
STATUTORY INSTRUMENTS

1986 No. 1038 (S. 89)

Harbours, Docks, Piers and Ferries

**Scottish Transport Group (Oban Quay) Harbour Revision
Order 1986**

Approved by both Houses of Parliament

Made - - - - - 24th April 1986

Laid before Parliament 8th May 1986

Coming into Operation 23rd June 1986

The Secretary of State, in exercise of the powers conferred by section 14 of the Harbours Act 1964(a), and of all other powers enabling him in that behalf, and on the application of the Scottish Transport Group, hereby makes the following order:—

Citation and commencement

1. This order may be cited as the Scottish Transport Group (Oban Quay) Harbour Revision Order 1986 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(b).

Interpretation

2.—(1) In this order—

“deposited plan and sections” means the plan and sections signed on behalf of the Secretary of State and marked “Plan and sections referred to in the Scottish Transport Group (Oban Quay) Harbour Revision Order 1986” of which copies are deposited at the offices of the Secretaries of State for Scotland and Transport and with Caledonian MacBrayne Limited, Harbour Office, Oban;

“level of high water” means the level of mean high-water springs;

“limits of deviation” means the limits of deviation shown on the deposited plan;

“the Group” means the Scottish Transport Group;

(a) 1964 c.40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 4.

(b) 1945 c.18 (9 & 10 Geo. 6) and 1965 c. 43.

“tidal work” means so much of any work as is on, under or over tidal waters or tidal lands below the level of high water;

“work” means the work authorised by this order or as the case may require any part thereof and includes any work constructed pursuant to article 5 below;

“the undertaking” means the undertaking of the Group at Oban as from time to time authorised.

(2) Except in relation to article 4 below all dimensions stated in any description of works or lands in this order shall be construed as if the words “or thereabouts” were inserted after each such dimension.

(3) Any reference in this order to a work identified by the number of that work shall be construed as a reference to the work of that number authorised by this order.

Power to construct works

3.—(1) Subject to the provisions of this order the Group may in the parish of Kilmore and Kilbride within the Argyll and Bute District and the Strathclyde Region and on the foreshore and in the sea adjoining the same in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and sections construct, execute and maintain the works hereinafter described with all necessary works and conveniences connected therewith or incidental thereto that is to say:—

Work No. 1. A solid face wall of steel sheet piling 0.5 metres wide together with fenders of wooden construction commencing at a point 15 metres north-west of the north-western corner of the harbour office of Caledonian MacBrayne Limited and extending in a generally north-easterly direction for a distance of 25 metres and there terminating.

Work No. 2. The conversion of the existing quay from open to solid construction commencing at a point 30 metres north-east of the north-west corner of the harbour office of Caledonian MacBrayne Limited and extending in a generally north-easterly direction for a distance of 72.5 metres and there terminating; incorporating on its seaward side a solid face wall of steel sheet piling 0.5 metres wide together with fenders of wooden construction.

Work No. 3. The conversion of the remainder of the existing quay from open to solid construction commencing at a point 15 metres south-west of the Fish Sales Hall and extending in a generally north-easterly direction for a distance of 20 metres and then turning through an arc to a generally south-easterly direction for a distance of 75 metres and there terminating; incorporating on its seaward side a solid face wall of steel sheet piling 0.5 metres wide together with fenders of wooden construction.

(2) The Group may within the limits of deviation reconstruct, renew and alter temporarily or permanently the works.

(3) The works shall be deemed for all purposes to be within the parish of Kilmore and Kilbride in the Argyll and Bute District and within the Strathclyde Region.

Power to deviate

4. Subject to the provisions of this order in the construction or execution of the works the Group may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation, and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to any extent downwards.

Subsidiary works

5. Subject to the provisions of this order the Group, for the purposes of or in connection with the works authorised by article 3 above, may within the limits of deviation construct, execute and maintain all such subsidiary or incidental works and conveniences as may be necessary or expedient for or in connection with those works.

