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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 471**

**The Lerwick Harbour Revision Order 2010**

**PART II**

**WORKS**

**Power to construct works**

**3.** The Authority may in the lines and situations and within the limits of deviation and according to the levels shown on the deposited plans, sections and elevations construct and maintain the following works—

**Work No. 1** – The construction at Greenhead Base of a concrete suspended deck quay on steel bearing piles and rock armour revetment slope extending south from existing quay structures thence turning in an easterly direction and having an overall length of 185 metres followed by a rock armour revetment slope extending in an easterly direction for 16 metres then turning in a southerly direction for 71 metres before returning in a south westerly direction for 84 metres to meet the existing shore comprising a total area of 1.185 hectares; the location of which is shown on Sheets Nos. 1 and 2 and the sections and elevations are shown on Sheets Nos. 3 and 4;

**Work No. 2** – The reclamation and infilling of seabed at Point of Scattland to be retained on the seaward limits by a rock armoured revetment slope extending from Work No. 1 in a southerly direction for 130 metres then turning in a south westerly direction for 160 metres to meet with the foreshore at the root of an existing quay of Gremista comprising a total area of 0.3750 hectares; the location of which is shown on Sheets Nos. 1 and 5 and the sections and elevations are shown on Sheet No. 6;

**Work No. 3** – The construction at Mairs Yard of a steel sheet pile quay wall with concrete cope commencing at the root of the existing Holmsgarth jetty and extending in a north westerly direction for 151 metres before turning 90 degrees for 25 metres with stop end and reclamation with rock armour revetment slope extending from the quay wall in a south westerly direction for 122 metres to meet the existing foreshore, comprising a total area of 1.450 hectares; the location of which is shown on Sheets Nos. 1 and 7 and sections and elevations are shown on Sheet No. 8;

**Work No. 4** – The construction of a sheet pile quay wall and jetty with concrete cope incorporating and extending the existing Holmsgarth Jetty commencing at the root of Holmsgarth Jetty and extending and continuing the existing Jetty line in a north easterly direction for 142 metres then turning in a northerly direction for 144 metres, then turning in an easterly direction for 20 metres, then turning in a southerly direction for 235 metres before returning in a south westerly direction for 129 metres to meet the existing quay structure comprising a total area of 1.310 hectares; the location of which is shown on Sheets Nos. 1 and 9 and sections and elevations are shown on Sheet Nos. 10 and 11.

### **Power to renew, etc. works**

4. Subject to the provisions of this Order the Authority may, within the limits of deviation, renew, replace or otherwise alter temporarily or permanently the works authorised by Article 3 of this Order.

### **Power to deviate**

5. Subject to the provisions of this Order, in the construction or execution of the works the Authority may deviate laterally from the lines or situations shown on the deposited plans, sections and elevations to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the works shown on the deposited plans, sections and elevations to any extent not exceeding 3 metres upwards and to such extent downwards as may be necessary or convenient.

### **Subsidiary works**

6. The Authority may from time to time within the limits of deviation construct, maintain and operate, whether temporarily or permanently, such other works as may be necessary or convenient for the purposes, or in connection with or in consequence, of the construction, maintenance or use of the works or the port; including works for the accommodation or convenience of vessels or for the loading and unloading of goods and the embarking and landing of passengers.

### **Fine for obstructing works**

7. Any person who intentionally obstructs any person acting under the authority of the Authority in setting out the lines of or constructing the works or who damages, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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

8.—(1) A tidal work shall not be constructed, executed, renewed, replaced, altered or demolished except in accordance with plans, sections and elevations approved by the Scottish Ministers and subject to any conditions and restrictions imposed by the Scottish Ministers before the work is begun.

(2) If a tidal work is constructed, executed, renewed, replaced, altered or demolished in contravention of this Article or of any condition or restriction under this Article -

- (a) the Scottish Ministers may by notice in writing require the Authority at its own expense to remove the tidal work or any part of it and restore the site of the tidal work to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon Authority it has failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice; or
- (b) if it appears to the Scottish Ministers urgently necessary to do so, they may themselves remove the tidal work or part of it and restore the site to its former condition.

and any expenditure incurred by the Scottish Ministers in so doing shall be recoverable from the Authority as a debt.

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

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

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

### **Lights on tidal works during construction**

9.—(1) During the whole time of demolition, construction, renewal or alteration of any tidal work the Authority shall at the outer extremity of that work every night from sunset to sunrise exhibit such lights, if any, and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Authority fails to comply in any respect with a direction given under paragraph (1) it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

### **Permanent lights on tidal works**

10.—(1) After the completion of a tidal work the Authority shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Authority fails to comply in any respect with a direction given under this Article it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

### **Survey of tidal works**

11. The Scottish Ministers may at any time they deem it expedient order a survey and examination of a tidal work or of the site upon which it is proposed to construct and execute the work and any expenditure incurred by them in such survey or examination shall be recoverable from the Authority as a debt.

### **Provision against danger to navigation**

12.—(1) In case of injury to or destruction or decay of a tidal work or any part of it the Authority shall as soon as reasonably practicable notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Authority fails to comply with the provisions of this Article it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

### **Abatement of works abandoned and decayed**

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

(2) Where a work authorised by this Order and consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or has fallen into decay and that part of the work on or over the land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Scottish Ministers may include that part of the work, or any portion of it, in any notice under this Article.

(3) If, on the expiration of 30 days from the date when a notice under this Article is served upon the Authority it has failed to comply with the requirements of the notice, the Scottish Ministers may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Authority as a debt.

### **Period for completion of works**

**14.**—(1) If the works authorised by Article 3 (Power to construct works) are not completed within five years from the coming into force of this Order or such extended time as the Scottish Ministers may on the application of the Authority allow by consent given in writing, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to the Authority for making and maintaining the works shall cease except as to so much of those works as is then substantially commenced.

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