
STATUTORY INSTRUMENTS

1992 No. 1976 (S. 203)

HARBOURS, DOCKS, PIERS AND FERRIES

The Western Isles Islands Council
(Breasclete) Harbour Revision Order 1992

<i>Made</i>	- - - -	<i>21st May 1992</i>
<i>Laid before Parliament</i>		<i>28th May 1992</i>
<i>Coming into force</i>	- -	<i>9th July 1992</i>

The Secretary of State, in exercise of the powers conferred on him by section 14 of the Harbours Act 1964(1), (being the appropriate Minister under section 14(7) of that Act for the purpose of making this Order) and of all other powers enabling him in that behalf, on the application of the Western Isles Islands Council, and being satisfied that the making of the Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, hereby makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Western Isles Islands Council (Breasclete) Harbour Revision Order 1992 and this Order and the Breasclete Harbour Order 1980(2) may be cited together as the Breasclete Harbour Orders 1980 and 1992.

(2) This Order shall come into force on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(3).

Interpretation

2. In this Order, unless the context otherwise requires—

“the Breasclete Harbour undertaking” means the undertaking hitherto carried on by Highlands and Islands Enterprise at Breasclete on the west coast of the island of Lewis, including the works together with all lands, buildings, plant and conveniences connected therewith and now vested in the Council by virtue of article 3 below;

“the Council” means the Western Isles Islands Council;

(1) 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 and 14.
(2) See the [Breasclete Harbour Order Confirmation Act 1980 c.xxvii](#).
(3) 1945 c. 18 (9 & 10 Geo. 6); 1965 c. 43.

“Highlands and Islands Enterprise” means the body established by section 1(b) of the Enterprise and New Towns (Scotland) Act 1990(4);

“the Order of 1980” means the Breascleite Harbour Order 1980.

Transfer of pier undertaking

3.—(1) On the coming into force of this Order there shall be transferred to and vested in the Council (subject to the other provisions of this Order) all the powers of Highlands and Islands Enterprise in relation to the Breascleite Harbour undertaking pursuant to the Order of 1980 and the Harbours Act 1964 and vested in them by section 22 of the Enterprise and New Towns (Scotland) Act 1990 together with all property heritable and moveable and all rights pertaining thereto vested in Highlands and Islands Enterprise and held by them solely for the purposes of the Breascleite Harbour undertaking.

(2) To enable the Council to complete a title to any property transferred to and vested in them by virtue of this article by notice of title or otherwise, this Order shall have effect as if it were a general disposition or assignation, as the case may be, of such property granted by Highlands and Islands Enterprise in favour of the Council on the coming into force of this Order.

Contracts to be binding

4. All purchases, sales, conveyances, deeds, contracts and agreements entered into or made by Highlands and Islands Enterprise and in force at the commencement of this Order shall so far as they relate to the Breascleite Harbour undertaking be as binding and of as full force and effect in every respect against or in favour of the Council as they have heretofore been against or in favour of Highlands and Islands Enterprise and may be enforced as fully and effectively as if, instead of Highlands and Islands Enterprise, the Council had been a party thereto.

Proceedings not to abate

5. All legal and other proceedings begun before the commencement of this Order and relating to any property or liabilities transferred to the Council under this Order may be carried on with the substitution of the Council as a party to the proceedings in lieu of the authority from whom the property or liabilities was or were transferred and any such proceedings may be amended in such manner as may be necessary for that purpose.

Power to make agreements

6. Nothing in this Order shall affect the right of Highlands and Islands Enterprise and the Council to enter into an agreement for the purpose of regulating the responsibility as between themselves for any liabilities or obligations transferred to the Council by article 4 or 5 above.

Byelaws

7. In addition to the byelaws which may be made by the Council under section 83 of the Harbours, Docks, and Piers Clauses Act 1847(5) and otherwise, the Council may, in relation to the Breascleite Harbour undertaking, from time to time make such byelaws as they think fit with reference to all or any of the following matters:—

- (a) for regulating the types of vehicles which may enter or be on any land or premises owned or occupied in connection with the Breascleite Harbour undertaking and the use, placing,

(4) 1990 c. 35.

