
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 196

The Tobermory Harbour Empowerment Order 2017

PART 1

Citation and commencement

1. This Order may be cited as the Tobermory Harbour Empowerment Order 2017 and comes into force on the day after the day on which it is made.

Interpretation

2. In this Order:

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

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

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

“CMAL” means Caledonian Maritime Assets Limited, a company incorporated in Scotland with registered number SC001854 and having its registered office at Municipal Buildings, Fore Street, Port Glasgow, Renfrewshire, PA14 5EQ and, subject to article 39(4), includes any successor in title of Caledonian Maritime Assets Limited to the ferry pier and slipway;

“the Company” means Tobermory Harbour Association, a company incorporated in Scotland with registered number SC256859 and having its registered office at Taigh Solais, Ledaig, Tobermory, Isle of Mull, Argyll, PA75 6NR;

“existing moorings” means moorings existing within the harbour at the date this Order comes into force;

“existing works” means the piers, pontoons and slipways existing as at the date of this Order within the harbour limits and shown for identification purposes on harbour map;

“ferry operator” means the operator (if any), from time to time, of the Clyde and Hebrides Ferry Services on behalf of the Scottish Ministers;

“ferry pier and slipway” means the Mishnish Pier and slipway (or any part thereof) situated within the harbour limits and shown for location purposes shaded blue on the harbour map between points 2 and 3 and includes the fixed mooring owned by CMAL located at 56° 37.241’N 006° 3.664’W;

“general direction” means a direction given by the Company under article 16 (*general directions to vessels*);

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

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

- “harbour” means the area within the harbour limits including the harbour premises;
- “harbour limits” means the limits of the harbour as defined in article 8 (*limits of harbour*) of this Order;
- “harbour map” means the map referred to in, *inter alia*, article 8 (*limits of harbour*) of this Order, two copies of which have been signed, dated and deposited at the offices of the Scottish Ministers at Victoria Quay, Edinburgh EH6 6QQ and one copy of which has been signed, dated and deposited at the registered office of the Company;
- “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;
- “harbour premises” means the quays, berths, piers, pontoons, moorings, landing places, and all other works, land, buildings and other structures and premises from time to time vested in or occupied or administered by the Company as part of the harbour undertaking, including the existing works which are all situated within the harbour limits;
- “harbour undertaking” means the harbour related business activities of the Company;
- “land” includes land covered by water, any interest in land and any servitude or right in, to or over land;
- “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 of the vessel;
- “mooring” includes any buoy, pile, post, chain, pillar, jetty for use as an appurtenance to a dwelling or like apparatus or structure used for the mooring of vessels;
- “relevant ferry services” means any services associated with the delivery of the Clyde Hebrides Ferry Services on behalf of the Scottish Ministers;
- “special direction” means a direction given by the harbour master under article 18 (*special directions to vessels*); and
- “vessel” means a ship, boat, or craft of any description and includes any other thing constructed or adapted for floating, or hovering, on or being submersed in water (whether permanently or temporarily).

Incorporation of the Harbours, Docks, and Piers Clauses Act 1847

3.—(1) Sections 1 to 4, 33 to 35, 37 to 39, 42 to 46, 51, 54, 55, 58, 63 to 65 and 74 of the 1847 Act are incorporated with this Order subject to the modifications stated in paragraphs (2) to (4).

(2) In construing the provisions of the 1847 Act as incorporated with this Order—

- (a) the expression “the special Act” means this Order, the expression “the undertakers” means the Company and the expression “the harbour, dock, or pier” shall mean the harbour; and
- (b) for the definition of the word “vessel” in section 3 (*interpretations in this and the special Act*) there shall be substituted the definition of that word in paragraph (1) of article 2 (*interpretation*);
- (c) 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”
- (d) section 65 (harbour master may remove vessel for purpose of repairing harbour or dock if the master neglects or refuses to do so) shall have effect subject to the omission of the words from “Provided always” to the end of the section.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
