “the undertakers” means the Council and the expression “the harbour, dock or pier” shall mean “the harbour”; and
- (b) for the definition of the word “vessel” in section 3 (interpretation in this and the special Act) there shall be substituted the definition of that word in paragraph (1) of article 2 (interpretation).