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S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2002 No. 410

HARBOURS, DOCKS, PIERS AND FERRIES

**The Comhairle nan Eilean Siar (Various Harbours) Harbour
Revision Order 2002**

Made 4th September 2002

Coming into force 5th September 2002

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Whereas Comhairle nan Eilean Siar has applied in writing to the Scottish Ministers for a harbour revision order under section 14 of the Harbours Act 1964(a);

And whereas the objections to that application have been withdrawn;

And whereas the Scottish Ministers are satisfied as mentioned in subsection (2)(b) of the said section 14;

(a) 1964 c.40; Section 16 and Schedule 3 were amended by the Transport Act 1981 (c.56) section 18 and Schedule 6, paragraphs 2 to 4, 12 and 14; and by the Transport and Works Act 1992 (c.42) section 63 and Schedule 3, paragraphs 1 and 10; and Schedule 3 was further amended by regulations 4 to 8 of the Harbour Works (Assessment of Environmental Effects) Regulations 1988 (SI 1988/1336) as applied and amended in relation to Scotland by the Harbour Works (Assessment of Environmental Effects) Regulations 1992 (SI 1992/1421).

Now therefore, the Scottish Ministers, in exercise of the powers conferred on them by section 14 of the said Act, and of all other powers enabling them in that behalf, hereby make the following Order:

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 and shall come into force on 5th September 2002.

Interpretation

2.—(1) In this Order—

“the 1847 Act” means the Harbours, Docks, and Piers Clauses Act 1847(a);

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

“the Comhairle” means Comhairle nan Eilean Siar;

“general direction” means a direction given under article 18 below;

“harbour area” means an area within which the Comhairle exercise jurisdiction as a harbour authority under article 4 below;

“the harbour maps” means the maps referred to in article 4 below of which copies are deposited at the offices of the Scottish Ministers at the Scottish Executive, Victoria Quay, Edinburgh, EH6 6QQ and with the Comhairle at Sandwick Road, Stornoway, Isle of Lewis HS1 2BW;

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

“the 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 Comhairle as part of the harbour undertaking;

“the harbour undertaking” means the harbour undertaking of the Comhairle;

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

“mooring” includes buoys and other apparatus provided for the mooring of vessels;

“special direction” means a direction given under article 20 below;

“vessel” means every description of vessel, however propelled or moved, and includes any thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily), a seaplane on or in the water, a hovercraft, a hydrofoil and any amphibious vehicle.

Incorporation of Harbours, Docks, and Piers Clauses Act 1847

3.—(1) The following provisions of the 1847 Act are hereby incorporated with, and form part of, this Order—

sections 1, 2, 3, 4, 20, 21, 23, 27, 29, 31 to 36, 43, 52 to 66, 68 to 71, 73, 77, 78, 92 and 94.

(2) The said provisions as so incorporated shall have effect as follows:—

(a) “the special Act” means this Order;

(b) “the Promoters of the undertaking” and “the undertakers” mean the Comhairle,

(c) “the harbour, dock or pier” means the harbour areas;

(d) “vessel” has the meaning given by article 2 above;

(e) section 52 shall extend to empower the harbour master to give directions prohibiting the mooring within a harbour area of any vessel—

(a) 1847 c.27.

- (i) using any works for the time being vested in the Comhairle, or coming to or departing from those works;
- (ii) which is obstructing any such works, or the approach thereto; or
- (iii) which threatens the safety of navigation in a harbour area;
- (f) notice given by the harbour master to the master of a vessel under section 53 need not be in writing but may be given orally, or in any other reasonable manner;
- (g) in section 63, for the words from “penalty” to the end of the section there shall be substituted the words “on summary conviction to a fine not exceeding level 2 on the standard scale”;
- (h) in section 69, for the words “forfeit” to the end of the section there shall be substituted the words “be liable on summary conviction to a fine not exceeding level 2 on the standard scale”;
- (i) in section 73, for the words “five pounds” there shall be substituted the words “level 2 on the standard scale”;
- (j) in section 84, for the words “five pounds” there shall be substituted the words “level 2 on the standard scale”.

(3) Notwithstanding any direction given before the date of the coming into force of this Order by the Secretary of State under section 10(1) of the Harbours, Piers and Ferries (Scotland) Act 1937(a), the provisions of the 1847 Act, other than those referred to in paragraph (1) above, shall not apply to any harbour area.

Harbour jurisdiction

4.—(1) The Comhairle shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Harbours Act 1964 within the areas described in Schedule 1 to this Order, and shown on the harbour maps, together with so much of the harbour premises as is not situated within those areas.

(2) In the event of any discrepancy between the boundaries of a harbour area as described in Schedule 1, and the boundaries shown on the corresponding harbour map, the harbour map shall prevail.

(3) The Comhairle may employ and appoint harbour masters for and incidental to the performance of their functions under this Order and all other enactments relating to a harbour area.

PART II

HARBOUR REGULATION

Management and control of harbours

General functions in respect of harbour areas

5.—(1) It shall be the duty of the Comhairle, subject to the provisions of this Order, to take such steps from time to time as it may consider necessary or desirable for the conservancy, protection, regulation, maintenance, operation and management and improvement of—

- (a) the harbour areas and the approaches thereto; and
- (b) the facilities afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of the foregoing, the Comhairle may –

- (a) improve, maintain, regulate, manage, mark and light the harbour areas and provide harbour facilities;
- (b) place, execute, operate, maintain, renew, alter, remove and reconstruct structures and works and equipment in the harbour areas; and
- (c) do all other things which in its opinion are expedient to facilitate the proper carrying on or development of the harbour areas.

(a) 1937 c.28.

Power to dredge

6.—(1) Subject to the provisions of this Order, the Comhairle may from time to time deepen, widen, dredge, scour, cleanse, alter and improve the bed and foreshore of a harbour area and the seaward approaches thereto and may blast any rock in that area.

(2) 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(a)) from time to time dredged or removed by it from a harbour area.

(3) Subject to the provisions of this Order no materials so dredged shall 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 prescribed by the Scottish Ministers.

Reclamation of land

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

(2) The Comhairle shall not exercise the powers of paragraph (1) above—

- (a) in relation to any land not owned by it unless it first obtains the consent in writing of the owner thereof; or
- (b) in relation to any part of a harbour area 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 61 below, without the consent in writing of the Crown Estate Commissioners or, as the case may be, the government department.

Declaration of draught, etc. of vessel

8.—(1) The master of a vessel entering, leaving or intending to enter or leave a harbour area shall, if required to do so by the harbour master, state the length overall and draught maximum of his vessel.

(2) The master of a vessel who in response to a requirement under paragraph (1) above without reasonable excuse gives incorrect information shall, without prejudice to any right of the Comhairle to compensation for loss or damage occasioned thereby, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) For the purposes of this article “draught” in relation to a hovercraft or hydrofoil vessel means its draught when afloat and not supported on a cushion of air or on foils or by any other means and in relation to a seaplane means its draught when afloat.

Provisions as to damage

9.—(1) This article applies to any damage caused to any work or property of the Comhairle in a harbour area—

- (a) by any person who contravenes any provision of this Order or any other enactment relating to a harbour area; or
- (b) by a vessel, whether or not as a result of any contravention of any such provision.

(2) Where damage to which this article applies has occurred, the Comhairle may detain any vessel which caused the damage, and any other property belonging to or in charge of the person causing the damage, or belonging to his employers, until the cost of the damage has been paid or until reasonable security therefor has been given to the Comhairle.

(3) The owner of any vessel causing damage to which this article applies and the master (if it was through his intentional act or failure to act that the damage was done) shall be liable for the cost of the damage.

(a) 1995 c.21.

- (4) This article is without prejudice to—
- (a) any right of the owner or master of a vessel to recover the cost of damage from any person whose act, or failure to act, gave rise to the damage; or
 - (b) any right of the Comhairle under any other enactment, agreement or rule of law; or
 - (c) the criminal liability of any person under any provision of this Order, or any byelaw made in relation to a harbour area by the Comhairle.

Obstruction of officers, etc.

10. Any person who intentionally obstructs an officer of the Comhairle or other person acting in execution of this Order or of any enactment relating to a harbour area shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Boarding of vessels

11. Any duly authorised officer of the Comhairle may, on producing if so required his authority, enter and inspect a vessel in a harbour area –

- (a) for the purposes of any enactment relating to the Comhairle or of any byelaw of the Comhairle, including the enforcement thereof; or
- (b) to prevent or extinguish fire;

but, except in an emergency, no entry shall be made under this article without notice first having been given to the owner or the person appearing to have charge of the vessel; and the notice shall have annexed to it a copy of this article.

Vessels adrift

12.—(1) The owner or master of a vessel adrift in a harbour area shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) It shall be a defence for the owner or master of a vessel charged with an offence under paragraph (1) above to prove that the vessel did not become adrift as the result of any neglect or default on his part.

Licensing of tugs

13.—(1) It shall not be lawful for any person, except in an emergency, to operate a vessel exceeding 5 tons gross for fee or reward for the purpose of moving or controlling the movement of any other vessel within a harbour area except under and in accordance with the terms and conditions of a licence granted by the Comhairle in that behalf.

(2) The Comhairle may charge a reasonable fee for the grant of any licence under this article.

(3) Any person who contravenes paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to appropriate parts of harbour areas, etc.

14.—(1) Notwithstanding anything in this or any other statutory provision of local application, the Comhairle may from time to time set apart or appropriate any part of a harbour area, or any lands, works, buildings, machinery, equipment or other property of the Comhairle in a harbour area, for the exclusive, partial or preferential use or accommodation for any particular trade, activity, person, vessel or class of vessels or goods, subject to the payment of such reasonable charges and to such terms and conditions as the Comhairle think fit.

