
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 118

The Eyemouth Harbour Revision Order 2021

PART 3

Duties and Powers of Trustees

Limits of Harbour

12.—(1) The limits of the Harbour within which the Trustees exercise jurisdiction as the harbour authority and within which the powers of the harbour master are exercisable are—

- (a) the seaward limits being the area shown shaded blue on the harbour limits plan enclosed by a red line, and
- (b) the harbour land (together with existing or future works) for the time being vested in or administered by the Trustees as part of the harbour and currently being the area shown shaded green on the harbour limits plan.

(2) Section 19 of the 1882 Order (which previously defined the limits of jurisdiction) is repealed.

(3) The harbour land referred to in paragraph (1)(b) shall be deemed to be operational land within the meaning and for the purposes of the Town and Country Planning (Scotland) Act 1997(1).

(4) The limits within which the provisions of the Eyemouth Harbour Orders, 1882 to 1961 are to apply shall comprise the limits of the harbour defined in paragraph (1); and accordingly any reference to the harbour limits contained in those Orders or in any byelaws, order or regulations made under them shall be construed as a reference to those limits.

General Powers of Trustees

13.—(1) The Trustees may take such steps from time to time as they consider necessary or expedient for the improvement, maintenance and management of the harbour and the accommodation and facilities afforded in or connected with the harbour.

(2) For those purposes, and without affecting the generality of paragraph (1), the Trustees may—

- (a) improve, maintain, regulate, manage, mark and light the harbour and provide harbour facilities in the harbour (including facilities for the supply by the Trustees of fuel for vessels),
- (b) construct, reconstruct, extend, enlarge, alter, replace, relay or demolish structures and works in the harbour,
- (c) subscribe for or acquire shares or securities of any body corporate,
- (d) maintain such reserve funds as they think fit,
- (e) invest any sums not immediately required for the purposes of the harbour,
- (f) turn their resources to account so far as not required for those purposes, and

(1) 1997 c.8; “operational land” is defined in section 215 to which there are amendments not relevant to this Order, which section is subject to section 216.

(g) do all other things which in their opinion are necessary or expedient to facilitate the proper carrying on or development of the harbour.

(3) This article does not affect any powers of the Trustees under or by virtue of any other enactment (including this Order).

Power to appropriate parts of harbour, etc.

14.—(1) Notwithstanding anything in this or any other statutory provision of local application, the Trustees may from time to time set apart or appropriate any part of the harbour, or any lands, works, buildings, machinery, equipment or other property of the Trustees in the harbour, for the exclusive, partial or preferential use or accommodation for any particular trade, activity, person, vessel or class of vessels or goods, subject to the payment of such reasonable charges (other than ship, passenger and goods dues), and to such terms and conditions, as the Trustees thinks fit.

(2) No person or vessel shall, otherwise than in accordance with the setting apart or appropriation, make use of any part of the harbour, or any lands, works, buildings, machinery, equipment or other property, so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Trustees.

(3) The harbour master or, as the case may be, any such authorised officer may order any person or vessel contravening paragraph (2) to leave or be removed from the site of the contravention.

(4) Section 58 of the 1847 Act shall extend and apply with appropriate modifications to any vessel moored or otherwise positioned in contravention of paragraph (2) above.

(5) In exercising its powers to appropriate or set apart any part of the harbour under paragraph (1), the Trustees shall have regard to the facilitation of—

- (a) the public right of navigation in the harbour, and
- (b) any public rights of way affecting the harbour,

such that the Trustees shall not restrict such rights more than is necessary for the purpose for which the part of the harbour is appropriated or set apart.

Power to lease, etc.

15. The Trustees may at any time lease or grant 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 harbour for such period or periods and on such terms and conditions as may be agreed between the Trustees and the persons taking the same.

Powers with respect to land, buildings, harbour facilities etc.

16.—(1) The Trustees may for the purposes of the undertaking acquire land, whether by way of purchase, exchange, lease or otherwise.

