
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2009 No.

The Loch Ryan Port (Harbour Empowerment) Order 2009

PART 2

WORKS PROVISIONS

Power to construct works

4.—(1) The Company may in the lines and situations and upon the lands delineated on the deposited plans, sections and elevations and within the limits of deviation and according to the levels shown on the deposited plans, sections and elevations, construct and maintain the following works—

Work No. 1 - The reclamation and infilling of an area of the bed of Loch Ryan, and the levelling of that area, together with the levelling of the adjoining land to form hardstanding for trailers, marshalling, parking, port exit and entrance roads, and sites for Works Nos. 6 to 11, comprising a total area of approximately 11.18 hectares to be retained on the seaward limits in part by rock armoured revetments and, as to the remainder, by the solid faced quay wall comprising Work No. 4; the location of which is shown on sheet no. 2 and sections of which are shown on sheets nos. 6 and 7;

Work No. 2 - A mechanically operated double deck linkspan and approach structure supported on a reinforced concrete bankseat at the landward extremity and two reinforced concrete lifting dolphins at the seaward extremity, providing access to and egress from vessels, the location of which is shown on sheet no. 3 and the section of which is shown on sheet no. 6;

Work No. 3 - A jetty of open piled construction comprising a concrete deck supported on steel tubular bearing piles (commencing on the solid faced quay wall to be constructed as Work No. 4), having a covered walkway for pedestrian access to and egress from vessels, the location of which is shown on sheet no. 3 and the section of which is shown on sheet no. 7;

Work No. 4 - A solid faced quay wall of steel sheet piled construction with a reinforced concrete capping beam, the location of which is shown on sheet no. 3 and the section of which is shown on sheet no. 7;

Work No. 5 - A roundabout to form a junction with the Girvan to Stranraer section of the M77/A77 Glasgow to Stranraer trunk road, including associated footway, cycle track (“footway” and “cycle track” having the same meaning as in the Roads (Scotland) Act 1984)⁽¹⁾ and road widening to the north and south of the junction to provide an entrance to and exit from the port for vehicular traffic, the location of which is shown on sheet no. 4 and sections of which are shown on sheets nos. 6 and 7;

Work No. 6 - A two storey building comprising a maintenance workshop, offices with accommodation for maintenance staff including toilets and a storage yard for vehicles, fuel and port waste to be constructed on part of the site of Work No. 1, the location of which is shown on sheet no. 5 and the plans and elevations of which are shown on sheet no. 8;

(1) 1984 c.54; “footway” and “cycletrack” are defined in section 151(2).

Work No. 7 - A two storey terminal building comprising passenger and baggage handling facilities, sales areas, management offices, toilets, police holding areas and offices, canteen, locker rooms and accommodation for staff engaging in docking vessels to be constructed on part of the site of Work No. 1, the location of which is shown on sheet no. 5 and the plans and elevations of which are shown on sheet no. 9;

Work No. 8 - A series of single storey buildings (having a canopy and incorporating two weighbridges) comprising ticketing and check-in facilities for passenger and freight vehicles to be constructed on part of the site of Work No. 1, the locations of which are shown on sheet no. 5 and the plans and elevations of which are shown on sheet no. 10;

Work No. 9 - An entrance and exit gate security building comprising facilities for the inspection and search of vehicles, offices, staff accommodation, toilets, search and interview rooms to be constructed on part of the site of Work No. 1, the location of which is shown on sheet no. 5 and the plans and elevations of which are shown on sheet no. 11;

Work No. 10 - A pump house incorporating pumping equipment and a water tank and an adjacent water tank to supply fresh water to the port, the location of which is shown on sheet no. 5 and the plans and elevations of which are shown on sheet no. 11; and

Work No. 11 - Security fences intersected by buildings, comprising respectively Works Nos. 7 and 9, and having a height not exceeding 3.5 metres, to be constructed along the lines shown on sheet no. 5 and an elevation and section of which are shown on sheet no. 11.

(2) The Company may, for the purposes of the works authorised by paragraph (1), remove any vegetation or other objects or materials and demolish and remove any structures or apparatus lying within the limits of deviation and enclose and reclaim so much of the bed of Loch Ryan and of the foreshore as lies within the limits of deviation.

(3) The Company may, within the limits of deviation, reconstruct, extend, enlarge, replace or relay the works authorised by paragraph (1) and may maintain and operate those works as reconstructed, extended, enlarged, replaced or relaid.

(4) Nothing in paragraph (1) shall in respect of the construction of Work No. 5 constitute the consent of the roads authority in terms of section 56 of the Roads (Scotland) Act 1984 (control of works and excavations)(2).