(2) No person or vessel shall, otherwise than in accordance with the setting apart or appropriation, make use of any part of a harbour area, or any lands, works, buildings, machinery, equipment or other property, so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Comhairle.

(3) The harbour master or, as the case may be, any such authorised officer may order any person or vessel contravening paragraph (2) above to leave or be removed from the site of the contravention.

(4) Section 58 of the 1847 Act shall extend and apply with appropriate modifications to any vessel moored or otherwise positioned in contravention of paragraph (2) above.

Moorings

Power to lay down moorings

15.—(1) The Comhairle may provide, place, lay down, maintain, renew, use, have or remove such moorings within a harbour area as it considers necessary or desirable for the convenience of vessels.

(2) The Comhairle may issue permits on such conditions (including conditions as to payment) as it thinks fit authorising the holder of the permit to use or allow the use of any moorings provided under this article.

(3) The Comhairle may compound with any person with respect to the payments referred to in paragraph (2) above.

Licensing of moorings

16.—(1) The Comhairle may from time to time grant a licence to any person to place, lay down, maintain, renew and use moorings for vessels in a harbour area.

(2) A licence may be granted under this article on such conditions as the Comhairle thinks fit.

(3) Nothing in any licence granted under this article shall entitle any person to place, lay down, maintain, renew, use or have any mooring on land not owned or leased by him or by the Comhairle or in which he has no appropriate interest.

Offences as to moorings, etc.

17.—(1) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Comhairle in setting out moorings;
- (b) intentionally and without lawful authority pulls up or removes any moorings or any part thereof from a harbour area;
- (c) places, lays down, maintains, renews or has in a harbour area any mooring not provided under article 15 or licensed under article 16 above;
- (d) without reasonable excuse causes or permits a vessel to be moored in a harbour area except—
 - (i) at a mooring provided under article 15 or licensed under article 16 above; or
 - (ii) at a quay, jetty, slipway or other work;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If any person commits an offence under paragraph (1)(c) above the Comhairle may remove the mooring in question and recover from that person the expenses incurred in doing so.

(3) If any person commits an offence under paragraph (1)(d) above the Comhairle may—

- (a) remove the vessel, including any tackle with the vessel;
- (b) dispose of it; and
- (c) recover out of the proceeds of sale—
 - (i) any unpaid charge payable under article 15 above;
 - (ii) any unpaid licence fee payable under article 16 above; and
 - (iii) the expenses of removal and disposal under this paragraph;and shall hold any surplus proceeds of sale on trust for the owner of the vessel.

(4) If the owner of a vessel removed under paragraph (3) above is unknown and cannot after diligent inquiry be found, the Comhairle may apply to the sherrif for an order giving the appropriate directions as to the disposal by the Comhairle of any surplus proceeds of sale.

General directions to vessels

18.—(1) The Comhairle may after consultation with the Royal Yachting Association give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in a harbour area and, without prejudice to the generality of the foregoing, for any of the following purposes: –

- (a) for designating areas, routes or fairways in a harbour area which vessels are to use, or refrain from using, for movement, mooring or anchorage;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) for securing that vessels make use of descriptions of aids to navigation specified in the direction;
- (d) for prohibiting–
 - (i) entry into a harbour area by a vessel which for any reason would be or likely to become a danger to other vessels in a harbour area, or to persons, property, flora or fauna in a harbour area; and
 - (ii) entry into or navigation within any of the main fairways during any temporary obstruction thereof;
- (e) for prohibiting entry into or movement in a harbour area or the approaches by vessels at times of poor visibility due to the weather or to the presence of dust or smoke;

Provided that no direction given under sub-paragraph (e) above shall prevent the entry into a harbour area or the approaches of any vessel seeking refuge from stress of weather;

- (f) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for effecting any of the purposes of this paragraph.

(2) A direction under this article may apply–

- (a) to all vessels or to a class of vessels designated, or for which the designation is provided for, in the direction; or
- (b) to the whole of a harbour area or to a part designated, or for which the designation is provided for, in the direction; or
- (c) at all times or at times designated, or for which the designation is provided for, in the direction;

and every direction under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c) above.

(3) The Comhairle may after consultation with the Royal Yachting Association revoke or amend any general direction.

Publication of general directions

19.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in an emergency, be published by the Comhairle as soon as practicable once in a newspaper circulating in the locality of the harbour area to which the direction relates, and, if the notice relates to the giving or amendment of a direction, it shall state a place at which copies of the direction may be inspected and bought and the price thereof.

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

Special directions to vessels

20.—(1) The harbour master may give a direction under this article in respect of a vessel anywhere in a harbour area for any of the following purposes:–

- (a) requiring persons to comply with a requirement made in or under a general direction;
- (b) regulating or requiring the movement, berthing, mooring or unmooring of the vessel;

- (c) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores and the dispatch of its business in the harbour area;
- (d) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (e) as to the use of the motive power of the vessel;
- (f) prohibiting or restricting the use of fires or lights;
- (g) as to the use of ballast;
- (h) requiring the removal from any part of a harbour area of a vessel if –
 - (i) it is on fire; or
 - (ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink; or
 - (iii) it is making an unlawful use of a harbour area or interfering with the reasonable use or enjoyment thereof by other vessels or persons or the dispatch of business therein; or
 - (iv) its removal is necessary to enable maintenance or repair work to be carried out in the harbour area or to premises adjacent thereto; and
 - (v) its removal is considered by the harbour master to be necessary in order to avoid danger to life (including wildlife) or to property.

(2) In an emergency the harbour master may give special directions applicable to all vessels or to a particular class of vessels for any of the purposes mentioned in paragraph (1) above.

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

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

Failure to comply with directions

21.—(1) The master of a vessel who fails to comply with a general direction or special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Without prejudice to any other defence, it shall be a defence to a charge made pursuant to paragraph (1) above that the master had reasonable ground for believing that to comply with the direction in question would have endangered life or imperilled the safety of any vessel or its cargo, or that for other reason such compliance was impracticable.

Enforcement of special directions

22.—(1) Without prejudice to any other remedy available to the Comhairle, if a special direction is not complied with within a reasonable time, the harbour master may 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 a vessel to attend to a special direction, the harbour master may proceed as if the direction had been given and not complied with.

(3) The powers of paragraph (2) above shall not be exercised—

- (a) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or
- (b) in relation to a lighter unless it is obstructing or interfering with navigation.

(4) Expenses incurred by the Comhairle in the exercise of the powers conferred by this article shall be recoverable by it as if they were a charge of the Comhairle in respect of the vessel.

Master's responsibility in relation to directions

23. 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 his vessel, to persons on board the vessel, to the cargo or any other person or property.

Powers with respect to disposal of wrecks

24.—(1) In their application to the Comhairle, sections 252 and 253 of the Merchant Shipping Act 1995 shall have effect—

- (a) subject to the provisions of article 25 below; and
- (b) in relation to a vessel sunk, stranded or abandoned before as well as after the making of this Order.

(2) Subject to paragraph (3) below, and to any enactment for the time being in force limiting his liability, the Comhairle may recover from the owner of any vessel in relation to which it has exercised its powers under the said section 252 or the said section 253 any expenses reasonably incurred by it under those sections in relation to that vessel which are not reimbursed out of the proceeds of sale (if any) within the meaning of those sections.

(3) Except in a case of emergency, paragraph (2) above shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on it by the said section 252, other than the power of lighting and buoying, the Comhairle has given to the owner of the vessel not less than 48 hours' notice of its intention to do so; and if before the notice expires the Comhairle receives from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under paragraph (2) (b) of article 25 below, he shall be at liberty to do so, and the Comhairle shall not exercise the powers aforesaid in relation to that vessel until the expiration of 7 days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Comhairle.

(4) Notice under paragraph (3) above to the owner of any vessel may be served by the Comhairle either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom or, if the owner or any such place of business or abode is not known to the Comhairle or is not in the United Kingdom, by displaying the notice at the office of the harbour master for the period of its duration.

(5) In this article the expression “owner” in relation to any vessel means the present owner or, as the case may require, the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof.

Protection of Crown interest in wrecks

25.—(1) Without prejudice to section 308(1) of the Merchant Shipping Act 1995, the powers conferred on the Comhairle by sections 252 and 253 of that Act shall not be exercisable—

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in sub-paragraph (b) of paragraph (2) below, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—
 - (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
 - (ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The Comhairle shall give notice in writing to the Secretary of State for Defence and to the Scottish Ministers of any decision of the Comhairle to exercise in relation to any vessel referred to in sub-paragraph (b) of paragraph (1) above any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of the Comhairle a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State for Defence and the Scottish Ministers, before the expiration of a period of 14 days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Comhairle a direction by the Secretary of State for Defence or the Scottish Ministers that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where in any such case the Comhairle proceeds to exercise those powers without the consent and before the expiration of the period mentioned in sub-paragraph (a) of this paragraph or after a direction has been served on it as aforesaid, it shall not in the exercise of those powers use any explosives and if, before the expiration of that period such a direction is served on it, shall not be entitled to exercise the power of sale conferred by the said section 252 or the power conferred by paragraph (2) of article 24 above:

Provided that—

- (i) the Comhairle shall not be required to give notice under this paragraph in respect of any vessel in respect of which it has received a consent under sub-paragraph (b) of paragraph (1) above, but any direction such as is referred to in sub-paragraph (b) of this paragraph accompanying that consent shall be deemed for the purposes of this paragraph and of paragraph (3) of the said article 24 to have been duly served under sub-paragraph (b) of this paragraph;
- (ii) the prohibition on the use of explosives imposed by this paragraph shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Secretary of State for Defence for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Comhairle by the said section 252, the Comhairle shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1995 raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section in accordance with such directions (if any) as may be given to it by the receiver of wreck; and on exercising the said power of sale in the case of any property the Comhairle shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Comhairle under that section.

