

2013 No. 230

HARBOURS, DOCKS, PIERS AND FERRIES

**The Highland Council Rum Harbour Revision (Transfer) Order
2013**

Made - - - - *9th July 2013*

Coming into force - - *10th July 2013*

The Scottish Ministers (“the Ministers”) make the following Order in exercise of the powers conferred by section 14(1) of the Harbours Act 1964(a) and all other powers enabling them to do so.

In accordance with section 14(1) of that Act, this Order is made in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, for achieving objects specified in Schedule 2 to that Act(b).

In accordance with section 14(2) of that Act—

- (a) this Order is made following a written application to the Ministers by Scottish Natural Heritage (“the applicant”), being the authority engaged in improving, maintaining or managing the harbour; and
- (b) the Ministers are 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.

Notice has been published by the applicant in accordance with the requirements of paragraph 10 of Schedule 3 to that Act(c).

The provisions of paragraph 17 of that Schedule(d) have been satisfied. No objections to the application have been made.

In accordance with paragraph 19(2) of that Schedule(e), the Ministers have decided to make this Order in the form of the draft submitted to them.

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- (a) 1964 c.40; section 14 was relevantly amended by the Transport Act 1981 (c.56), Schedule 6, paragraphs 2, 3, 4(1) and 14, and Schedule 12 and the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 1. See sections 14(7) and 57(1) of the Harbours Act 1964 for the definitions of “the appropriate Minister” and “the Minister”. The functions of the Minister of the Crown were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
 - (b) Schedule 2 was relevantly amended by the Transport and Works Act 1992, Schedule 3, paragraph 9.
 - (c) Paragraph 10 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(b) and (c).
 - (d) Paragraph 17 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007, section 25(5)(e).
 - (e) Paragraph 19(2) of schedule 3 was substituted by S.I. 1999/3445.

Citation and commencement

1.—(1) This Order may be cited as the Highland Council Rum Harbour Revision (Transfer) Order 2013 and comes into force on the day following the day on which it is made.

(2) The 1999 Order and this Order may be cited together as the Rum Harbour Orders 1999 to 2013.

Interpretation

2. In this Order—

“the 1999 Order” means the Scottish Natural Heritage (Rum) Harbour Empowerment Order 1999(a);

“the Council” means the Highland Council;

“deposited plan” means the plan which has been signed in quadruplicate with reference to this Order; two copies of which have been deposited with Transport Scotland at Victoria Quay, Edinburgh EH6 6QQ, one copy of which has been deposited at the offices of Scottish Natural Heritage at Great Glen House, Leachkin Road, Inverness, IV3 8NW and one copy of which has been deposited at the office of the Council at Glenurquhart Road, Inverness IV3 5NX; and

“harbour” means the area over which Scottish Natural Heritage exercised jurisdiction under article 15(1) of the 1999 Order.

Transfer of jurisdiction and property

3.—(1) The Council shall become the harbour authority for the harbour and Scottish Natural Heritage shall cease to be the harbour authority for that harbour.

(2) Subject to the remaining provisions of this article, all property vested in Scottish Natural Heritage comprising or held by it for the purposes of the harbour shall be transferred to and vest in the Council.

(3) Paragraph (2) shall not apply in respect of the area shown delineated in brown on the deposited plan nor in respect of any buildings located in that area which shall remain vested in Scottish Natural Heritage.

(4) Scottish Natural Heritage shall retain a vehicular right of access over the area shown delineated in green on the deposited plan.

Duties and powers of the Council in respect of the harbour

4.—(1) Except when it would be inconsistent with the terms of this Order the Council shall have in respect of the harbour all the duties and powers imposed on or conferred on Scottish Natural Heritage by any provision of the 1999 Order in force immediately before the date of the coming into force of this Order, and on that date Scottish Natural Heritage shall cease to have any such duties or powers in respect of the harbour but not otherwise.

(2) Except where it would be inconsistent with the terms of this Order in consequence of paragraph (1) any statutory provision of local application or document whatsoever (other than a document referred to in article 5) shall, so far as it relates to the harbour, have effect (except where the context otherwise requires and subject to any necessary modifications) as if, for any reference however worded and whether express or implied—

(a) to Scottish Natural Heritage, there were substituted a reference to the Council;

(b) to any officer or servant of Scottish Natural Heritage, there were substituted a reference to the officer or servant of the Council who corresponds as nearly as may be to the first-mentioned officer or servant.

(a) S.S.I. 1999/202.

Exclusion of liability etc.

5. Nothing in this Order shall transfer from Scottish Natural Heritage to the Council any liability of Scottish Natural Heritage (including any liability in damages) incurred or arising prior to the date on which this Order comes into force or relating to events, acts or omissions which took place prior to that date or any liability pursuant to any sale, conveyance, lease, grant, assurance, deed, contract, bond, agreement, notice or demand affecting the undertaking of Scottish Natural Heritage at the harbour or otherwise.

JOHN NICHOLLS

A member of the staff of the Scottish Ministers

St Andrew's House,
Edinburgh
9th July 2013

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the constitution of Rum harbour by transferring it from the control of Scottish Natural Heritage to that of the Highland Council.

The applicant for the Order is Scottish Natural Heritage, Great Glen House, Leachkin Road, Inverness IV3 8NW.

A copy of the signed plan can be inspected during normal office hours at the offices of Scottish Natural Heritage at Great Glen House, Leachkin Road, Inverness IV3 8NW and at the offices of the Highland Council at Glenurquhart Road, Inverness IV3 5NX.

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