
STATUTORY INSTRUMENTS

1986 No. 2130

HARBOURS, DOCKS, PIERS AND FERRIES

The Glensanda Harbour Revision Order 1986

<i>Made - - - - -</i>	10th July 1986
<i>Laid before Parliament</i>	21st October 1986
<i>Coming into Operation</i>	4th December 1986

The Secretary of State for Transport in exercise of the powers conferred by section 14 of the Harbours Act 1964 (a) and now vested in him (b) and of all other powers enabling him in that behalf, and on the application of Foster Yeoman Limited, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Glensanda Harbour Revision Order 1986 and the Glensanda Harbour Order 1985 (c) and this Order may be cited together as the Glensanda Harbour Orders 1985 to 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 (d).

Interpretation

2.—(1) In this Order:—

“Company” means Foster Yeoman Limited;

“deposited plans and sections” means the plans and sections prepared in triplicate signed on behalf of the Secretary of State for Transport and marked “Plans and Sections referred to in the Glensanda Harbour Revision Order 1986” of which copies are deposited at the offices of the Secretary of State for Transport and the principal office of the Company and “deposited plans” and “deposited sections” shall be construed accordingly;

“general direction” means a direction given under article 11 of this Order;

“harbour”, “harbour master”, “level of high water” and “vessel” have the meanings assigned to them respectively by the Order of 1985;

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

“Order of 1985” means the Glensanda Harbour Order 1985;

“special direction” means a direction given under article 12 of this Order;

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

(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) S.I. 1981/238.

(c) Confirmed by 1985 c.x.

(d) 1945 c.18 (9 & 10 Geo. 6), 1965 c.43.

“works” means works of every description;

“works licence” means a licence granted under article 7(1) of this Order.

(2) This Order shall be read as if the words “or thereabouts” were inserted after each distance mentioned in article 4 (Power to construct works) of this Order.

Abandonment of works authorised by the Order of 1985

3. The Company shall abandon the construction of Works Nos. 2, 3, 4, 5 and 6 authorised by the Order of 1985 and for Work No. 1 of the said Order there shall be substituted Work No. 1 of this Order.

Power to construct works

4.—(1) Subject to the provisions of this Order, the Company may in the district of Lochaber and in the situations and lines within the limits of deviation and according to the levels shown on the deposited plans and sections construct and maintain the works hereinafter described, together with all necessary and proper works and conveniences connected with or incidental thereto, that is to say:—

Work No. 1

A berthing face excavated from solid rock to form a vertical face to the quay between the points marked X and Y on the deposited plans, a rubble mound or embankment formed from material dredged from the seabed within the limits of the dredging area shown on the deposited plans to form a foreshore reclamation 18 metres (south-west) 8 metres (north-east) above the level of high water commencing at the northerly edge of the inlet point of Aut an Ruighe Mhoir to Loch Linnhe (Ordnance Survey Grid Reference E. 182590 N. 747179) in the Parish of Ardgour, in the district of Lochaber and extending in a south-south-easterly direction for 285 metres thence proceeding and extending in an east-north-easterly direction for a distance of 325 metres thence proceeding and extending in a north-easterly direction for a distance of 140 metres thence proceeding and extending in a north-north-east by easterly direction for a distance of 1023 metres thence proceeding and extending in a north-north-easterly direction for a distance of 93 metres thence proceeding and extending in a north-westerly direction for a distance of 104 metres and there terminating.

Work No. 2

Two rubble mounds or embankments to form breakwaters 5 metres above the level of high water to form a harbour basin for small craft to be dredged to a depth of 9 metres below the level of high water commencing at the southerly edge of the inlet point of the Glensanda River to Loch Linnhe (Ordnance Survey Grid Reference E. 182288 N. 746560) and extending in an east-south-easterly direction for a distance of 124 metres thence proceeding and extending in a north-easterly direction for a distance of 214 metres thence proceeding and extending in a north by easterly direction for a distance of 40 metres thence proceeding and extending in a north-north-westerly direction for a distance of 208 metres and there terminating.

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

Power to reclaim lands

5. The Company may reclaim so much of the foreshore or bed of the sea as lies between the existing shore line shown on the deposited plans and the lines of Works Nos. 1 and 2 as described in this Order, such area being shown on the deposited plans as the area of land to be reclaimed.

Power to dredge

6.—(1) The Company may deepen, widen, dredge, scour, cut and improve the bed and banks of the harbour, and for such purpose may blast any rock within the harbour.

(2) Any materials taken up or collected in the exercise of the powers of this article shall become the property of the Company and may be used, sold, deposited or otherwise disposed of as the Company think fit:

Provided that no such materials shall be deposited below the level of high water except in such position as the Secretary of State may approve and subject to such conditions or restrictions as he may impose.