(4) Any limitation on the powers of the Comhairle in relation to any vessel arising by virtue of paragraph (1) or paragraph (2) above shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Commissioners of Northern Lighthouses by section 252 of the said Act of 1995.

Power to deal with unseaworthy vessels

26.—(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847 and on the Comhairle by virtue of the Merchant Shipping Act 1995 and by other provisions of this Order, the Comhairle may remove, sell, destroy or otherwise dispose of any vessel laid by or neglected as unseaworthy in, or on land adjoining, the waters of a harbour area.

(2) The Comhairle may retain out of the proceeds of sale of any such vessel, or any part thereof, any expenses incurred by it in respect of the vessel or in marking, buoying, lighting or otherwise controlling the vessel or warning shipping of its presence and any expenses incurred by the harbour master under section 57 of the Act of 1847, and shall pay the surplus, if any, to the person entitled thereto.

(3) If the proceeds of sale are insufficient to reimburse the Comhairle for the said expenses, or there is no sale, the Comhairle may recover the deficiency, or, where there is no sale, the whole of the expenses, from the owner as a debt.

(4) Except in the case of emergency the Comhairle shall before exercising its powers under this article give not less than 21 days' notice of its intention to do so.

(5) Notice under paragraph (4) above shall be given —

- (a) by advertisement in each of three successive weeks in a local newspaper; and
- (b) by displaying the notice at the office of the harbour master for the harbour area where the vessel is situated and at the post office nearest to that area; and

- (c) in the case of a vessel which is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995, by serving the notice by post on the registered owner of the vessel unless the owner or his place of business or abode is not known to the Comhairle, or is outside the United Kingdom.

Removal of obstructions other than vessels, vehicles or wreck

27.—(1) Without prejudice to its powers under any other enactment (including one contained in this Order) the Comhairle may remove anything which is causing or likely to become an obstruction or impediment to the proper use of any part of a harbour area other than—

- (a) a vessel or vehicle; or
- (b) wreck within the meaning of Part IX of the Merchant Shipping Act 1995.

(2)(a) If anything removed by the Comhairle under paragraph (1) above is known to the Comhairle to be, or is so marked as to be readily identifiable as, the property of any person, the Comhairle shall within one month of its coming into its custody give notice, in accordance with paragraph (5) below, to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period vest in the Comhairle.

- (b) If the ownership of anything removed by the Comhairle under paragraph (1) above which is not so known or marked is not within 3 months of its coming into the custody of the Comhairle proved to its reasonable satisfaction, it shall vest in the Comhairle.

(3) The Comhairle may at such time and in such manner as it thinks fit dispose of anything which is of a perishable or obnoxious nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Comhairle under this article, and if it is sold the proceeds of sale shall be applied by the Comhairle in payment of the expenses incurred by it under this article in relation to the thing, and any balance –

- (a) shall be paid to any person who within 3 months from the time when the thing came into custody of the Comhairle proves to its reasonable satisfaction that he was the owner thereof at that time; or
- (b) if within the said period no person proves ownership at the said time, shall vest in the Comhairle.

(4) If anything removed under this article—

- (a) is sold by the Comhairle and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred in the exercise of its powers of removal; or
- (b) is unsaleable;

the Comhairle may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner when the thing removed came into the custody of the Comhairle or who was the owner at the time of its abandonment or loss.

(5) A notice given under paragraph (2)(a) above shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Comhairle possession may be retaken at a place specified in the notice within the time specified therein, being not less than 14 days after the date when the notice is served.

(6) The Comhairle shall not under the powers of this article move anything placed or constructed by any person under the provisions of any enactment or of a consent or licence given or issued by the Comhairle thereunder.

Removal of vehicles

28.—(1) If a vehicle is left without permission of the Comhairle—

- (a) in a parking place provided by the Comhairle within the harbour premises for a longer period than 24 hours; or
- (b) in any part of the harbour premises where the parking of vehicles is prohibited by notice erected by the Comhairle; or
- (c) in any place within the harbour premises where it is likely to obstruct or interfere with the use of the harbour premises;

the Comhairle may cause it to be removed to a place of safe custody.

(2) Any such notice as is referred to in paragraph (1) above shall be conspicuously posted in or in proximity to the place to which it relates.

(3) Where the Comhairle in exercise of the powers of this article causes a vehicle to be removed the expenses of and incidental to its removal and safe custody shall be recoverable by the Comhairle from the person responsible.

(4) If the Comhairle in exercise of the powers of this article causes a vehicle to be removed, it shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1971(a), at his last known address, his registered address, or the address where the vehicle is ordinarily kept, notice that the Comhairle has exercised the powers of this article and of the place to which the vehicle has been removed.

(5) A notice stating the general effect of paragraph (1) above shall be displayed in a prominent position at each entrance to any parking place provided by the Comhairle and at each place where a road accessible to vehicles enters any part of the harbour premises, and shall be endorsed on any tickets issued to persons leaving vehicles in such parking place or elsewhere at the harbour premises.

(6) In paragraph (3) above, “person responsible”, in relation to a vehicle, means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was so removed, unless he shows that he was not concerned in and did not know of its being put there;
- (b) any person by whom it was put in that place;
- (c) any person convicted of an offence under section 2 of the Refuse Disposal (Amenity) Act 1978(b) in consequence of the putting of the vehicle in that place.

Power to remove goods

29.—(1) If any goods are left on or in any part of the harbour premises the Comhairle may require the owner of the goods to remove them; and if the goods are not so removed within six hours after such requirement the Comhairle may cause them to be removed to the Comhairle's or any other public warehouse or store; and such removal shall be carried out at the expense and risk of the owner.

(2) Notwithstanding such removal on behalf of the Comhairle, the goods shall be subject to a lien for the cost of removal, and for any charges payable to the Comhairle by the owner in respect of the goods.

(3) In this article, “goods” includes vehicles and equipment.

Byelaws

Powers to make byelaws, etc.

30.—(1) The Comhairle may from time to time make byelaws for the efficient management and regulation of a harbour area and the harbour undertaking.

(2) Without prejudice to the generality of paragraph (1) above, byelaws may be made under this article for the following purposes: —

- (a) regulating the use, operation and superintendence of a harbour area and the docks, berths, wharves, quays, piers, jetties, staiths, warehouses, sheds, landing places, locks, sluices, equipment, works and conveniences (including moorings);
- (b) regulating the admission to, and the movement within, and the departure of vessels from a harbour area or the removal of vessels, and for the good order and government of vessels whilst within a harbour area;
- (c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods, including marine creatures of any type, within a harbour area;
- (d) regulating the navigation, berthing and mooring of vessels within a harbour area and their speed and manner of navigation, and the use of tugs within a harbour area;

(a) S.I. 1971/450.

(b) 1978 c.3.

- (e) preventing damage or injury to any vessels, goods, vehicles, plant, machinery, property or persons within a harbour area;
- (f) regulating the conduct of all persons in a harbour area not being members of a police force or officers or servants of the Crown whilst in the exercise of their duties;
- (g) regulating the placing and maintenance of moorings within a harbour area;
- (h) preventing and removing obstructions or impediments within a harbour area;
- (i) prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) into a harbour area;
- (j) regulating the use of ferries within a harbour area;
- (k) regulating in a harbour area the use of yachts, sailing boats, sailboards, rowing boats, pleasure craft and other small craft;
- (l) regulating the holding of regattas and other public events in a harbour area;
- (m) regulating or prohibiting the activities in a harbour area 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 (k) above;
- (n) regulating the launching of vessels within a harbour area;
- (o) prohibiting persons working or employed in or entering a harbour area, or any part thereof, from smoking therein;
- (p) regulating or preventing the use of fires and lights within a harbour area, and within any vessels within a harbour area;
- (q) regulating the movement, speed and parking of vehicles within a harbour area;
- (r) regulating the use of any fish market provided by the Comhairle and the conduct of persons working therein or resorting thereto, and for preventing nuisance or annoyance thereat;
- (s) regulating the exercise of the powers vested in the harbour master;
- (t) making the carrying out of specified harbour operations, or the conduct of persons in a harbour area, subject to the approval (with or without conditions), control or direction of the harbour master, and for authorising him to take such action as may be reasonably required in default of compliance with any such condition, control or direction;
- (u) for the conservation of the natural beauty of all or any part of a harbour area or of any of the fauna, flora or geological or physiographical features in a harbour area and all other natural features.

(3) Byelaws made under this article may—

- (a) provide for imposing upon persons offending against them, or against any condition, requirement or direction imposed, made or given thereunder on summary conviction, fines not exceeding level 4 on the standard scale;
- (b) relate to the whole of a harbour area or to any part thereof;
- (c) make different provisions for different parts of a harbour area or in relation to different classes of vessels.

(4) Where a person is charged with an offence against a byelaw in force under this article, it shall be a defence that the offence was not caused or facilitated by any act or neglect on his part or on the part of any person engaged or employed by him and, if he was at the material time the owner or master of a vessel, that all reasonable steps were taken to prevent the commission of the offence.

(5) Where the Scottish Ministers propose to exercise the power of modification conferred on them by subsection (10) of section 202 of the Local Government (Scotland) Act 1973^(a), and the modification appears to them to be substantial, they shall inform the Comhairle and require it to take any steps they consider necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as they think reasonable for consideration of, and comment upon, the proposed modification by the Comhairle and by other persons who have been informed of it.

(a) 1973 c.65.

PART III
CONTROL OF WORKS, DREDGING, ETC.

