
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 27

The Port Babcock Rosyth Harbour Empowerment Order 2009

PART III

PORT REGULATION

General byelaws

20.—(1) The Company may from time to time make byelaws which are to apply within the port for the following purposes—

- (a) regulating the use, operation and superintendence of the port and the docks, berths, wharves, quays, piers, jetties, warehouses, sheds, landing places, locks, sluices, equipment, works and conveniences (including moorings) in the port;
- (b) regulating the admission to, and the movement within, and the departure of vessels from the port or the removal of vessels and for the good order and government of vessels whilst within the port;
- (c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the port;
- (d) regulating the berthing and mooring of vessels within the port and the use of tugs within the port;
- (e) preventing damage or injury to any goods, vehicles, plant, machinery, property or persons within the port;
- (f) regulating the hours during which any gates, entrances or outlets to or from the port or any part of the port shall be open;
- (g) regulating the conduct of all persons in the port not being members of a police force or officers or servants of the Crown or officers of the Scottish Ministers including the holder of any office in the Scottish Administration or any member of staff of the Scottish Administration whilst in the exercise of their duties;
- (h) regulating the placing and maintenance of moorings within the port;
- (i) preventing and removing obstructions or impediments within the port;
- (j) prohibiting or regulating the discharge or deposits of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) into or upon the port;
- (k) regulating the use of cranes, weighing machines, weights and measures belonging to the Company, and the duties and conduct of weighers and meters employed by the Company;
- (l) regulating the use of ferries within the port;
- (m) regulating or prohibiting the use in the port of jet craft, yachts, sailing boats, sailboards, rowing boats, pleasure craft and other small craft;
- (n) regulating the holding of regattas and other public events in the port;
- (o) regulating or prohibiting the activities in the port of divers, surfers, water skiers and other persons engaged in similar pursuits whether for recreation or otherwise;

- (p) regulating the launching of vessels within the port;
 - (q) prohibiting persons working or employed in or entering the port, or any part thereof, from smoking in open spaces therein;
 - (r) regulating or preventing the use of fires and lights within the port;
 - (s) regulating the movement, speed and parking of vehicles within the port;
 - (t) regulating the exercise of the powers vested in the harbour master;
 - (u) making the carrying out of specified port operations or the conduct of persons in the port, subject to the approval (with or without conditions), control or direction of the harbour master, and authorising the harbour master to take such action as may be reasonably required in default of compliance with any such condition, control or direction;
 - (v) the conservation of the natural beauty of all or any part of the port or of any of the fauna, flora or geological or physiographical features in the port and all other natural features; and
 - (w) the conservation, preservation or redevelopment of any buildings, plant or other artificial features of the port of historic or architectural significance.
- (2) 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 the port or to any part thereof;
 - (c) make different provisions for different parts of the port or in relation to different classes of vessels.

Confirmation of byelaws

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

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

- (i) once in the Edinburgh Gazette;
 - (ii) once in each of two successive weeks in a newspaper circulating in the area in which the port is situated.
- (b) Not later than the first date on which the notice under sub-paragraph (a) above is published, the Company shall send a copy of the notice to the Chief Executive Officer of the local authority within whose area the port is situated and to the Scottish Ministers.
 - (c) During a period of at least one month before the application is made for confirmation of the byelaws, a copy of the byelaws shall be kept at the office of the harbour master and shall at reasonable hours be open to public inspection without payment.
 - (d) The Company shall supply a copy of the byelaws or a part of the byelaws to a person who shall apply for it on payment of a reasonable charge.

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

(4) Subject to paragraph (5) below, the Scottish Ministers may confirm the byelaws in the form submitted to them with such modifications as they think fit or may refuse to confirm them.

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

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

General directions to vessels

22.—(1) The Company may, after consultation with the Chamber of Shipping, give directions for any of the following purposes—

- (a) designating areas, routes or channels in the port which vessels are to use or refrain from using for movement, mooring or anchorage;
 - (b) securing that vessels move only at certain times or during certain periods;
 - (c) securing that vessels make use of descriptions of aids to navigation specified in the direction;
 - (d) prohibiting entry into or navigation within any of the main channels during any temporary obstruction thereof; and
 - (e) requiring the master of a vessel to give the harbour master information relating to the vessel reasonably required by the harbour master.
- (2) A direction under this article may apply—
- (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction; or
 - (b) to the whole of the port and the approaches and channels leading thereto, or to a part designated, or the designation of which is provided for, in the direction; or
 - (c) at all times or at times designated, or the designation of which 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) of this paragraph.

(3) The Company may, after consultation with the Chamber of Shipping, revoke or amend any general direction under this article.

Publication of general directions

23.—(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 Company as soon as practicable once in Lloyd's List or some other newspaper specialising in shipping news; and if the notice relates to the giving or amendment of a direction, the notice shall state a place at which copies thereof may be inspected and bought and the price thereof.

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

Special directions to vessels

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

- (a) requiring any person or vessel anywhere within the port or the approaches thereto to comply with a requirement made in or under a general direction;
 - (b) regulating or requiring the movement, berthing, mooring or unmooring of a vessel;
 - (c) regulating the loading, discharging, storing and safeguarding of a vessel's cargo, fuel, water or stores and the dispatch of business at port premises;
 - (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 anywhere within the port or the approaches thereto;
 - (f) prohibiting or restricting use of fires or lights;
 - (g) as to the use of ballast;
 - (h) requiring the removal from any part of the port of a vessel if—
 - (i) it is on fire;
 - (ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink, or to constitute a danger to life (including wildlife) or property;
 - (iii) it is making an unlawful use of the port or interfering with the reasonable use or enjoyment thereof by other vessels or persons; or
 - (iv) its removal is necessary to enable maintenance or repair work to be carried out at port premises or to premises adjacent thereto; and
 - (i) requiring the removal outside the port of any vessel if such removal is considered by the harbour master to be necessary in order to avoid danger to life (including wildlife) or to property.
- (2) 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

25.—(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 grounds for believing that to comply with the direction in question would have endangered life, imperilled the safety of any vessel or its cargo or otherwise been impossible to comply.

Enforcement of special directions

26.—(1) Without prejudice to any other remedy available to the Company, if a special direction is not complied with within a reasonable time, the harbour master may 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) Expenses incurred in the exercise of the powers conferred by this article shall be recovered by the Company from the owner of the vessel as if they were a charge of the Company in respect of the vessel.

Master's responsibility in relation to directions

27. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to that vessel, to persons on board the vessel, to the cargo or any other person or property.