Tidal works not to be executed without approval of Secretary of State

6.—(1) A tidal work shall not be constructed, reconstructed, renewed or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, reconstructed, renewed or altered in contravention of this article—

(a) the Secretary of State may by notice in writing require the Group at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition, and if, on the expiration of 30 days from the date when the notice is served upon the Group they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Group.

Lights on tidal works during construction

7.—(1) The Group shall at or near a tidal work during the whole time of the construction, reconstruction, renewal or alteration thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation, as the Secretary of State shall from time to time direct.

(2) If the Group fail 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 £2,000 and on conviction on indictment to a fine.

Permanent lights on tidal works

8.—(1) After the completion of a tidal work the Group shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if

any, 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 Group fail 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 £2,000 and on conviction on indictment to a fine.

Survey of tidal works

9. The Secretary of State may at any time if he deems 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 him in such survey and examination shall be recoverable from the Group.

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 Group shall forthwith 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 Group fail to notify the Commissioners of Northern Lighthouses as required by this article or 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 £2,000 and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

11.—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Group at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered 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 Secretary of State may include that part of the work, or any portion thereof, 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 Group, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Group.

For protection of Strathclyde Regional Council

12. Nothing in this order shall prejudice or affect the powers and jurisdiction exercisable by Strathclyde Regional Council as harbour undertakers in respect of the harbours known as the South Pier and the North Pier at Oban authorised by the Oban Piers and Harbour Orders 1862 to 1896.

Saving for certain enactments, etc.

13.—(1) Nothing in this order affects the operation of—

- (a) the Prevention of Oil Pollution Act 1971(a);
- (b) the Control of Pollution Act 1974(b);
- (c) the Offshore Petroleum Development (Scotland) Act 1975(c);
- (d) Part II of the Food and Environment Protection Act 1985(d);

(2) Nothing in this order shall exempt the Group from the provisions of Part I of the Coast Protection Act 1949(e).

(3) Nothing in this order shall affect the jurisdiction or authority of the Commissioners of Northern Lighthouses.

Saving for Town and Country Planning (Scotland) Act 1972

14.—(1) Section 274 of the Town and Country Planning (Scotland) Act 1972(f) (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session of Parliament held during the regnal years 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this order as if it had been passed during that session; and accordingly the Town and Country Planning (Scotland) Act 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this order.

(2) In their application to development authorised by this order, article 3 of, and Class X in Schedule 1 to the Town and Country Planning (General Development) (Scotland) Order 1981(g) (which permit development authorised by any local or private Act or by any order approved by both Houses of Parliament, or by any order made under section 14 or section 16 of the Harbours Act 1964, being an Act or order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this order were limited to development begun within 10 years of the coming into operation of this order.

Crown rights

15.—(1) Nothing in this order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing, nothing in this order authorises the Group to take, use, enter upon or in any manner interfere with, any land or interests in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

(a) 1971 c.60.

(b) 1974 c.40.

(c) 1975 c.8.

(d) 1985 c.48.

(e) 1949 c.74.

(f) 1972 c.52.

(g) S.I. 1981/830, Schedule 1 was amended by S.I. 1983/1620.

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners, or
 - (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.
- (2) A consent under paragraph (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

Costs of order

16. The costs, charges and expenses of and incidental to the preparing and obtaining of this order (other than costs, charges and expenses which any person is lawfully ordered to pay by the Secretary of State or a Joint Committee of both Houses of Parliament for any costs incurred in opposing this order), shall be paid by the Group.

Gray of Contin,
Minister of State,
Scottish Office

New St. Andrew's House,
Edinburgh.
24th April 1986.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Part of the existing quay at Oban is of open timber construction over a solid base. This order authorises the Scottish Transport Group to convert that part to solid construction.

This order being subject to special parliamentary procedure, the provisions of the Statutory Orders (Special Procedure) Acts of 1945 and 1965 determine the date upon which it comes into operation. The applicants for this order are the Scottish Transport Group, Carron House, 114/116 George Street, Edinburgh EH2 4LX.