Restriction of works and dredging

- 31.**—(1) No person other than the Comhairle shall in a harbour area—
- (a) construct, place, alter, renew or maintain any works; or
 - (b) dredge;
- unless he is licensed so to do, in the case of works by a works licence and in the case of dredging by a dredging licence, nor except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of article 32 or, as the case may require, article 33 below.
- (2) Any person who contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) The Comhairle may by notice require a person who contravenes this article to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates, and to restore the site thereof to its former condition; and if he fails to comply with the notice the Comhairle may carry out the works so required and may recover the cost of so doing from that person.
- (4) Nothing in this article shall affect the powers of a public telecommunications operator under the Telecommunications Act 1984(a).

Licensing of works

- 32.**—(1) The Comhairle may upon such terms and conditions as it thinks fit grant to any person a licence to construct, place, alter, renew or maintain works within a harbour area on, under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, placed, altered, renewed or maintained.
- (2) Application for a works licence shall be made in writing to the Comhairle and shall—
- (a) be accompanied by plans, sections and particulars of the works to which the application relates; and
 - (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken or to be taken to enable him to obtain such rights if the licence is granted.
- (3) In granting a licence the Comhairle may require modifications in the plans, sections and particulars submitted to it by the applicant.
- (4) If the Comhairle decides to grant a works licence it shall give notice of its decision to the applicant.
- (5) If within 3 months from the date of the making of an application under paragraph (2) above the Comhairle does not notify to the applicant its decision whether to grant a works licence, it shall be deemed to have refused the application.
- (6) The Comhairle may charge a reasonable fee for the grant of a licence under this article.
- (7) The grant of a licence under this article has effect for the purposes of article 31 above and confers no other authority for the carrying out of the operations covered by the licence.
- (8) In the execution of any works to which a works licence relates, the licensee shall not damage or injuriously affect any electrical plant or electric line (as respectively defined in section 64 of the Electricity Act 1989(b)) belonging to, or used or maintained by Scottish and Southern Energy plc or, without consent of that company, interfere with or adversely affect the operation of any such line or work.

(a) 1984 c.12.
(b) 1989 c.29.

Licensing of dredging

33.—(1) The Comhairle may upon such terms and conditions as it thinks fit grant to any person a licence to dredge in any part of a harbour area.

(2) Application for a dredging licence shall be made in writing to the Comhairle and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations in respect of which application is made.

(3) In granting a licence the Comhairle may require modifications in the plans, sections and particulars submitted to it by the applicant.

(4) If the Comhairle decides to grant a dredging licence it shall give notice of its decision to the applicant.

(5) If within 3 months from the date of making an application under paragraph (2) above the Comhairle does not notify the applicant of its decision whether to grant a dredging licence it shall be deemed to have refused the application.

(6) Unless otherwise agreed between the Comhairle and the licensee any materials (other than wreck within the meaning of the Merchant Shipping Act 1995) taken up or collected by means of dredging in pursuance of a dredging licence shall, in so far as they are not the property of the Comhairle before being taken up or collected, but subject to the provisions of article 61 below, become the property of the Comhairle, and the Comhairle may use, appropriate or dispose of any such material.

(7) The Comhairle may charge a reasonable fee for the grant of a licence under this article.

(8) The grant of a licence under this article has effect for the purposes of article 31 above and confers no other authority for the carrying out of the operations covered by the licence.

(9) In the execution of any works to which a dredging licence relates the holder of the licence shall not damage or injuriously affect any electrical plant or electric line (as respectively defined in section 64 of the Electricity Act 1989) belonging to or used or maintained by Scottish and Southern Energy plc or, without the consent of that company, interfere with or adversely affect the operation of any such line or work.

Appeals in respect of works or dredging licences

34.—(1) Where—

- (a) the Comhairle has refused to grant a works licence or a dredging licence and the applicant for the licence is aggrieved by the refusal, or
- (b) the Comhairle has granted such a licence upon terms or conditions or has required modifications to be made in the plans, sections and particulars submitted by the applicant, and the applicant is aggrieved by the Comhairle's decision as to such terms or conditions, or as to such modifications,

the applicant may within 28 days from the date on which the Comhairle gives notice of its decision or the date on which it is under article 32 or article 33 above deemed to have refused the application, as the case may be, appeal to the Scottish Ministers.

(2) An appeal under this article shall be made by notice in writing, stating the grounds of the appeal.

(3) A person who appeals to the Scottish Ministers under this article shall at the same time send a copy of his statement of appeal to the Comhairle and the Comhairle shall as soon as practicable thereafter furnish the Scottish Ministers with all relevant documents, and may within 28 days from the receipt of the statement of appeal furnish the Scottish Ministers with its observations on the appeal.

(4) On an appeal under this article the Scottish Ministers may confirm, vary or revoke the decision appealed against and may require any consequential amendments to be made, including amendment of the terms and conditions or modification of the plans, sections and particulars.

(5) The Comhairle shall give effect to any decision or requirement given or made by the Scottish Ministers under paragraph (4) above.

Repair of structures, etc.

35.—(1) The Comhairle may by notice require the owner or occupier of a pier, landing place, embankment, structure or other work which in the opinion of the Comhairle is, or is likely to become, by reason of its insecure condition or want of repair—

- (a) dangerous to persons or vessels using a harbour area; or
- (b) a hindrance to the navigation of a harbour area;

to remedy its condition to the satisfaction of a duly authorised officer of the Comhairle within a reasonable time specified in the notice.

(2) If a person to whom notice is given under this article fails to comply with it within the time stated in the notice or, if he appeals and the appeal is not allowed, within the time stated in the notice or such other time as the court may substitute therefor—

- (a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale; and
- (b) the Comhairle may carry out the works it considers necessary to remedy the condition of the pier, landing place, embankment, structure or other work in question, and may recover the expenses of so doing from the person on whom the notice was served.

(3) A notice under paragraph (1) above shall have annexed to it a copy of this article.

(4) A person aggrieved by a notice served by the Comhairle under paragraph (1) above may appeal under section 50 of the Sheriff Courts (Scotland) Act 1907^(a) to the sheriff by way of summary application and the sheriff may confirm, vary or quash the notice as he thinks just, and make such order in the matter as he considers equitable, and the determination of the sheriff on any such appeal shall be binding on all parties, and shall be final.

PART IV

FACILITIES AND SERVICES, ETC.

Handling of fish, cargo, etc.

36. The Comhairle may make arrangements for the handling, sale, storage, processing and trans-shipment of fish or fish products and other goods or cargo passing through a harbour area.

Power to provide and operate fish markets

37.—(1) The Comhairle may in relation to a harbour area provide, operate and maintain a market for the sale of fish with all such appliances and fittings as it deems necessary and suitable for the purposes thereof, and may—

- (a) divide or allocate any parts thereof into stalls or other defined or limited places;
- (b) in connection with such market provide and operate such services and facilities as may be requisite or expedient;
- (c) fix and regulate the hours during which the market or any part thereof shall be open;
- (d) recover such reasonable charges as it thinks fit for the use of the market and for such services and facilities.

(2) The Comhairle may, for such consideration and upon such terms and conditions, subject to such restrictions and for such periods as it thinks fit, sell, feu, lease, excamb or otherwise dispose of the whole or any part of the lands forming a fish market or part thereof and may enter into and carry into effect agreements with respect to any offices, stalls and ancillary buildings in connection therewith.

Power to provide warehouses and other facilities

38. The Comhairle may provide warehouses, workshops, slipways and services for marine repairs and ancillary works or contract with others for the provision of such facilities or services.

(a) 1907 c.51.

Power to provide parking places

39. The Comhairle may provide facilities (including shelters) within a harbour area for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences.

Power to hire out plant, etc.

40. The Comhairle may let upon hire (with or without the services of its employees) on such terms and conditions as it thinks fit any vessel, plant, equipment or other property belonging to it and forming part of the harbour undertaking.

Provision of vessels

41. The Comhairle may construct, purchase, contract for or hire, and may maintain and use, vessels required by it for carrying out its functions under this Order, including dredging, and may sell or dispose of any such vessels belonging to it.

Provision of supplies

42.—(1) The Comhairle may provide and supply or make arrangements with others for the provision and supply of fuel, ice, water, chandlery and marine equipment for the bunkering and service of vessels.

(2) Supplies may be provided under this article in a harbour area or (with the consent of the occupier of the land) at any other place in na h'Eileanan an Iar where such supplies may be required by vessels which customarily use a harbour area.

(3) The Comhairle may lay down and maintain or make arrangements for the laying down and maintenance of pipelines, storage tanks, equipment and other apparatus, and the execution of ancillary and necessary works, for the purposes of such supplies in a harbour area or (with the consent of the occupier of the land) at any other place in na h'Eileanan an Iar where supplies are to be provided under this article.

PART V

CHARGES

Charges other than ship, passenger and goods dues

43.—(1) The Comhairle may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig or floating plant, which is not a ship as defined by section 57 of the Harbours Act 1964, entering, using or leaving a harbour area such charges as it thinks fit, and sections 30 and 31 of that Act shall with any necessary modifications apply to the charges authorised by this paragraph as they apply to ship, passenger and goods dues.

(2) The Comhairle may make such charges for services and facilities provided by it or on its behalf in relation to a harbour area as it may from time to time determine.

(3) In paragraph (2) above "charges" does not include ship, passenger or goods dues as defined by section 57 of the Harbour Act 1964.

Liability for charges

44.—(1) Charges payable to the Comhairle on or in respect of—

- (a) a vessel, shall be payable by the owner or master of the vessel;
- (b) goods, shall be payable by the owner, consignee or shipper of the goods.

(2) Where a charge payable to the Comhairle may be recovered from more than one person the persons from whom it is recoverable shall be jointly and severally liable.

Power to grant exemptions, rebates, etc., in respect of charges

45.—(1) The Comhairle may confer total or partial exemptions from, allow rebates to or make compositions with any person with respect to charges, and may vary or extinguish any such exemption or composition.

