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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 156**

**The Lochboisdale and Gasay Port  
(Harbour Empowerment) Order 2016**

**PART 2**

**DUTIES AND POWERS OF THE COMPANY**

**Limits of Port**

4.—(1) The Limits of the Port within which the Company shall exercise jurisdiction as the harbour authority and within which the powers of the Harbour Master shall be exercisable shall be the area shown on the Port Map bounded by an imaginary line commencing at a point (1) at 57°09.092'N 007°15.996'W, then extending in a straight line in a generally southerly direction to point (2) at 57°08.474'N 007°15.998'W, then following the line of the Mean High Water Spring tide to point (3) at 57°08.581'N 007°16.915'W, then in a straight line in a generally westerly direction to point (4) at 57°08.604'N 007°18.076'W, then in a straight line in a generally northerly direction to point (5) at 57°08.912'N 007°18.079'W, then in a straight line in a generally north-easterly direction to point (6) at 57°08.949'N 007°18.026'W, then in a straight line in a generally north north-westerly direction to point (7) at 57°09.199'N 007°18.135'W, then in a straight line in a generally northerly direction to point (8) at 57°09.462'N 007°18.144'W, then following the line of the Mean High Water Spring tide returning to the point of commencement.

(2) In paragraph (1), a reference to—

- (a) a direction shall be construed as if the words “or thereabouts” were inserted after that direction;
- (b) a point is a reference to the that point as shown on the Port Map; and
- (c) a co-ordinate is a reference to World Geodetic System 1984 datum.

(3) The area described in paragraph (1) is, for the purpose of identification only, shown edged by a broken black line and hatched in black on the Port Map and, in the event that there is any discrepancy between the description of that area and the area shown on the Port Map, the description shall prevail.

**General powers and duties in respect of Port**

5.—(1) The Company may improve, maintain, regulate, manage, mark and light the Port and provide accommodation and port facilities.

(2) For those purposes, and without prejudice to the generality of paragraph (1), the Company may construct, alter, demolish and reconstruct structures and works in the Port.

(3) The Company shall, in consultation with the Inner Harbour Authority, implement an appropriate safety management system for the Port.

(4) The Company shall be responsible for and make good to the Inner Harbour Authority all financial losses which are reasonably incurred or suffered by the Inner Harbour Authority as a result of—

- (a) any building improvements carried out by the Company;
- (b) the construction, maintenance, alteration or operation of any Tidal Work within the port or the failure of any Tidal Work;
- (c) maintenance of the Company's harbour or Tidal Work or dealing with any related remedial works.

(5) The Company will take all reasonable steps to agree with the Inner Harbour Authority a general priority methodology for the passage of the lifeline ferry service vessel of South Uist when such Vessel is accessing the facility of the Inner Harbour Authority during the operation of the lifeline ferry service. The Company reserves the right to amend the priority methodology on the grounds of safety without reference to the Inner Harbour Authority or in exceptional circumstances to be determined by the Company at its sole discretion.

(6) The Company shall not prevent or unreasonably restrict access to the Inner Harbour.

(7) This article is without prejudice to any powers of the Company under or by virtue of any other enactment (including any other provision of this Order).

### **Power to dredge**

6.—(1) The Company may from time to time deepen, dredge, scour, cleanse, alter and improve the Port and so much of the bed, shores and channels of Loch Boisdale as lie within the Port Limits and within the approaches and channels leading to the Port Limits in the area so described for the purpose of affording the uninterrupted means of access to the Port or any part of it for the accommodation of Vessels or the egress from the Port of Vessels.

(2) Subject to paragraph (3) the Company may use, appropriate or dispose of any material (other than any wreck within the meaning of Part IX of the Merchant Shipping Act 1995<sup>(1)</sup>) from time to time dredged by it.

(3) No material referred to in this article shall be—

- (a) disposed of in contravention of any enactment relating to the disposal of waste; or
- (b) deposited below the Level of High-Water except in such places and under such conditions and restrictions as may be approved or directed by Ministers.

### **Restriction of works and dredging**

7.—(1) No person other than the Company shall in the Port—

- (a) alter, renew or maintain any works; or
- (b) dredge;

unless that person has contracted with the Company to do so.

(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 Company 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 to its former condition; and if that person fails to comply with the notice the Company may carry out the works so required and may recover the cost of so doing from that person.

(4) This article shall not apply to dredging carried out by the Inner Harbour Authority in the approaches to the Inner Harbour, but before carrying out any dredging in the approaches to the Inner Harbour, the Inner Harbour Authority shall consult with the Company.

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(1) 1995 c.21.

## **Moorings**

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

(2) The Company may from time to time contract with any person to place, lay down, maintain, renew or use moorings, buoys and similar apparatus for Vessels in the Port.

(3) Any contract entered into under paragraph (2) above shall be valid for a period of no longer than three years commencing with the date on which it takes effect.

(4) The Company may charge a reasonable fee for the grant of a contract under this article.

(5) Any person who, without reasonable excuse, shall place, lay down, maintain, renew or use a mooring, buoy or similar apparatus for Vessels within the Port except under and in accordance with the terms and conditions of a contract granted under this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **Power to licence tugs**

9.—(1) It shall not be lawful for any person, except in an emergency, to operate a Vessel exceeding 5 tonnes gross for fee or reward for the purpose of moving or controlling the movement of any other Vessel within the Port except under and in accordance with the terms and conditions of a licence granted by the Company in that regard.

(2) The Company 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.

## **Parking places**

10. The Company may provide facilities within the Port for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences and may make reasonable charges for the use of such facilities.

## **Power to appropriate parts of Port, etc.**

11.—(1) Subject to paragraph (3) but notwithstanding anything else in this or any other statutory provision of local application, the Company may from time to time set apart or appropriate any land, works, buildings, machinery or other property within the harbour owned or managed by the Company for the exclusive, partial or preferential use or accommodation of any particular trade, activity, person, vessel or class of vessels or goods, subject to the payment of such reasonable charges and to such terms, conditions or regulations as the Company thinks fit.

(2) No person or Vessel shall, otherwise than in accordance with the setting apart or appropriation, make use of any lands, works, buildings, machinery or other property so set apart or appropriated without the consent of the Harbour Master and—

(a) the Harbour Master may order any person or Vessel making use thereof without such consent to leave or be removed; and

(b) the provisions of section 58 of the 1847 Act shall extend and apply with appropriate modifications in relation to any such Vessel.

(3) Nothing in this article shall authorise the prohibition of navigation within any part of the harbour, nor shall it authorise interference with the public right of way across public slipways and public quays.

**Power to lease, etc.**

12. The Company may at any time lease or grant for the purposes of the Port Undertaking the use or occupation of, or any right or interest in, over or relating to, any lands, works, buildings, equipment or other property forming part of the Port for such period or periods and on such terms and conditions as may be agreed between the Company and the persons taking the same.

**Power to enter into arrangements to provide supplies**

13. The Company may make arrangements for the purpose of providing and supplying fuel, ice and such other requirements as may be made available to Vessels using the Port and in respect of the supply, laying down and maintaining of pipelines, storage tanks, plants, equipment and other apparatus and the execution of ancillary and necessary works for that purpose within the Port.