
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 410

The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002

**PART I
PRELIMINARY**

Citation and commencement

1. This Order may be cited as the Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 and shall come into force on 5th September 2002.

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 Comhairle in relation to the harbour undertaking;

“the Comhairle” means Comhairle nan Eilean Siar;

“general direction” means a direction given under article 18 below;

“harbour area” means an area within which the Comhairle exercise jurisdiction as a harbour authority under article 4 below;

“the harbour maps” means the maps 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 Comhairle at Sandwick Road, Stornoway, Isle of Lewis HS1 2BW;

“the harbour master” means any person appointed as such by the Comhairle, and includes his deputies and assistants, and any other person for the time being authorised by the Comhairle 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 Comhairle as part of the harbour undertaking;

“the harbour undertaking” means the harbour undertaking of the Comhairle;

“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;

“special direction” means a direction given under article 20 below;

“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 Comhairle,
- (c) “the harbour, dock or pier” means the harbour areas;
- (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 a harbour area of any vessel_
 - (i) using any works for the time being vested in the Comhairle, 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 a harbour area;
- (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) Notwithstanding any direction given before the date of the coming into force of this Order by the Secretary of State under section 10(1) of the Harbours, Piers and Ferries (Scotland) Act 1937(2), the provisions of the 1847 Act, other than those referred to in paragraph (1) above, shall not apply to any harbour area.

Harbour jurisdiction

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

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

(3) The Comhairle may employ and appoint harbour masters for and incidental to the performance of their functions under this Order and all other enactments relating to a harbour area.