(2) Nothing in section 30 of the Harbours Act 1964 shall require the Comhairle to include in the list of ship, passenger and goods dues kept at a harbour area office, as required by subsection (1) of that section, charges reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in the said list.

Account of goods

46.—(1) When goods are to be unshipped within a harbour area the master of the vessel containing them shall—

- (a) within 24 hours of the arrival of the vessel within the area, deliver to the harbour master the name of the consignee of the goods and a copy of the bill of lading or manifest or, if part only of the cargo is to be unshipped, a sufficient account in writing of the goods to be unshipped;
- (b) if required so to do by the harbour master, give to him 24 hours' notice of the time at which any such goods are to be unshipped.

(2) Before any person ships goods on board of a vessel within a harbour area he shall give to the harbour master a true account signed by him, of the kinds, quantities and weights of the goods.

- (3)(a) If any difference arises between the harbour master and a master or the owner of goods or consignee concerning the weight or quantities of goods in respect of which charges may be payable, the harbour master may cause the goods to be weighed or measured and may detain a vessel containing such goods until the goods have been so weighed or measured.
- (b) Section 46 of the 1847 Act shall apply to any difference such as is referred to in subparagraph (a) above.

(4) Any person who contravenes or fails to comply with the provisions of paragraph (1)(a) or (2) above, or with any requirement made under paragraph (1)(b) above, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Recovery of charges by seizure, etc.

47.—(1) If default is made in the payment of any charge in respect of a vessel or its cargo the harbour master may, on producing if so required his authority, board the vessel with such assistance as he deems necessary and take, seize or arrest the vessel and the tackle and cargo thereof, and if the charge remains unpaid for 7 days after the seizure or arrestment may cause any of the matters so seized or arrested to be sold, and the surplus (if any) of the proceeds of sale over the amount of the charge and over the expenses of taking, keeping, appraising and selling the matters aforesaid shall be paid to the master on demand.

(2) If any dispute arises as to the amount of charge due, or of the expenses of seizure or arrestment by virtue of this article, the harbour master may detain the matters so seized or arrested until the amount aforesaid, subject to any costs of the application payable by either party, has been determined upon application to the sheriff.

Security for charges

48. The Comhairle may require a person who incurs or is about to incur a charge to deposit with it, or to guarantee, such sum of money as is, in the opinion of the Comhairle, reasonable having regard to the amount or probable amount of the charge, and where such a person fails to deposit or guarantee the sum of money required the Comhairle may detain the vessel in a harbour area or goods on or in harbour premises, in respect of which the charge has been or will be incurred, until the requirement has been complied with or the charge paid.

Liens for charges

49.—(1) A person who by agreement with the Comhairle collects charges on its behalf and who pays or gives security for the payment of charges on goods in his possession shall have a lien on those goods for the amount paid or security given in respect of the amount.

(2) A wharfinger or carrier who is not himself liable for the payment of charges may pay or by agreement with the Comhairle give security for charges on goods in his custody, and in that event he shall have a like lien on the goods for the amount of those charges as he would have in respect of his charges for safe custody or carriage of the goods, as the case may be.

Refusal of customs clearance

50.—(1) A customs officer may refuse—

- (a) to receive a report inwards or to grant a clearance outwards to a vessel; and
- (b) to pass an entry for imported goods liable to charges;

unless he is satisfied that all charges payable to the Comhairle in respect of that vessel or of those goods, as the case may be, have been paid or that a sum of money or guarantee in respect thereof has been deposited with, or given to, the Comhairle.

(2) Where a person who has paid, or by agreement with the Comhairle given security or deposited a guarantee for, a charge on or in respect of a vessel or goods, requests a certificate of his having done so for production to a customs officer in order to prevent a refusal under paragraph (1) above, the Comhairle shall give him such a certificate in such form as it shall determine.

Refusal to pay charges for landing place, etc.

51. An officer of the Comhairle may prevent a vessel from using a landing place or any other facilities provided by the Comhairle, if the master of the vessel refuses to pay the charges for such use.

Exemptions from charges

52.—(1) Except in so far as may be agreed between the Comhairle and the government department or person concerned or as may be specifically laid down by statute, nothing in any enactment authorising the Comhairle to levy charges shall extend to authorise it to levy charges on—

- (a) a vessel—
 - (i) belonging to or in the service of Her Majesty or any member of the Royal Family; or
 - (ii) in the service of the Commissioners of Customs and Excise and not carrying goods for reward; or
 - (iii) in the service of the Commissioners of Northern Lighthouses and not carrying goods for reward; or
 - (iv) belonging to or used by the lifeboat service whilst employed in or in connection with the functions of that service;
- (b) the Commissioners of Customs and Excise in respect of a vessel or goods under customs seizure;
- (c) troops landed at the harbour premises or a person employed by the Secretary of State for Defence while in the execution of his duty;
- (d) goods or stores belonging to the Secretary of State for Defence.

(2) Officers of the Department for Transport and of the Scottish Executive in the execution of their duty shall at all times be exempt from charges in respect of their vessels and otherwise.

(3) This Order shall not extend to subject any person to liability for charges in respect of a vessel which merely passes through the limits of a harbour area without mooring or making use of any facilities provided by the Comhairle.

Conditions as to payment of charges

53.—(1) Charges shall be payable subject to such terms and conditions as the Comhairle may from time to time specify in its published list of charges.

(2) Without prejudice to the generality of paragraph (1) above the terms and conditions may prescribe the time when a charge falls due for payment and may require such information to be given to the Comhairle by the owner or master of a vessel or a person using a service or facility of the Comhairle as the Comhairle may require in connection with the assessment or collection of a charge.

PART VI

MISCELLANEOUS

Reserve fund

54.—(1) If in respect of any financial year the moneys received by the Comhairle on account of the revenue of the harbour undertaking exceed the moneys expended or applied by it in respect thereof, the Comhairle may in respect of that year carry to the credit of a reserve fund in respect of the harbour undertaking such a sum as it considers reasonable not exceeding the amount of such excess.

(2) Moneys for the time being standing to the credit of the reserve fund may be invested in any securities in which trustees are for the time being authorised to invest trust moneys including debenture stock or other security created by the Comhairle.

(3) Any reserve fund provided under this article may be applied –

- (a) in making good to the regional rate fund any deficiency at any time arising in the income of the Comhairle from the harbour undertaking;
- (b) in meeting any extraordinary claim or demand at any time arising against the Comhairle in respect of the harbour undertaking;
- (c) in defraying any expenditure in connection with the harbour undertaking for which capital is properly applicable or in providing money for repayment of loans;
- (d) in defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing buildings, works, plant, vessels, equipment or articles forming part of the harbour undertaking; or
- (e) for any purpose which in the opinion of the Comhairle is desirable in the interests of securing the improvement, maintenance or management of a harbour area in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea to or from a harbour area.

Power to sell or lease works

55.—(1) The Comhairle may, with the consent in writing of, and upon such terms, conditions and restrictions (and in the case of a lease for such period) as may be approved by, the Scottish Ministers, sell or lease works in a harbour area.

(2) As from such sale or the commencement of such lease the purchaser, to the extent authorised by his conveyance, or the lessee during and to the extent provided in his lease, shall have and may exercise in relation to the works all or any of the powers conferred upon the Comhairle by this Order, and shall in respect of the works be subject to all the restrictions, liabilities and obligations to which the Comhairle is subject, and shall perform all the duties of the Comhairle under this Order in respect of the works.

(3) No lease made under this section shall be assignable without the previous consent in writing of the Scottish Ministers, and the provisions of this article with respect to such lease or the lessee shall apply to any such assignment or to the assignee respectively.

Power to lease harbour land and enter into agreements

56. The Comhairle may for such consideration and upon such terms and conditions and subject to such restrictions and for such period as it thinks fit sell, feu, lease, excamb or otherwise dispose of the whole or any part of the lands which from time to time form a harbour area and may carry into effect agreements with respect to any offices, stalls and ancillary buildings in connection therewith.

Saving for certain enactments, etc.

57.—(1) Nothing in this Order affects prejudicially the operation of—

- (a) the Prevention of Oil Pollution Act 1971(a);
- (b) the Control of Pollution Act 1974(b);
- (c) the Offshore Petroleum Development (Scotland) Act 1975(c);
- (d) Part II of the Food and Environment Protection Act 1985(d);
- (e) Part I of the Coast Protection Act 1949(e), or the operation of sections 34 and 36 of that Act in their application to operations carried out by virtue of article 33 above;
- (f) any of the relevant statutory provisions as defined in section 53 of the Health and Safety at Work etc. Act 1974(f).

(2) Subsection (1) of section 80 (repeal or modification of certain provisions by regulations) of the Health and Safety at Work etc. Act 1974 shall apply to any provision of this Order and to any regulation and byelaw made under it as it applies to any provision to which it relates.

(3) The Town and Country Planning (Scotland) Act 1997(g) and any order, regulations, rules, schemes and directions made or given thereunder and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that development thereof is or may be authorised by this Order.

Saving for town and country planning

58. Any works such as are authorised by article 5, article 6 or article 7 above shall not for the purposes of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(h) be treated as—

- (a) development authorised by an order made under section 14 of the Harbours Act 1964 which designates specifically the nature of the development authorised and the land upon which it may be carried out; or
- (b) development on operational land by statutory undertakers or their lessees in respect of a dock, pier or harbour undertaking, being development which is required for the purposes of shipping or in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour.