Licensing of Works

7.—(1) The Company may upon such terms and conditions as they think fit grant to any person a licence to construct, place, maintain, alter, renew, or extend any works on, under or over tidal waters or tidal lands below the level of high water within the limits of the harbour notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, placed, maintained, altered, renewed or extended.

(2) Application for a works licence shall be made in writing to the Company and shall:—

- (a) be accompanied by plans, sections and particulars of the works to which the application relates;
- (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted, and
- (c) be accompanied by a copy of a notice published in the Oban Times newspaper or some other newspaper circulating in the Lochaber district, stating that application is being made to the Company for the grant of a licence, containing a general description of the nature of the works for which application is being made and of the land upon which the works are proposed to be constructed, placed, altered, renewed or extended, naming a place where a copy of the plans, sections and particulars of the proposed works may be seen at any reasonable hours and stating that any person who desires to object to the Company to the granting of the application should do so in writing stating the grounds of his objection before the expiration of a period of twenty-eight days from the date of the newspaper advertisement.

(3) In deciding whether or not to grant a licence or as to the terms and conditions to be included in the licence the Company shall take into consideration any objection in writing made to them by any person within the time specified in the newspaper notice (hereinafter in this article and in article

9 (Appeals in respect of works or dredging licence) referred to as a valid objection) and in granting a licence the Company may require modifications in the plans, sections and particulars submitted to them by the applicant.

- (4) (a) If the Company decide to grant a works licence they shall, in addition to the applicant, give notice of their decision to any person who has made a valid objection and has not withdrawn it.
- (b) If within three months from the date of the making of an application under paragraph (2) of this article the Company do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.

Power to license dredging

8.—(1) The Company may upon such terms and conditions as they think fit grant to any person a licence (in this Order referred to as “a dredging licence”) to dredge within the harbour limits.

(2) Application for a dredging licence shall be made in writing to the Company and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence and in granting any such licence the Company may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the date of making an application under paragraph (2) of this article the Company do not grant a dredging licence in accordance with the application, they shall be deemed to have refused the application.

(4) Any materials other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894 taken up or collected by means of dredging in pursuance of the dredging licence shall be the property of the holder of the licence and he may use, sell or otherwise dispose of or remove or deposit the materials as he thinks fit:

Provided that:—

- (i) no such material shall be laid down or deposited in any place below the level of high water except in such position as may be approved by the Company and subject to such terms and conditions as may be imposed by the Company;
- (ii) if it appears to the holder of the dredging licence that the Company have unreasonably withheld their approval under sub-paragraph (i) of this proviso or that any condition imposed by the Company under that paragraph is unreasonable, he may appeal to the Secretary of State, whose decision shall be binding upon the parties.

Appeals in respect of works or dredging licence

- 9.—(1) (a) A person who has made a valid objection and has not withdrawn his objection and who is aggrieved by the decision of the Company to grant a works licence and an applicant for a works licence or for a dredging licence who is aggrieved by:
- (i) the refusal of the Company to grant the licence;
 - (ii) any terms or conditions subject to which the licence is granted; or

- (iii) any modifications required by the Company in the plans, sections and particulars submitted by the applicant;

may within twenty-eight days from the date on which the Company give notice of their decision or the date on which the Company are under paragraph (4) (b) of article 7 (Licensing of works) or of paragraph (3) of article 8 (Power to license dredging) of this Order deemed to have refused the application, as the case may be, appeal to the Secretary of State.

- (b) An appeal shall be made by notice in writing stating the grounds of the appeal.

(2) A person who appeals to the Secretary of State under this section shall at the same time send a copy of his statement of appeal to the Company and the Company shall as soon as practicable thereafter furnish the Secretary of State with all relevant documents including a copy of any valid objection made to the original application which has not been withdrawn.

(3) The Company may within twenty-eight days from the receipt of the statement of appeal furnish the Secretary of State with their observations on the appeal.

(4) On an appeal under this article the Secretary of State may confirm, vary or revoke the decision appealed against and may require any consequential amendments to be made, including amendment of the terms and conditions or modification of the plans, sections and particulars.

(5) The Company shall give effect to any requirement made by the Secretary of State under paragraph (4) of this article.

Restriction of works and dredging

10.—(1) No person other than the Company shall:—

- (a) construct, alter, renew or extend any works on, under or over tidal waters or tidal lands below the level of high water within the harbour limits unless he is licensed so to do by a works licence and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of article 7 (Licensing of works) of this Order;
- (b) dredge in the harbour unless he is licensed so to do by a dredging licence and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of article 8 (Power to license dredging) of this Order;

Provided that this paragraph shall not apply to the construction, alteration, renewal or extension of any such works or to the carrying out of dredging in the harbour specifically authorised under any enactment.

