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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2009 No.**

**The Loch Ryan Port (Harbour Empowerment) Order 2009**

**PART 3**

**PORT REGULATION**

**Limits of port**

17.—(1) The limits of the port within which the Company shall exercise jurisdiction as the harbour authority and within which the powers of the harbour master shall be exercisable shall be the area bounded by an imaginary line commencing at a point (A) at 54°59.28'N, 05°02.03'W thence extending in a straight line in a westerly direction to a point (B) at 54°59.28'N, 05°02.46'W thence extending in a straight line in a north-westerly direction to a point (C) at 54°59.57'N, 05°02.82'W thence extending in a straight line in a south-westerly direction to a point (D) at 54°59.52'N, 05°02.88'W thence extending in a straight line in a southerly direction to a point (E) at 54°59.40'N, 05°02.88'W thence extending in a straight line in a south-westerly direction to a point (F) at 54°59.28'N, 05°02.94'W thence extending in a straight line in a south-easterly direction to a point (G) at 54°58.68'N, 05°01.98'W thence extending in a straight line in a north-easterly direction to a point (H) at 54°58.77'N, 05°01.71'W thence following the western boundary of the Girvan to Stranraer section of the M77/A77 Glasgow to Stranraer trunk road to the point of commencement.

(2) In paragraph (1), a reference to—

- (a) a direction shall be construed as if the words “or thereabouts” were inserted after that direction;
- (b) a point is a reference to that point as shown on sheet no. 12; and
- (c) a co-ordinate is a reference to World Geodetic System 1984 datum<sup>(1)</sup>.

(3) The area described in paragraph (1) is, for the purpose of identification only, shown edged by a broken green line on sheet no. 12 and, in the event that there is any discrepancy between the description of that area and the area shown on that sheet, the description shall prevail.

**Moorings**

18.—(1) The Company may provide, place, lay down, maintain, renew, use or remove such moorings, buoys and similar apparatus within the port as it considers necessary or desirable for the convenience of vessels.

(2) The Company may from time to time grant a licence to any person to place, lay down, maintain, renew and use moorings, buoys and similar apparatus for vessels in the port.

(3) Any person who, without reasonable excuse, places, lays down, maintains, renews or uses a mooring, buoy or similar apparatus for vessels within the port except under and in accordance with

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(1) World Geodetic System 1984 (often noted as WGS84) is an Earth fixed global reference frame currently in use worldwide as one of the datums to which latitude and longitude are referred. The official publication of the standard is *NIMA Technical Report TR8350.2* and can be viewed at: [http://earth-info.nga.mil/GandG/publications/tr8350.2/tr8350\\_2.html](http://earth-info.nga.mil/GandG/publications/tr8350.2/tr8350_2.html).

the terms and conditions of a licence granted under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any licence granted under paragraph (2) shall be valid only for a period of one year commencing with the date on which it takes effect.

### **General byelaws**

**19.**—(1) The Company may from time to time make byelaws for the efficient management and regulation of the port.

(2) Without prejudice to the generality of paragraph (1), byelaws made under this article may provide for—

- (a) regulating the use, operation and superintendence of the port and the berths, quays, piers, warehouses, sheds, landing places, equipment, works and conveniences (including moorings) in the port;
  - (b) regulating the admission to, and the movement within, and the departure of vessels from, the port, or the removal of vessels,
  - (c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the port;
  - (d) regulating the berthing and mooring of ships within the port;
  - (e) preventing damage or injury to any goods, vehicle, plant, machinery, property or person within the port;
  - (f) regulating the conduct of all persons within the port not being members of a police force or officers or servants of the Crown whilst in the execution of their duties;
  - (g) regulating the placing and maintenance of moorings within the port;
  - (h) preventing and removing obstructions or impediments within the port;
  - (i) regulating the use of ferries within the port;
  - (j) regulating in the port the use of yachts, sailing boats, sailboards, rowing boats, rowing punts, pleasure craft and other small craft;
  - (k) regulating or prohibiting the activities in the port of divers, surfers, water skiers and other persons engaged in similar recreational pursuits but not so as to prohibit the use for navigation of the vessels referred to in sub-paragraph (j);
  - (l) regulating the launching of vessels within the port;
  - (m) prohibiting persons in or entering the port, or any part of the port, from smoking in open spaces in the port;
  - (n) regulating the movement and parking of vehicles within the port;
  - (o) regulating the exercise of the powers vested in the harbour master;
  - (p) making the carrying out of specified port operations, or the conduct of persons in the port, subject to the approval (with or without conditions), control or direction of the harbour master, and for authorising the harbour master to take such action as may be reasonably required in default of compliance with any such condition, control or direction;
  - (q) the conservation of the fauna and flora in the port.
- (3) Byelaws made under this article may—
- (a) provide for imposing upon persons found guilty on summary conviction of offending against them, or against any condition, requirement or direction imposed, made or given under them, fines not exceeding level 3 on the standard scale;
  - (b) relate to the whole of the port or to any part of the port;

- (c) make different provisions for different parts of the port or in relation to different classes of vessels or vehicles.