Saving for Commissioners of Northern Lighthouses

59. Nothing in this Order shall affect the jurisdiction or authority of the Commissioners of Northern Lighthouses.

For protection of Scottish and Southern Energy plc

60. For protection of Scottish and Southern Energy plc the following provisions shall, save to the extent that the company may release the Comhairle therefrom, apply and have effect:—

- (1) In this article, unless the subject or context otherwise requires—
“apparatus” means any electrical plant and electric line as respectively defined in section 64 of the Electricity Act 1989(i) in or adjoining any of the relevant harbour areas;

(a) 1971 c.60.
(b) 1974 c.40.
(c) 1975 c.8.
(d) 1985 c.48.
(e) 1949 c.74.
(f) 1974 c.37.
(g) 1997 c.8.
(h) S.I. 1992/223 (S.17).
(i) 1989 c.29.

“the company” means Scottish and Southern Energy plc;

“in” in a context referring to apparatus includes under, over, across, along or upon;

“position” includes depth;

“relevant harbour areas” means the areas over which the Comhairle exercises jurisdiction under this Order at Kyles Scalpay Terminal, Ludaig Jetty, Vatersay Causeway Slip East and Vatersay Causeway Slip West,

- (2)(a) Before exercising the powers of article 6 above at, over, under, or near to any apparatus the Comhairle shall give to the company not less than 28 days’ notice in writing of its intention so to do, stating the position of the proposed operation and shall furnish such particulars with respect thereto as the company may reasonably require;
- (b) If within 21 days of receipt of such notice as is provided for by sub-paragraph (b)(i) above the company notify the Comhairle in writing of the need to take measures of which the company shall be sole judge to protect apparatus from possible harm caused by the proposed operation and specify the reasonable requirements subject to which the proposed operation may be carried out, the Comhairle shall—
 - (i) carry out such operation only in accordance with such requirements;
 - (ii) pay to the company the expenses reasonably incurred by them in and in connection with the carrying out of any of the said protective measures;
- (c) Nothing in this Order shall relieve the Comhairle from liability for damage caused by it to any apparatus in the exercise of the powers conferred on it by article 6 above and the Comhairle shall indemnify the company against all claims, demands, costs, damages and expenses not otherwise provided for in this article which may be made or taken against or recovered from or incurred by the company by reason or in consequence of the exercise of the powers of article 6 above, or any act or omission of the Comhairle in or in connection with such exercise.
- (3) The Comhairle and the harbour master shall exercise the powers conferred by this Order and any other statutory powers of a harbour authority or the harbour master in such a way as not to interfere unreasonably with access by the company to their apparatus for the purpose of inspection, maintenance, alteration or reconstruction.
- (4) Nothing in this Order shall authorise the Comhairle to charge any ship, passenger or goods dues as defined in the Harbours Act 1964, in respect of any vessel entering a relevant harbour area solely for the purpose of inspecting, maintaining, altering or reconstructing apparatus.
- (5) Any difference arising between the Comhairle and the company under this article shall be referred to and determined by an arbiter to be mutually agreed upon, or failing such agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Electrical Engineers.
- (6) In settling any difference under this article the arbiter shall have regard to any duties or obligations which the company may be under in respect of any apparatus and may if he thinks fit require the Comhairle to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

Crown Rights

61.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing, nothing in this Order authorises the Comhairle to take, use, enter upon or in any manner interfere with, any land or interest in land (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

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

Repeals and revocations

62.—(1) The Acts specified in columns (1) and (2) of Part I of Schedule 2 to this Order are hereby repealed to the extent specified in column (3) of that Part.

(2) The Orders specified in columns (1) and (2) of Part II of Schedule 2 to this Order are hereby revoked to the extent specified in column (3) of that Part.

Victoria Quay,
Edinburgh
4th September 2002

LEWIS MACDONALD
Authorised to sign by the Scottish Ministers

SCHEDULE 1
HARBOUR AREAS

ACARSAID, ERISKAY

An area of Acarsaid Mhor and its approaches enclosed on its seaward side by an imaginary straight line between Ru Heisinish (latitude 57° 04' 5" north, longitude 007° 16' 42" west) and Rubha Liath (latitude 57° 03' 44" north, longitude 007° 16' 37" west) and on its landward side by the level of high water within the area so enclosed.

AIRD MHOR, BARRA

An area of the Inner Oitir Mhor in the Sound of Barra enclosed on its seaward sides by imaginary lines drawn—

- (a) in an arc of radius 600 metres with centre at latitude 57° 00' 39" north, longitude 007° 24' 05" west, from a point on the north coast of Aird Mhor (latitude 57° 00' 39" north, longitude 007° 24' 38" west) to a point on the northern shore of Lamalum (latitude 57° 00' 25" north, longitude 007° 23' 32" west),
- (b) in a straight line from a point on the west shore of Lamalum (latitude 57° 00' 14" north, longitude 007° 23' 25" west) to a point on the northern shore of Aird Mhor (latitude 57° 00' 13" north, longitude 007° 23' 29" west),

and on its landward sides by the level of high water within the area so enclosed.

ARDVEENISH, BARRA

An area of Bagh Shiarabhagh enclosed on its seaward sides by imaginary straight lines—

- (a) from the south-eastern tip of Rubh na Aeairseid (latitude 56° 59' 10" north, longitude 007° 22' 27" west) to Rubh a Chaolais on the southern tip of Flodday (latitude 56° 59' 37" north, longitude 007° 21' 07" west),
- (b) from the northernmost tip of Flodday (latitude 57° 00' 00" north, longitude 007° 21' 33" west) to the southern tip of Garbh Lingay (latitude 57° 00' 15" north, longitude 007° 21' 54" west),
- (c) from the southern tip of Garbh Lingay (latitude 57° 00' 15" north, longitude 007° 21' 54" west) to the southern point of Sgeirislum (latitude 57° 00' 80" north, longitude 007° 22' 36" west),
- (d) from the southern point of Sgeirislum (latitude 57° 00' 80" north, longitude 007° 22' 36" west) to Eilean na Clarsaich (latitude 57° 00' 07" north, longitude 007° 23' 33" west),
- (e) from Eilean na Clarsaich (latitude 57° 00' 07" north, longitude 007° 23' 33" west) to the southernmost point of Aird Mhor (latitude 57° 00' 10" north, longitude 007° 24' 04" west),
- (f) from the southernmost point of Aird Mhor (latitude 57° 00' 10" north, longitude 007° 24' 04" west) to the southern shore of Ardveenish 450 metres west of the existing slipway (latitude 57° 00' 12" north, longitude 007° 24' 51" west),
- (g) from the southern shore of Ardveenish 450 metres west of the existing slipway (latitude 57° 00' 12" north, longitude 007° 24' 51" west) to the southern side of Bagh Shiarabhagh (latitude 56° 59' 58" north, longitude 007° 24' 33" west),

and on its landward sides by the level of high water within the area so enclosed.

BAYBLE, LEWIS

An area of Lower Bayble Bay enclosed on its seaward side by an arc of radius 500 metres with centre at latitude 58° 11' 53" north, longitude 006° 12' 24" west and on its landward side by the level of high water within the area so enclosed.

BAYS LOCH, BERNERAY

An area of Bays Loch, including Loch Watersee, enclosed on its seaward sides by imaginary straight lines—

- (a) from a point at Rubra Mhanais (latitude 57° 42' 42" north, longitude 007° 09' 56" west) to a point at latitude 57° 42' 30" north, longitude 007° 09' 45" west,

- (b) from a point at latitude 57° 42' 30" north, longitude 007° 09' 45" west to a point at latitude 57° 42' 40" north, longitude 007° 09' 30" west,
- (c) from a point at latitude 57° 42' 40" north, longitude 007° 09' 30" west to a point at latitude 57° 43' 00" north, longitude 007° 08' 45" west,
- (d) from a point at latitude 57° 43' 00" north, longitude 007° 08' 45" west to a point east-south-east of Loch Watersee (latitude 57° 43' 09" north, longitude 007° 08' 59" west),

and on its landward sides by the level of high water within the area so enclosed.

BREVIG, LEWIS

An area of Broad Bay (Loch a' Tuath) enclosed on its seaward sides by imaginary straight lines—

- (a) from a point west of Brevig harbour (latitude 58° 16' 02" north, longitude 006° 17' 58" west) to a point at latitude 58° 15' 45" north, longitude 006° 17' 58" west,
- (b) from a point at latitude 58° 15' 45" north, longitude 006° 17' 58" west to a point at latitude 58° 15' 45" north, longitude 006° 16' 45" west,
- (c) from a point at latitude 58° 15' 45" north, longitude 006° 16' 45" west to a point at Gob Rubha Bhatasgeir at latitude 58° 16' 13" north, longitude 006° 16' 45" west,

and on its landward sides by the level of high water within the area so enclosed.

CEANN A GHARAI DH, ERISKAY

An area of the sea enclosed on its seaward sides by an arc of radius 500 metres with centre at latitude 57° 04' 24" north, longitude 007° 18' 15" west and on its landward side by the level of high water within the area so enclosed.

CHEESEBAY, NORTH UIST

An area of the sea enclosed on its seaward sides by imaginary straight lines—

- (a) from a point north of Cheesebay Slipway (latitude 57° 39' 24" north, longitude 007° 05' 49" west) to the western tip of Vacassay (latitude 57° 39' 27" north, longitude 007° 04' 31" west),
- (b) from the western tip of Vacassay (latitude 57° 39' 27" north, longitude 007° 04' 31" west) to the eastern tip of Orasay (latitude 57° 39' 00" north, longitude 007° 04' 59" west),
- (c) from the northern tip of Orasay (latitude 57° 39' 05" north, longitude 007° 05' 28" west) to a point east-south-east of Cheesebay Slipway (latitude 57° 39' 05" north, longitude 007° 05' 33" west),

and on its landward sides by the level of high water within the area so enclosed.

