
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 353

**The Caledonian MacBrayne Limited
(Kennacraig) Harbour Empowerment Order 2005**

**PART IV
CHARGES**

Liability for charges

31.—(1) Charges payable to the Company on or in respect of—

- (a) a vessel, shall be payable by the owner or the master thereof;
- (b) goods, shall be payable by the owner, consignee or shipper thereof.

(2) Where a charge payable to the Company may be recovered from more than one person the persons from whom it is recoverable shall be jointly and severally liable.

Exemptions, rebates, etc. in respect of charges

32.—(1) The Company may confer total or partial exemptions from, allow rebates to or make compositions with any person with respect to charges and may vary or extinguish any such exemption or composition.

(2) Nothing in section 30 of the Harbours Act 1964 shall require the Company to include in the list of ship, passenger and goods dues kept at the harbour office as required by subsection (1) of that section, charges reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in the said list.

Security for charges

33. The Company may require a person who incurs or is about to incur a charge to deposit with, or to guarantee, such sum of money as is, in the opinion of the Company, reasonable having regard to the amount or probable amount of the charge, and where such a person fails to deposit or guarantee the sum of money required by the Company may detain the vessel in the harbour or goods on or in harbour premises, in respect of which the charge has been or will be incurred, until the requirement has been complied with or the charge paid.

Liens for charges

34.—(1) A person, who by agreement with the Company collects charges on its behalf and who pays or gives security for the payment of charges on goods in that person's possession shall have a lien on those goods for the amount paid or security given in respect thereof.

(2) A wharfinger or carrier who is not itself liable for the payment of charges may pay or by agreement with the Company give security for charges on goods in its custody, and in that event it shall have a like lien on the goods for the amount of those charges as it would have in respect of its charges for safe custody or carriage of the goods, as the case may be.

Refusal to pay charges for landing placed, etc.

35. An officer of the Company may prevent a vessel from using a landing place or any other facilities provided by the Company, if the master of the vessel refuses to pay the charges for such use.

Exemptions from charges

36.—(1) Except insofar as may be agreed between the Company and the government department or person concerned or as may be specifically laid down by statute, nothing in any enactment authorising the Company to levy charges shall extend to authorise them to levy charges on—

- (a) a vessel—
 - (i) belonging to or in the service of Her Majesty or any member of the Royal Family; or
 - (ii) in the service of the Commissioners of Customs and Excise and not carrying goods for reward; or
 - (iii) in the service of the Commissioners of Northern Lighthouses and not carrying goods for reward; or
 - (iv) belonging to or used by the lifeboat service whilst employed in or in connection with the functions of that service;
- (b) the Commissioners of Customs and Excise in respect of a vessel or goods under customs seizure;
- (c) troops landed at the harbour premises or a person employed by the Secretary of State for Defence while in execution of that person's duties; and
- (d) goods or stores belonging to the Secretary of State for Defence.

(2) Officers of the Department for Transport and the Scottish Ministers in the execution of their duty shall at all times be exempt from charges in respect of their vessels and otherwise.

(3) This Order shall not extend to subject any person to liability for charges in respect of a vessel which merely passes through the limits of the harbour without mooring or making use of any facilities provided by the Company.

Conditions as to payment of charges

37.—(1) Charges shall be payable subject to such terms and conditions as the Company may from time to time specify in its published list of charges.

(2) Without prejudice to the generality of paragraph (1) above the terms and conditions may prescribe the time when the charge falls due for payment and may require such information to be given by the Company to the owner or master of a vessel or a person using a service or facility of the Company as the Company may require in connection with the assessment or collection of a charge.