(2) Without affecting article 15, the Trustees may for such price and upon such terms and conditions and subject to such restrictions and for such period as they think fit sell, lease, exchange or otherwise dispose of any land, building or harbour facilities belonging to them which is no longer required by the Trustees for the purposes of the undertaking.

(3) The Trustees may for the purposes of the undertaking manage, use or develop land belonging to them as they think fit.

Power to dredge

17.—(1) The Trustees or any person authorised by them may from time to time deepen, widen, dredge, scour, cleanse, alter and improve the bed and foreshore of the harbour and the seaward approaches thereto.

(2) The Trustees may use, appropriate or dispose of any material (other than any wreck within the meaning of Part IX of the 1995 Act) from time to time dredged or removed by them from the harbour.

(3) No dredged materials shall be 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 mean high water springs except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Scottish Ministers.

Power to enter into arrangements to provide supplies

18. The Trustees 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 harbour and in respect of the supply, laying down and maintaining of pipelines, storage tanks, plant, equipment and other apparatus and the execution of ancillary and necessary works for that purpose within the harbour.

Parking places

19. The Trustees may provide facilities within the harbour for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences.

Moorings

20.—(1) The Trustees may provide, place, lay down, maintain, renew, use or remove such moorings, pontoons, buoys and similar apparatus within the harbour as it considers necessary or desirable for the convenience of vessels.

(2) The Trustees may from time to time, on such terms and conditions as they think appropriate, give consent to any person to place, lay down, maintain, renew and use moorings, pontoons, buoys and similar apparatus for vessels in the harbour.

(3) Any person who, without reasonable excuse, places, lays down, maintains, renews or uses a mooring, pontoon, buoy or similar apparatus for vessels within the harbour except under and in accordance with the terms and conditions of a consent given 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.

(4) Any consent given under paragraph (2) shall be valid for such period of time commencing with the date on which it takes effect as the Trustees may decide.

(5) The Trustees may charge a reasonable fee for the giving of a consent under this article.

(6) Consent given by the Trustees under this article does not affect any requirement to obtain the consent of the owner of the sea bed; nor does any consent by the owner of the sea bed affect the requirement to obtain the Trustees' consent under this article.

Power to regulate pleasure craft

21.—(1) A person shall not within the harbour—

- (a) let for hire to the public a pleasure craft except with the written approval of the Trustees in accordance with this article, or

- (b) carry, or permit to be carried, passengers for hire in a pleasure craft unless the craft, and the boatmen in charge of the craft and the navigator, are approved in writing by the Trustees.
- (2) Any such approval may be given for such period as the Trustees may think fit, and may be suspended or revoked by the Trustees whenever it shall deem such suspension or revocation to be necessary or desirable in the interests of public safety.
- (3) The existence of the power to suspend or revoke the approval shall be stated plainly in the approval itself.
- (4) A person taking on hire a pleasure craft for purposes other than for profit does not require to be approved as a boatman.
- (5) Approval under this article shall not be required for—
- (a) any craft which has a relevant certificate issued by the Maritime and Coastguard Agency and valid for the voyage intended or, in the case of hovercraft within the meaning of the Hovercraft Act 1968(2), a certificate of safety valid for the voyage intended; or
 - (b) a pleasure boat or pleasure vessel which is licensed under section 94 of the Public Health Acts Amendment Act 1907.
- (6) A person shall not carry or permit to be carried in any pleasure craft within the harbour a greater number of passengers for hire than are specified in the approval applying to such craft, and every owner of any such craft shall before permitting the same to be used for carrying passengers for hire within the harbour, permanently display in letters and figures not less than three centimetres in height and one half centimetre in breadth, on a conspicuous part of the craft, their own name and also the number of persons which it is approved to carry, in the form “Approved to carry [] persons”.
- (7) Any person who acts in contravention of paragraph (1) or (6) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) Any person aggrieved by the withholding, suspension or revocation of any approval or by any term or condition subject to which an approval has been given under this article may appeal to the sheriff.
- (9) In this article “pleasure craft” means any vessel of not more than 100 tonnes gross used wholly or mainly for recreation or for the carriage of passengers for reward.