### **Confirmation of byelaws**

**20.**—(1) Byelaws made by the Company under this Order shall not come into operation until they have been confirmed by the Scottish Ministers.

(2) At least one month before an application for confirmation of byelaws is made by the Company to the Scottish Ministers, notice of the intention to apply for confirmation and of the place at which and times during which a copy of the byelaws shall be open to inspection shall be published as follows—

- (a) once in the Edinburgh Gazette; and
- (b) once in each of two successive weeks in a newspaper circulating in the area in which the port is situated.

(3) Not later than the first date on which the notice under paragraph (2) is published, the Company shall send a copy of the notice to the Chief Executive Officer of the Dumfries and Galloway Council and to the Scottish Ministers.

(4) During a period of at least one month before application is made for confirmation of the byelaws, a copy of the byelaws shall be kept by the Company at the office of the harbour master and shall at reasonable hours be open to public inspection without payment.

(5) The Company shall supply a copy of the byelaws or of part of the byelaws to a person who shall apply for it on payment of a reasonable charge.

(6) During the period of one month after completion of the publication of any notice required by paragraph (2), any person may make in writing to the Scottish Ministers any objection to or representation respecting the byelaws to which the notice relates.

(7) Subject to paragraph (8), the Scottish Ministers may confirm the byelaws in the form submitted to them with such modifications as they think fit or may refuse to confirm them.

(8) Where the Scottish Ministers propose to make a modification that appears to them to be substantial they shall inform the Company and require it to take any steps the Scottish Ministers consider necessary for informing persons likely to be concerned with the modification, and the Scottish Ministers shall not confirm the byelaws until such period has elapsed as the Scottish Ministers think reasonable for consideration of, and comment upon, the proposed modification by the Company and by other persons who have been informed of it.

(9) A copy of the byelaws when confirmed shall be printed and deposited by the Company at the office of the harbour master and shall at all reasonable hours be open to public inspection without payment, and a copy of the byelaws shall on application be furnished to any person on payment of such reasonable sum as the Company may determine.

### **General directions to vessels**

**21.**—(1) The Company may, after consultation with the Chamber of Shipping and the Royal Yachting Association in each case of an exercise of the powers, give directions for any of the following purposes—

- (a) for designating areas, routes or channels in the port and the approaches to the port which vessels are to use, or refrain from using, for movement or mooring;
- (b) for requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master to identify the vessel, its cargo and its likely time of arrival at and departure from the port.

(2) Directions given under paragraph (1) may apply—

- (a) to all vessels or to a class of vessels designated in the direction;
  - (b) to the whole of the port and the approaches and channels leading to the port, or to a part designated in the direction; and
  - (c) at all times or at times designated in the direction,
  - (d) and every direction given under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c).
- (3) The Company may, after consultation with the Chamber of Shipping and the Royal Yachting Association, revoke or amend directions given under this article.

### **Publication of general directions**

**22.**—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Company as soon as practicable once in Lloyd’s List or some other newspaper specialising in shipping news; and, if the notice relates to the giving or amendment of a direction, the notice shall state a place at which copies of the direction or the amended direction (as the case may be) may be inspected and bought, and the price of the direction or amended direction (as the case may be).

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

### **Special directions to vessels**

**23.**—(1) The harbour master may give a direction under this article—

- (a) requiring any vessel anywhere within the port or the approaches to the port to comply with a requirement made in or under a general direction;
- (b) regulating the time at which and the manner in which any vessel shall enter into, go out of, or lie in or at the port;
- (c) for securing that vessels move only at certain times or during certain periods;
- (d) prohibiting the mooring of vessels in any particular part or parts of the port;
- (e) regulating or requiring the movement, mooring or unmooring of a vessel; and
- (f) regulating the manner in which a vessel takes in or discharges (from ship to shore or shore to ship) passengers, cargo, fuel, water, ship’s stores or ballast in the port.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

(3) The harbour master may revoke or amend a special direction.

### **Master’s responsibility to be unaffected**

**24.** 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 that vessel, persons on board, its cargo or any other person or property.

### **Failure to comply with directions**

**25.** The master of a vessel who fails without reasonable excuse to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Enforcement of special directions**

**26.**—(1) Without prejudice to any other remedy available to the Company, if a special direction is not complied with within a reasonable time the harbour master may, where practicable, 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 the vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with; but the harbour master shall not do so unless, after reasonable inquiry has been made, the master of the vessel cannot be found.

(3) Expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Company from the owner of the vessel as if they were a charge of the Company in respect of the vessel.

### **Charges**

**27.**—(1) The Company may levy charges for any services performed by it in the exercise and performance of its statutory powers and duties at the port.

(2) The Company may confer total or partial exemption from, allow rebates to or make compositions with any person with respect to, charges and may vary or extinguish any such exemption or composition.

(3) In this article “charges” means any charges other than ship, passenger and goods dues.