(5) 1847 c. 27.

loading or unloading, and driving of such vehicles, and giving powers to officers or servants of the Council in relation to such regulation;

- (b) the management, control and regulation of the said land or premises and of goods, wares and merchandise using or passing over the Breasclete Harbour undertaking;
- (c) safety precautions to be observed by persons using or being on the said land or premises.

Confirmation of byelaws

8.—(1) The provisions of subsections (4), (5), (6), (7), (8), (10) and (12) of section 202 and section 203 of the Local Government (Scotland) Act 1973⁽⁶⁾ shall apply to any byelaws made by the Council under the Harbours, Docks, and Piers Clauses Act 1847 or this Order, and in the application of the provisions of the said Act of 1973 the Secretary of State shall be the confirming authority and all byelaws and regulations which are in force at the Breasclete Harbour undertaking at the date of this Order coming into force shall be deemed to be byelaws and regulations of the Council and shall continue in force until altered.

(2) Where the Secretary of State proposes to exercise the power of modification conferred on him by subsection (10) of the said section 202 and the modification appears to him to be substantial, he shall inform the Council and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Council and by other persons who have been informed of it.

Amendments and repeals

9.—(1) The provisions of the Order of 1980 referred to in column (1) of Schedule 1 to this Order shall have effect subject to the amendments specified in column (2) of that Schedule.

(2) In the Order of 1980 (except in relation to the preamble thereto) for the word “Board” wherever the same shall appear there shall be substituted the words “the Council”.

(3) The provisions of the Order of 1980 specified in column (1) of Schedule 2 to this Order are hereby repealed to the extent specified in column (2) of that Schedule.

Crown rights

10.—(1) Nothing in this Order shall affect 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 herein contained shall authorise the Council to take, use, enter upon or in any manner interfere with, any land or hereditaments 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) 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 terms and conditions.

(6) 1973 c. 65.

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

St. Andrew's House,
Edinburgh
21st May 1992

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

SCHEDULE 1

Article 9(1)

AMENDMENTS TO ORDER OF 1980

(1) Section	(2) Amendment
3, Proviso (iv)	Leave out proviso (iv) and insert new proviso (iv) as follows:— “(iv) Section 63 shall be read and have effect as if for the words from ‘liable to’ to the end of the section there were substituted the words ‘guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale’.”
3, Proviso (v)	Leave out proviso (v) and insert new proviso (v) as follows:— “(v) Section 69 shall be read and have effect as if for the words from ‘shall forfeit’ to the end of the section there were substituted the words ‘shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale’.”
8(2)	Leave out “£200” and insert “the statutory maximum”.
10(2)	Leave out “£200” and insert “the statutory maximum”.

SCHEDULE 2

Article 9(3)

PROVISIONS OF ORDER OF 1980 REPEALED

(1) Provision	(2) Extent of repeal
Section 2 (Interpretation)	The definition of “the Board”.
Section 12 (Confirmation of Byelaws)	The whole section.
Section 20 (Costs of Order)	The whole section.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers to and vests in the Western Isles Islands Council the Breasclete Harbour undertaking on the west coast of Lewis in the Western Isles Islands Area together with all rights, interests and privileges presently vested in or used by Highlands and Islands Enterprise in relation to that undertaking. Highlands and Islands Enterprise are the present undertakers at Breasclete by virtue of section 22 of the Enterprise and New Towns (Scotland) Act 1990 which transferred the harbour undertaking from the Highlands and Islands Development Board to them. Provision is made for all conveyances, contracts, agreements or deeds entered into by Highlands and Islands Enterprise in relation to that undertaking to remain binding and in full force against or in favour of the Council and for all legal or other proceedings in relation to that undertaking to be carried on with the substitution of the Council as a party to the proceedings in lieu of Highlands and Islands Enterprise. This Order also provides that sections 202 and 203 of the Local Government (Scotland) Act 1973 shall apply to byelaws for the harbour undertaking made by the Council and that byelaws and regulations in force when this Order comes into operation shall continue in force.

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 force. The applicants for this Order are the Western Isles Islands Council, Sandwick Road, Stornoway, PA87 2BW.