
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 27

The Port Babcock Rosyth Harbour Empowerment Order 2009

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Port Babcock Rosyth Harbour Empowerment Order 2009 and shall come into force on 29th January 2009.

Interpretation

2.—(1) In this Order—

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

“the 1964 Act” means the Harbours Act 1964(2);

“the 1995 Act” means the Merchant Shipping Act 1995(3);

“the Company” means Port Babcock Rosyth Limited, a Company incorporated in Scotland with registered number SC173116 and having its registered office at Rosyth Business Park, Rosyth, Dunfermline, Fife, KY11 2YD;

“the Forth” means the River and Firth of Forth;

“general direction” means a direction given under article 22 below;

“government department” includes any part of or any member of the staff of the Scottish Administration which shall have the meaning defined in section 126(6) of the Scotland Act 1998(4);

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

“jet craft” means any watercraft (not normally used in navigation and not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine or other mechanical means of propulsion and steered either—

- (a) by means of a handlebar operated linkage system (with or without a rudder at the stern);
or
- (b) by the person or persons riding the craft using his or their body weight for the purpose; or
- (c) by a combination of the methods referred to respectively in sub-paragraphs (a) and (b) above.

(1) 1847 c. 27.
(2) 1964 c. 40.
(3) 1995 c. 21.
(4) 1998 c. 46.

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

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

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

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

“port limits” means the limits of the port as defined in article 4 (Limits of port) of this Order;

“the port map” means the map referred to in article 4 below, two copies of which have been deposited at the offices of the Scottish Ministers at Victoria Quay, Edinburgh EH6 6QQ and one copy of which has been deposited at the registered office of the Company;

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

“port undertaking” means the port related business activities of the Company;

“sailboard” means a raft with a sail or sails designed to be operated by a person or persons standing upright thereon;

“special direction” means a direction given under article 24 below;

“tidal work” means so much of any work as is on, under or over tidal waters or tidal lands below the level of high-water including such works as are existing at the commencement of this Order; and

“vessel” means a ship, boat, raft or water craft of any description, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water and shall include but not be limited to a displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily).

(2) All areas, directions, distances, lengths, widths and heights and other measurements or references to situations stated in this Order shall be construed as if the words “or thereabouts” were inserted after each area, direction, distance, length, width, height, other measurement or reference.

(3) Reference points specified in this Order shall be construed as references to Ordnance Survey National Grid Reference points.

Incorporation of the 1847 Act

3.—(1) Sections 1 to 4, 27, 29, 32, 34, 35, 37 to 41, 43 to 46, 51, 53 to 59, 61 to 66, 68 to 74 and 92 of the 1847 Act, so far as applicable to the purposes and not inconsistent with the provisions of this Order, are hereby incorporated with and form part of this Order subject to the modifications stated in paragraph (2) below.

(2) For the purposes of the 1847 Act, as so incorporated—

- (a) the expression “the special Act” means this Order;
- (b) the expression “the undertakers” means the Company;
- (c) the expression “the harbour, dock or pier” means the port;
- (d) the meaning of the word “vessel” as defined in article 2(1) of this Order shall be substituted for the meaning assigned to that word by section 3 of the 1847 Act;
- (e) section 53 shall have effect subject to the modifications that, for the word “made” and for the expression “after notice of such direction by the harbour master served upon him”,

- there shall be substituted respectively the word “given” and the expression “after being given any such direction by the harbour master”;
- (f) section 56 shall be read as if the word “wreck” shall not include a vessel which is sunk, stranded or abandoned;
 - (g) section 63 shall be read and have effect as if for the words from “be liable to” to the end of the section there were substituted the words “be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”;
 - (h) section 69 shall be read and have effect as if for the words from “forfeit” to the end of the section there were substituted the words “be liable on summary conviction to a fine not exceeding level 4 on the standard scale”;
 - (i) sections 69 and 70 shall be read and have effect as if the words “or on the deck of any vessel” were delete;
 - (j) section 71 shall be read and have effect as if the phrase “in any vessel” were delete whenever it appears in that section;
 - (k) section 71 shall be read and have effect as if the words “every person who shall bring any loaded gun” to the end of that section were deleted; and
 - (l) section 73 shall be read and have effect as if for “level 1” there were substituted “level 2”.