CROMORE, LEWIS

An area of the sea enclosed on its seaward side by an imaginary straight line drawn between Rubh 'nam Fad (latitude 58° 06' 33" north, longitude 006° 24' 52" west) and a point east of Tob Muice (latitude 58° 06' 21" north, longitude 006° 25' 19" west) and on its landward side by the level of high water within the area so enclosed.

EOLIGARRY, BARRA

An area of An Caolas Fuideach enclosed on its seaward sides by an arc of radius 500 metres with centre at latitude 57° 02' 31" north, longitude 007° 25' 9" west and on its landward side by the level of high water within the area so enclosed.

GRAVIR, LEWIS

An area of Loch Odhairn and its approaches enclosed on its seaward side by an imaginary straight line drawn between a point east of Gravir Pier (latitude 58° 02' 52" north, longitude 006° 24' 34" west) and a point east of Gob Ruaridh Bhain (latitude 58° 02' 42" north, longitude 006° 24' 33" west) and on its landward sides by the level of high water within the area so enclosed.

GRIMINISH, NORTH UIST

An area of Caolas Bhalai gh enclosed on its seaward sides by imaginary straight lines—

- (a) from a point north-north-east of Callernish House (latitude 57° 39' 33" north, longitude 007° 26' 44" west) to the north-west tip of Vallay Island (latitude 57° 39' 41" north, longitude 007° 26' 23" west),

- (b) from a point east-south-east of Griminish pier (latitude 57° 39' 11" north, longitude 007° 25' 39" west) to a point on the south-west of Vallay Island (latitude 57° 39' 25" north, longitude 007° 25' 29" west),

and on its landward sides by the level of high water within the area so enclosed.

HAUN, ERISKAY

An area of the sea enclosed on its seaward sides by an arc of radius 500 metres with centre at latitude 57° 05' 16" north, longitude 007° 18' 16" west and on its landward side by the level of high water within the area so enclosed.

HUSHINISH, HARRIS

An area of Caolas an Scarp enclosed on its seaward sides by an arc of radius 500 metres with centre at latitude 57° 59' 54" north, longitude 007° 05' 46" west and on its landward side by the level of high water within the area so enclosed.

KALLIN, NORTH UIST

An area of the sea enclosed on its seaward sides by imaginary straight lines–

- (a) from a point on Grimsay Island (latitude 57° 29' 02" north, longitude 007° 12' 09" west) to a point on Garbh Eilean Mor (latitude 57° 29' 02" north, longitude 007° 11' 59" west),
- (b) from a point on Garbh Eilean Mor (latitude 57° 28' 51" north, longitude 007° 11' 51" west) to a point on Garbh Eilean Beag (latitude 57° 28' 48" north, longitude 007° 12' 01" west),
- (c) from a point on Garbh Eilean Beag (latitude 57° 28' 48" north, longitude 007° 12' 03" west) to a point west-south-west of Kallin pier (latitude 57° 28' 51" north, longitude 007° 12' 12" west),

and on its landward sides by the level of high water within the area so enclosed.

LEVERBURGH, HARRIS

An area of the Sound of Harris enclosed on its seaward sides by imaginary straight lines–

- (a) from a point south-east of the Leverburgh ferry slipway (latitude 57° 45' 50" north, longitude 007° 01' 07" west) to a point on Fiar Eilean (latitude 57° 45' 51" north, longitude 007° 01' 24" west),
- (b) from a point on Fiar Eilean (latitude 57° 45' 51" north, longitude 007° 01' 24" west) to a point on Suam an t-Sruth (latitude 57° 45' 05" north, longitude 007° 01' 42" west),
- (c) from a point on Suam an t-Sruth (latitude 57° 45' 05" north, longitude 007° 01' 42" west) to the northernmost point of Eilean a Charnain (latitude 57° 45' 48" north, longitude 007° 02' 03" west),
- (d) from the northernmost point of Eilean a Charnain (latitude 57° 45' 48" north, longitude 007° 02' 03" west) to the most easterly point on Sgeir Mhic Coma (latitude 57° 46' 02" north, longitude 007° 02' 14" west),
- (e) from the most easterly point on Sgeir Mhic Coma (latitude 57° 46' 02" north, longitude 007° 02' 14" west) to a point south of Heb Beacon (latitude 57° 46' 09" north, longitude 007° 01' 32" west),
- (f) from the entrance to the Obbe at Rubhe an Losaid (latitude 57° 46' 08" north, longitude 007° 01' 30" west) to a point at latitude 57° 46' 08" north, longitude 007° 01' 29" west,

and on its landward sides by the level of high water within the area so enclosed.

LOCH CEANN DIBIG, HARRIS

An area of the sea enclosed on its seaward side by an arc of radius 500 metres with centre at latitude 57° 52' 01" north, longitude 006° 48' 04" west and on its landward side by the level of high water within the area so enclosed.

LOCHMADDY, NORTH UIST

An area at Lochmaddy enclosed on its seaward sides by imaginary straight lines–

- (a) from a point at the southern tip of Rubha nam Baraillean (latitude 57° 36' 03" north, longitude 007° 09' 22" west) to a point on the western tip of Eilean Phail (latitude 57° 36' 04" north, longitude 007° 09' 20" west),

- (b) from the eastern tip of Eilean Phail (latitude 57° 36' 03" north, longitude 007° 08' 56" west) to the southern tip of Haamersay (latitude 57° 36' 08" north, longitude 007° 08' 04" west),
- (c) from the eastern tip of Haamersay (latitude 57° 36' 10" north, longitude 007° 07' 09" west) to the southern tip of Flodday (latitude 57° 36' 26" north, longitude 007° 07' 09" west),
- (d) from the southern tip of Flodday (latitude 57° 36' 26" north, longitude 007° 07' 09" west) to Weavers Point (latitude 57° 36' 28" north, longitude 007° 07' 09" west),
- (e) from Weavers Point (latitude 57° 36' 28" north, longitude 007° 07' 09" west) to Leac nam Madadh (latitude 57° 35' 39" north, longitude 007° 06' 00" west),
- (f) from Rubha Mor (latitude 57° 35' 30" north, longitude 007° 08' 33" west) to the eastern tip of Vallaquie Island (latitude 57° 35' 28" north, longitude 007° 09' 09" west),
- (g) from the northern tip of Vallaquie Island (latitude 57° 35' 33" north, longitude 007° 09' 20" west) to the southern tip of Cam-ard-Mor (latitude 57° 35' 34" north, longitude 007° 09' 21" west),
- (h) from the northern tip of Cam-ard-Mor (latitude 57° 35' 41" north, longitude 007° 09' 49" west) to the south of Eilean Leiravay (latitude 57° 35' 41" north, longitude 007° 09' 49" west),
- (i) from the north of Eilean Leiravay (latitude 57° 35' 47" north, longitude 007° 10' 01" west) to the southern tip of Scaalan (latitude 57° 35' 48" north, longitude 007° 10' 01" west),
- (j) from the north of Scaalan (latitude 57° 35' 36" north, longitude 007° 10' 06" west) to a point west of Lochmaddy pier (latitude 57° 35' 57" north, longitude 007° 10' 05" west),

and on its landward side by the level of low water within the area so enclosed.

LOCH ROAG, LEWIS

An area of East Loch Roag and West Loch Roag enclosed on its seaward side by imaginary lines—

- (a) from a point on Gallen Head (latitude 58° 14' 40" north, longitude 007° 01' 23" west) to a point at latitude 58° 14' 40" north, longitude 006° 55' 29" west,
- (b) from a point at latitude 58° 14' 40" north, longitude 006° 55' 29" west to a point at Aird Mhor north of Caloway Pier (latitude 58° 18' 17" north, longitude 006° 48' 12" west),

together with all waters below the level of high water, including the navigable waters of all rivers, streams and creeks connecting with East Loch Roag and West Loch Roag, within the area so enclosed.

LUDAIG, SOUTH UIST

An area of the sea enclosed on its seaward side—

- (a) to the east by the western limit of Eriskay Causeway from a point on Rubha na Moline (latitude 57° 06' 13" north, longitude 007° 19' 03" west) to the north-west corner of the Eriskay Causeway bridge (latitude 57° 05' 57" north, longitude 007° 19' 02" west),
- (b) to the south by an imaginary straight line from latitude 57° 05' 57" north, longitude 007° 19' 02" west to a point latitude 57° 05' 55" north, longitude 007° 19' 39" west,
- (c) to the west by an imaginary straight line from latitude 57° 05' 55" north, longitude 007° 19' 39" west to a point south-east of Leac Ruadh (latitude 57° 06' 10" north, longitude 007° 19' 42" west),

together with all waters below the level of high water, including Saltavick Bay, within the area so enclosed.

OROSAY, SOUTH UIST

An area enclosed on its seaward side by imaginary straight lines—

- (a) from the southernmost point of Orosay (latitude 57° 07' 41" north, longitude 007° 24' 34" west) to a point in the sea (latitude 57° 07' 22" north, longitude 007° 24' 30" west),
- (b) from a point in the sea (latitude 59° 07' 22" north, longitude 007° 24' 30" west) to a point west of Garrynarmonie (latitude 57° 07' 25" north, longitude 007° 23' 33" west),

together with all waters below the level of high water within the area so enclosed.

