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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 173**

**The Highland Council (Uig, Isle of Skye) Harbour Revision Order 2020**

**PART 2**

**WORKS**

**Power to construct works**

**3.—(1)** Without affecting the powers which may be exercisable by the Council under section 5 of the 1991 Order, the Council may in the lines and situations and upon the lands delineated on sheet 1, and within the limits of deviation, and according to the levels shown on the deposited sections or elevations for each work, construct and maintain in the harbour the following works, with all necessary works and conveniences connected with them—

Work No. 1 – A widening and extension of the existing berthing structure on the western side and to the south of the existing structure formed of solid construction and incorporating scour protection and a wave protection wall the location of which is shown on sheet 1 and the section of which is shown on sheet 2. Sited on Work No. 1—

- (a) a passenger waiting shelter (relocated from its location on the existing berthing structure), and
- (b) a fuel tank for vessels,

the locations of which on Work No. 1 are shown on sheet 1 and elevations of which are shown on sheets 3 and 4.

Work No. 2 – A widening of King Edward Pier of open pile construction on the northern side the location of which is shown on sheet 1 and a section of which is shown on sheet 2.

Work No. 3 – A mechanically operated single deck linkspan, providing access to and from vessels, being a replacement of the existing linkspan and extending from King Edward Pier including supporting piled bankseat and lifting frame and supporting dolphin structures, the location of which is shown on sheet 1 and a section of which is shown on sheet 2.

(2) The Council may, for the purposes of the works authorised by paragraph (1), demolish and remove the whole or part of any structures or apparatus lying within the limits of deviation and enclose and reclaim so much of the bed of the harbour and of the foreshore as lies within the limits of deviation and may hold and use the same as part of the harbour and so much of the seabed and of the foreshore as may be reclaimed shall be deemed to be operational land within the meaning of section 215 of the Town and Country Planning (Scotland) Act 1997.

(3) Without affecting the general power conferred under paragraph (2), the Council may in connection with the construction of the works on any land owned by it, demolish and remove so much of—

- (a) the existing linkspan, the location of which is shown on sheet 1, and
- (b) the existing passenger waiting shelter, the location of which is shown on sheet 1,

as may be required.

(4) Subject to the provisions of this Order, the Council may, within the limits of deviation, reconstruct, extend, enlarge, replace or relay the works authorised by paragraph (1) and may maintain the same as reconstructed, extended, enlarged, replaced or relaid.

### **Power to deviate**

4. In carrying out the works authorised by article 3 (power to construct works) the Council may deviate laterally from the lines or situations of those works as shown on sheet 1 to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the works as shown on the deposited sections or elevations to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

### **Subsidiary works**

5.—(1) The Council may from time to time within the limits of deviation provide and operate such harbour facilities, together with works ancillary to those facilities, as may be necessary or convenient for the construction of the works or the operation of the harbour, and for this purpose the Council may construct and maintain roads, buildings, sheds, offices, workshops, depots, walls, foundations, fences, gates, tanks, pumps, conduits, pipes, drains, wires, mains, cables, electrical substations, signals, conveyors, cranes, lifts, hoists, lighting columns, weighbridges, stairs, ladders, stages, platforms, fendering, dolphins, mooring posts, pontoons, covered passenger walkways, catwalks, equipment, signage, machinery and appliances and such other works and conveniences (including levelling of surfaces) as may be necessary or expedient.

(2) Without affecting paragraph (1), the Council may within the limits of deviation carry out and maintain such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance or use of the works including—

- (a) works for the accommodation or convenience of vessels or for the loading and unloading of goods and the embarking and loading of passengers, and
- (b) works to alter the position of apparatus, including mains, sewers, drains, pipes, conduits, cables, electrical substations, electrical lines and telecommunications apparatus.

### **Power to dredge**

6.—(1) Without affecting the powers of the Council which may be exercised within the harbour under section 4 of the 1991 Order, the Council may, for the purposes of constructing and maintaining the works and of affording access to the works by vessels, from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the sea as lie within the limits of the harbour and may use, appropriate or dispose of the materials (other than wreck within the meaning of Section 255 (interpretation) of the 1995 Act), from time to time dredged by them.

(2) No such materials shall be laid down or deposited—

- (a) in contravention of the provisions of any enactment as respects the disposal of waste, or
- (b) in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Scottish Ministers.

### **Obstruction of works**

7. Any person who—

- (a) intentionally obstructs any person acting under the authority of the Council in setting out the lines of or in constructing the works, or

- (b) without reasonable excuse interferes with, 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 and shall in addition be liable to repay to the Council as a debt any expenses incurred by it in making good any damage resulting from such obstruction, moving or removal.

### **Works to be deemed part of the harbour**

8. The works shall be deemed for all purposes to be part of the harbour and the Uig, Isle of Skye, Orders 1991 and 2020 together with all byelaws, directions, rules and regulations of the Council for the time being in force relating to the harbour shall apply to the works and may be enforced by the Council accordingly.

### **Survey of tidal works**

9. The Scottish Ministers may at any time if they deem it expedient order a survey and examination of a tidal work or a site upon which it is proposed to construct the work and any expense incurred by them in such a survey and examination shall be recoverable from the Council.

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

10.—(1) In the case of injury to, or destruction or decay of, a tidal work or any part thereof, the Council shall as soon as 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 Council fails to comply in any respect with the provisions of this article, the Council 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 or decayed**

11.—(1) Where a tidal work is abandoned or allowed to fall into decay the Scottish Ministers may by notice in writing require the Council 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 thereof 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 allowed to fall into decay and that part of the work on or over 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 Council 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 Council.

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

12.—(1) During the whole time of the demolition, construction, renewal, reconstruction or alteration of a tidal work the Council shall at the outer extremity thereof 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 Council 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.

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

**13.**—(1) After completion of a tidal work the Council shall at the outer extremity thereof 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 Council fails to comply in any respect with a direction given under this article they 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.

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

**14.**—(1) Subject to paragraph (2), if the works are not substantially completed within ten years from the coming into force of this Order or such extended time as the Scottish Ministers may on the application of the Council allow, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to the Council for making and maintaining the works shall cease except as to so much of those works as is then substantially commenced.

(2) Nothing in paragraph (1) shall apply to any works carried out under article 5 (subsidiary works) or any works to reconstruct, extend, enlarge, replace or relay the works authorised by article 3(1) (power to construct works).

#### **Works to be within area of the Council**

**15.** The works shall, to the extent that they lie outwith the area of the Council, be annexed to and incorporated within that area.