Power to deviate

5.—(1) In carrying out the works authorised by article 4 (power to construct works), other than Work No. 11, the Company may deviate laterally from the lines or situations as shown on the deposited plans, sections and elevations to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the works as shown on the deposited plans, sections and 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. 11, the Company may deviate vertically up to 0.5 metres above the height specified in article 4 (power to construct works) and laterally from the lines or situations shown on the deposited plans, sections and elevations to any extent not exceeding 10 metres in any direction.

Subsidiary works

6. 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

(2) Section 56 was amended by the New Roads and Street Works Act 1991 (c.22), Schedule 8, paragraph 83. See section 151(1) of the Roads (Scotland) Act 1984 for the definition of “roads authority”. That definition is relevantly amended by S.I. 2001/1400.

of the works or the port; 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) The Company may, for the purposes of constructing and maintaining the works and of affording access to the port 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 port limits 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 section 255 of the Merchant Shipping Act 1995 (interpretation)(3)), from time to time dredged by it.

(2) The Company shall not lay down or deposit such materials 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—

- (a) intentionally obstructs any person acting under the authority of the Company in setting out the lines of or in constructing the works; or
- (b) without reasonable excuse 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.

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

9.—(1) The Company shall not demolish, construct, renew, reconstruct or alter a tidal work 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 its own expense to remove the tidal work or any part of it and restore the site of the tidal work to its former condition; and if on the expiration of 30 days from the date when the notice is served upon the Company it has 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,
- (c) and any expenditure incurred by the Scottish Ministers in so doing shall be recoverable from the Company as a debt.

(3) Paragraph (1) shall not apply to any work authorised by paragraph (1) of article 4 (power to construct works) and any related works authorised by article 6 (subsidiary works).

(3) 1995 c.21.

(4) Subject to paragraph (3), the works referred to in paragraph (1) shall be deemed to be “harbour works” within the meaning and for the purposes of the Marine Works (Environmental Impact Assessment) Regulations 2007(4).

Survey of tidal works

10. 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

11.—(1) In the case of injury to or destruction or decay of a tidal work or any part of it, the Company shall as soon as reasonably practicable 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 may from time to time direct.

(2) If the Company fails to comply in any respect with the provisions of this article, it 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

12.—(1) Where a tidal work is abandoned or has fallen into decay the Scottish Ministers may by notice in writing require the Company at its own expense either to repair and restore the work or any part of it, or to remove the work and restore the site of the tidal work to its former condition, to such an extent and within such limits as the Scottish Ministers think proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or has fallen 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 of it, 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 it has 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

13.—(1) During the whole time of the demolition, construction, renewal, reconstruction or alteration of a tidal work the Company shall at the outer extremity of that work 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 may from time to time direct.

(2) If the Company fails to comply in any respect with a direction given under this article it 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

14.—(1) After completion of a tidal work the Company shall at the outer extremity of that work every night from sunset to sunrise exhibit such lights, if any, and take such other steps for the

(4) [S.I. 2007/1518](#); “harbour works” is defined in regulation 2(1).

prevention of danger to navigation as the Commissioners of Northern Lighthouses may from time to time direct.

(2) If the Company fails to comply in any respect with a direction given under this article it 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

15.—(1) If the works authorised by paragraphs (1) and (2) of article 4 (power to construct works) are not completed within five years from the date of the coming into force of this Order or such extended time as the Scottish Ministers may on the application of the Company allow by consent given in writing, 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 those works shall cease except as to so much of those works as is then substantially commenced.

(2) A consent given under paragraph (1) may be given unconditionally or subject to terms and conditions.

(3) As soon as reasonably practicable after a consent is given under paragraph (1), the Company shall arrange for a notice to be published in the Edinburgh Gazette and in a local newspaper circulating in the area where the port is situated and the notice shall contain a concise summary of that consent.

(4) During the period of one month beginning with the date on which any notice is published in a local newspaper under paragraph (3), a copy of the consent referred to in that notice shall be kept by the Company at the offices of the Company situated at the port and shall at reasonable hours be open to public inspection without payment.

(5) The works shall be deemed to have been substantially commenced for the purposes of paragraph (1) where so much of Work No. 1 has been constructed as will enable other works to be constructed, maintained and managed together with that part of Work No. 1 as a harbour for the efficient and economic transport of goods or passengers by sea.

Operational land and land within area of Dumfries and Galloway Council

16. The land situated within the port limits shown edged black on sheet no. 13 shall—

- (a) be deemed to be operational land within the meaning and for the purposes of the Town and Country Planning (Scotland) Act 1997⁽⁵⁾; and
- (b) to the extent that it lies outwith the area of the Dumfries and Galloway Council, be deemed to be part of that area.

(5) 1997 c.8; “operational land” is defined in section 215, to which there are amendments not relevant to this Order, which section is subject to section 216.