(2) Any person who offends against the provisions of this article or who contravenes or fails to comply with any term or condition of a works licence or dredging licence issued to him 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.

General Directions

11.—(1) The Company may after consultation with the General Council of British Shipping give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the harbour and without prejudice to the generality of the foregoing for any of the following purposes:—

- (a) for designating areas, routes or channels in the harbour which vessels are to use or refrain from using for movement or mooring;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) for prohibiting entry into or movement in the harbour by vessels at times of poor visibility due to the weather or to the presence of dust or smoke;
- (d) requiring the master of a vessel to give the harbour master information relating to the vessel reasonably required by the harbour master in order to effect the objects of this subsection.

(2) Directions given under paragraph (1) of this article may apply—

- (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction;
- (b) to the whole of the harbour or to a part designated, or the designation of which is provided for, in the direction; and
- (c) at all times or at times designated, or the designation of which is provided for, in the direction;

and every direction made under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c) of this paragraph.

Special Directions

12.—(1) A direction under this article may be given for any of the purposes set out in paragraph (2) of this article by the harbour master to a vessel anywhere in the harbour and to a vessel prior to its entering the harbour.

(2) A direction under this article may be given for any of the following purposes:—

- (a) regulating or requiring for the ease, convenience or safety of navigation the movement, mooring or unmooring of a vessel;
- (b) regulating for the safety of navigation the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores.

Publication of general directions

13. Notice of the giving of a general direction and of any amendment or revocation of a general direction shall be published by the Company once in Lloyd's List and Shipping Gazette newspaper or some other newspaper specialising in shipping news, and, if the notice relates to the giving or amendment of a general direction, shall state a place at which copies of the direction may be inspected and bought and the price thereof.

Manner of giving special directions

14. A special direction may be given in any manner considered appropriate.

Master's responsibility to be unaffected

15. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

Failure to comply with directions

16.—(1) The master of a vessel who fails to comply with a general or special direction shall be liable on summary conviction to a fine not exceeding £400.

(2) It shall be a defence to the master of a vessel charged with an offence under paragraph (1) of this article to prove that he had reasonable grounds for supposing that compliance with the direction in question would be likely to imperil his vessel or any person for whom he is responsible or that in the circumstances compliance was impracticable.

Enforcement of directions

17.—(1) Without prejudice to any other remedy available to the Company, if a special direction is not complied with within a reasonable time, the harbour master may, where practicable, put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board a vessel to attend to a special direction, the harbour master may proceed as if the direction had been given and not complied with:

Provided that the powers of this paragraph shall not be exercised:—

- (a) in relation to a vessel other than a lighter, unless after reasonable inquiry has been made the master cannot be found; or
- (b) in relation to a lighter, unless it is obstructing the access to or exit from port premises or otherwise interfering with navigation.

(3) Expenses incurred by the Company in the exercise of the powers conferred by paragraph (1) of this article shall be recoverable by the Company from the owner of the vessel.

Incorporation of provisions of Order of 1985

18. The following provisions of the Order of 1985 are incorporated with and form part of this Order:—

- Section 6 (Subsidiary works);
- Section 7 (Power to deviate);
- Section 8 (Tidal works not to be executed without approval of Secretary of State);
- Section 9 (Survey of tidal works);
- Section 10 (Provision against danger to navigation);
- Section 11 (Abatement of works abandoned or decayed);
- Section 12 (Lights on tidal works during construction);
- Section 13 (Permanent lights on tidal works);
- Section 14 (Works to be in Parish of Ardgour);
- Section 19 (Saving for Coast Protection Act 1949);
- Section 21 (Saving for Town and Country Planning Acts);
- Section 22 (Limitation of powers);
- Section 23 (Crown Rights).

Saving for the Food and Environment Protection Act 1985

19. Nothing in this Order shall affect the operation of Part II of the Food and Environment Protection Act 1985.

John Moore,
Secretary of State for Transport.

10th July 1986.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order authorises Foster Yeoman Limited to construct a berthing face from solid rock and to dredge and reclaim an adjacent area in substitution for certain works authorised by the Glensanda Harbour Order 1985.

The Order also authorises Foster Yeoman Limited to construct two embankments to form breakwaters for a small craft harbour basin and to carry out subsidiary works, and provides powers under which Foster Yeoman Limited may grant works and dredging licences and give general and special directions.

The Order being subject to Special Parliamentary Procedure, the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965 determine the date upon which it comes into operation.

The applicants for the Order are Foster Yeoman Limited, Torr Works, East Cranmore, Shepton Mallet, Somerset.