
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 189

The Dumfries and Galloway Council (Isle of Whithorn) Harbour Empowerment Order 2008

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Dumfries and Galloway Council (Isle of Whithorn) Harbour Empowerment Order 2008 and shall come into force on 23rd May 2008.

Interpretation

2.—(1) In this Order—

“the 1847 Act” means the Harbours, Docks, and Piers Clauses Act 1847(1);

“charges” means charges, dues and tolls of every description for the time being payable under any enactment to the Council in relation to the harbour undertaking;

“the Council” means Dumfries and Galloway Council;

“general direction” means a direction given under article 19 below;

“the harbour” means the harbour of Isle of Whithorn as described in article 4 below and in Schedule 1 to this Order;

“the harbour map” means the map referred to in article 4 below of which copies are deposited at the offices of the Scottish Ministers at the Scottish Executive, Victoria Quay, Edinburgh, EH6 6QQ and with the Council at Militia House, English Street, Dumfries DG1 2HR;

“the harbour master” means any person appointed as such by the Council, and includes his deputies and assistants, and any other person for the time being authorised by the Council to act, either generally or for a specific purpose, in the capacity of harbour master;

“the harbour premises” means the quays, piers, landing places and all other works, land and buildings for the time being vested in, or occupied or administered by, the Council as part of the harbour undertaking;

“the harbour undertaking” means the harbour undertaking of the Council at Isle of Whithorn;

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

“mooring” includes buoys and other apparatus provided for the mooring of vessels;

“personal water craft” means any watercraft (not being a structure which by reason of its shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine or other mechanical means of propulsion and steered either—

- (a) by means of a handlebar operated linkage system (with or without a rudder at the stern);
or
- (b) by the person or persons riding the craft using his or their body weight for the purpose; or
- (c) by a combination of the methods referred to respectively in (a) and (b) above;

“special direction” means a direction given under article 21 below;

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

“vessel” means every description of vessel, however propelled or moved, and includes any thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily), a seaplane on or in the water, a hovercraft, a hydrofoil and any amphibious vehicle.

Incorporation of Harbours, Docks, and Piers Clauses Act 1847

3.—(1) The following provisions of the 1847 Act are hereby incorporated with, and form part of, this Order—

sections 1, 2, 3, 4, 20, 21, 23, 27, 29, 31 to 36, 43, 52 to 66, 68 to 71, 73, 77, 78, 92 and 94.

(2) The said provisions as so incorporated shall have effect as follows:—

- (a) “the special Act” means this Order;
- (b) “the promoters of the undertaking” and “the undertakers” mean the Council;
- (c) “the harbour, dock or pier” means the harbour;
- (d) “vessel” has the meaning given by article 2 above;
- (e) section 52 shall extend to empower the harbour master to give directions prohibiting the mooring within the harbour of any vessel—
 - (i) using any works for the time being vested in the Council, or coming to or departing from those works;
 - (ii) which is obstructing any such works, or the approach thereto; or
 - (iii) which threatens the safety of navigation in the harbour;
- (f) notice given by the harbour master to the master of a vessel under section 53 need not be in writing but may be given orally, or in any other reasonable manner;
- (g) in section 63, for the words from “penalty” to the end of the section there shall be substituted the words “on summary conviction to a fine not exceeding level 2 on the standard scale”;
- (h) in section 69, for the words “forfeit” to the end of the section there shall be substituted the words “be liable on summary conviction to a fine not exceeding level 2 on the standard scale”;
- (i) in section 73, for the words “five pounds” there shall be substituted the words “level 2 on the standard scale”;
- (j) in section 84, for the words “five pounds” there shall be substituted the words “level 2 on the standard scale”.

(3) The provisions of the 1847 Act, other than those referred to in paragraph (1) above, shall not apply to the harbour.

Harbour jurisdiction

4.—(1) The Council shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Harbours Act 1964 within the area described in Schedule 1 to this Order, and shown on the harbour map, together with so much of the harbour premises as is not situated within that area.

(2) In the event of any discrepancy between the boundaries of the harbour as described in Schedule 1 to this Order, and the boundaries shown on the harbour map, the harbour map shall prevail.

(3) The Council may employ and appoint a harbour master for and incidental to the performance of its functions under this Order and all other enactments relating to the harbour.