PETERSPORT, BENBECULA

An area enclosed on its seaward sides by imaginary straight lines–

- (a) from a point on Eilean na Cille (latitude 57° 23' 43" north, longitude 007° 14' 54" west) to a point on Trialabreck (latitude 57° 23' 44" north, longitude 007° 14' 53" west),
- (b) from the southernmost point of Trialabreck (latitude 57° 23' 35" north, longitude 007° 14' 23" west) to the western tip of Rubha Stuth a Chomraig (latitude 57° 23' 30" north, longitude 007° 13' 59" west),
- (c) from the western tip of Rubha Stuth a Chomraig (latitude 57° 23' 30" north, longitude 007° 13' 59" west) to the westernmost point of Cleit Charmaig (latitude 57° 23' 21" north, longitude 007° 14' 05" west),
- (d) from the westernmost point of Cleit Charmaig (latitude 57° 23' 21" north, longitude 007° 14' 05" west) to the north-west point of Lingay (latitude 57° 23' 14" north, longitude 007° 14' 14" west),
- (e) from the north-west point of Lingay (latitude 57° 23' 14" north, longitude 007° 14' 14" west) to Scuday Dubh (latitude 57° 23' 20" north, longitude 007° 14' 42" west),
- (f) from Scuday Dubh (latitude 57° 23' 20" north, longitude 007° 14' 42" west) to Fodragay (latitude 57° 23' 25" north, longitude 007° 14' 50" west),
- (g) from the north-east shore of Fodragay (latitude 57° 23' 34" north, longitude 007° 14' 59" west) to a point on Eilean na Cille (latitude 57° 23' 34" north, longitude 007° 14' 51" west),

and on its landward sides by the level of high water within the area so enclosed.

POL NAN CRANN, BENBECULA

An area of the sea enclosed on its seaward sides by an arc of radius 500 metres with centre at latitude 57° 26' 51" north, longitude 007° 24' 07" west and on its landward sides by the level of high water within the area so enclosed.

PORTNAGURAN, LEWIS

An area enclosed on its seaward sides by imaginary straight lines–

- (a) from a point south of Portnaguran Pier (latitude 58° 15' 26" north, longitude 006° 09' 46" west) to a point at latitude 58° 15' 28" north, longitude 006° 08' 20" west,
- (b) from a point at latitude 58° 15' 28" north, longitude 006° 08' 20" west to a point west of the building known as No. 6 Portnaguran (latitude 58° 15' 31" north, longitude 006° 09' 24" west),

and on its landward sides by the level of high water within the area so enclosed.

SCALPAY, ISLE OF SCALPAY

An area within North Harbour enclosed on its seaward side by an imaginary straight line from a point east-south-east of Cuddy Point Pier (latitude 57° 52' 33" north, longitude 006° 42' 25" west) to Aird an Aiseig (latitude 57° 52' 39" north, longitude 006° 42' 24" west), together with all waters below the level of high water within the area so enclosed.

SCARP, ISLE OF SCARP

An area of the sea enclosed on its seaward sides by an arc of radius 500 metres with centre at latitude 58° 00' 47" north, longitude 007° 06' 06" west and on its landward sides by the level of high water within the area so enclosed.

SKIGERSTA, LEWIS

An area of the sea enclosed on its seaward sides by an arc of radius 500 metres with centre at latitude 58° 28' 41" north, longitude 006° 12' 17" west and on its landward side by the level of high water within the area so enclosed.

SOUND OF BERNERAY

An area of the Sound of Berneray enclosed on its seaward sides–

- (a) to the east by imaginary straight lines–
 - (i) from Aird Ma Ruibhe (latitude 57° 42' 16" north, longitude 007° 10' 36" west) to the westernmost point of Torogay (latitude 57° 41' 42" north, longitude 007° 10' 42" west),

- (ii) from the westernmost point of Torogay (latitude 57° 41' 42" north, longitude 007° 10' 42" west) to a point south-east of Newton Ferry Jetty (latitude 57° 41' 20" north, longitude 007° 11' 05" west),
- (b) to the west by the eastern limit of the Berneray Causeway between Otternish (latitude 57° 41' 57" north, longitude 007° 11' 33" west) and a point south-west of Aird Ma Ruibhe (latitude 57° 42' 09" north, longitude 007° 10' 56" west),

and on its landward sides by the level of high water within the area so enclosed.

SOUND OF SCALPAY, HARRIS

An area of the Sound of Scalpay enclosed on its seaward sides—

- (a) to the west by the western limit of the Scalpay Bridge (between latitude 57° 52' 52" north, longitude 006° 41' 44" west and latitude 57° 52' 46" north, longitude 006° 41' 43" west),
- (b) to the east by an imaginary straight line from a point east-south-east of Kyles Scalpay Terminal (latitude 57° 52' 51" north, longitude 006° 40' 41" west) to a point east of Scalpay Terminal (latitude 57° 52' 38" north, longitude 006° 40' 36" west),

together with all waters below the level of high water within the area so enclosed.

STOCKINISH, HARRIS

An area of Caolas Beag enclosed on its seaward sides by imaginary straight lines—

- (a) from the southernmost point of Aird Steinish (latitude 57° 48' 35" north, longitude 006° 48' 42" west) to a point on Stockinish Island (latitude 57° 48' 29" north, longitude 006° 48' 46" west),
- (b) from a point on Stockinish Island (at the narrowest point of the north-west channel) (latitude 57° 48' 46" north, longitude 006° 49' 22" west) to a point south-west of the building known as No.5 Stockinish (latitude 57° 48' 47" north, longitude 006° 49' 21" west),

and on its landward sides by the level of high water within the area so enclosed.

VATERSAY CAUSEWAY

Areas of the sea enclosed on their seaward sides by arcs of—

- (a) radius 500 metres with centre to the east of the East Slip at latitude 56° 56' 46" north, longitude 007° 31' 55" west,
- (b) radius 500 metres with centre to the west of the West Slip at latitude 56° 56' 40" north, longitude 007° 31' 56" west,

and on the landward sides by the levels of high water within the areas so enclosed.

WEST LOCH TARBET, HARRIS

An area of An Loch a'Siar enclosed on its seaward side by an arc of radius 500 metres with centre at latitude 57° 54' 13" north, longitude 006° 49' 13" west and on its landward side by the level of high water within the area so enclosed.

SCHEDULE 2
ENACTMENTS REPEALED OR REVOKED

PART I
ACTS OF PARLIAMENT

<i>(1)</i> <i>Chapter</i>	<i>(2)</i> <i>Short title</i>	<i>(3)</i> <i>Extent of repeal</i>
1878 c.cxv	Pier and Harbour Orders Confirmation Act 1878 (No. 2)	The Lochmaddy Pier and Harbour Order 1878 except sections 3 to 6, 31 and 32
1980 c.i	Ardveenish Harbour Order Confirmation Act 1980	The Ardveenish Harbour Order 1980 except sections 1, 2, 4 to 6 and 9 to 15
1980 c.xxvii	Breasclete Harbour Confirmation Act 1980	The Breasclete Harbour Order 1980 except sections 1, 2, 6 to 10 and 15
1982 c.ii	Western Isles Islands Council (Loch Roag) Order Confirmation Act 1982	The Western Isles Islands Council (Loch Roag) Order 1982 except sections 1, 2 and 31 to 37
1984 c.ii	Western Isles Islands Council (Kallin Pier, Harbour Jurisdiction) Order Confirmation Act 1984	The Western Isles Islands Council (Kallin Pier, Harbour Jurisdiction) Order 1983 except sections 1, 2 and 14
1984 c.xxx	Lochmaddy and East Loch Tarbert (Improvement of Piers &c.) Order Confirmation Act 1984	Sections 4(1), (2) and (3), 7, 8, 13 to 17, 20, 28 to 30, 33 and 34 of the Lochmaddy and East Loch Tarbert (Improvement of Piers &c.) Order 1984 to the extent that those sections apply to Lochmaddy
1986 c.xix	Western Isles Islands Council (Berneray Harbour) Order Confirmation Act 1986	The Western Isles Islands Council (Berneray Harbour) Order 1986 except sections 1, 2, 4 and 21 to 31

PART II
ORDERS

<i>(1)</i> <i>SI or SSI</i>	<i>(2)</i> <i>Short title</i>	<i>(3)</i> <i>Extent of revocation</i>
1949 No. 1516 (S.107)	Lochmaddy Pier Order 1949	The whole Order except sections 1, 3 to 5, 7 to 11 and 14 to 18
1951 No. 1866 (S.94)	Portnaguiran Pier Order 1951	The whole Order except sections 1 to 4, 11 to 16, 20 and 21
1992 No. 1975 (S.202)	Western Isles Islands Council (Ardveinish) Harbour Revision Order 1992	The whole Order except articles 1, 2, 3(2), 4 and 9
1992 No. 1976 (S.208)	Western Isles Islands Council (Breasclete) Harbour Revision Order 1992	The whole Order except articles 1, 2 and 9
1993 No. 2908 (S.259)	Western Isles Islands Council (Brevig) Harbour Empowerment Order 1993	The whole Order except articles 1, 2 and 21
1995 No. 2007 (S.146)	Western Isles Islands Council (Various Harbours Jurisdiction and Byelaws) Harbour Revision Order 1995	The whole Order
1995 No. 2971 (S.214)	Western Isles Islands Council (Leverburgh) Harbour Revision Order 1995	The whole Order except articles 1, 2, 20, 27 and 28
2000 No. 233	Comhairle nan Eilean Siar (Ardveinish) Harbour Revision Order 2000	The whole Order
2001 No. 262	Comhairle nan Eilean Siar (Aird Mhor, Barra) Harbour Empowerment Order 2001	The whole Order except articles 1, 2 and 5 to 18 and Schedule 2

EXPLANATORY NOTE

(This note is not part of the Order)

This Order relates to certain harbour areas in na h'Eileanan an Iar. The limits of the harbour areas are described in Schedule 1 to the Order and shown on the harbour maps deposited with the Order.

The Order defines and in some cases alters the harbour limits, confers powers on Comhairle nan Eilean Siar as harbour authority in relation to the harbour areas and makes other related provisions. Certain existing statutory provisions applicable to the harbour areas are repealed.

The applicant for the Order is Comhairle nan Eilean Siar, Sandwick Road, Stornoway, Isle of Lewis, HS1 2BW.