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## SCHEDULE

### HIGHLAND REGIONAL COUNCIL (HARBOURS)

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WHEREAS—

- (1) Under the Local Government (Scotland) Act 1973 the Highland Regional Council (hereinafter referred to as “the Council”) are the authority charged with the administration of local government in the Highland Region:
- (2) The harbours at Armadale, Aultbea, Balintore, Broadford, Brora, Culkein Drumbeg, Dunbeath, Elgol, Gairloch, Helmsdale, John O’Groats, Keiss, Kinlochbervie, Kyle of Lochalsh, Kyleakin, Kylesku, Lochinver, Nairn, Old Dornie, Plockton, Portmahomack, Portree, Raasay, Sconser, Shieldaig, Thurso and Uig, are by virtue of section 154 of the said Act vested in the Council:
- (3) It is expedient that the administration and control of the aforesaid harbours, at present governed by various and disparate enactments, be co-ordinated so far as possible, and that the further provisions of this Order should be enacted:
- (4) It is further expedient that the limits of harbour jurisdiction at the said harbours should in present circumstances be redefined and in relation to certain of them extended:
- (5) Plans showing the limits of harbour jurisdiction at the harbours and marked “Harbour Limits Plans” were deposited in the month of November 1987 in Parliament, at the offices of the Council, at the offices of the district councils of Caithness, Sutherland, Ross and Cromarty, Skye and Lochalsh, Lochaber, Inverness, Badenoch and Strathspey and Nairn, at the office of the Secretary of State in Edinburgh and at the Department of Transport:
- (6) The purposes of this Order cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore, in pursuance of the powers contained in the said Act of 1936, the Secretary of State orders as follows:—

## PART I

### PRELIMINARY

#### Short title

- 1 This Order may be cited as the Highland Regional Council (Harbours) Order 1991.

#### Interpretation

- 2 In this Order, except where the context otherwise requires—
  - “charges” means charges, dues and tolls of every description for the time being payable under any enactment to the Council in relation to the undertaking;
  - “the Council” means the Highland Regional Council;
  - “direction” means a direction given under section 29 below;
  - “dredging licence” means a licence granted under section 17 below;
  - “harbour area” means a sea area within which the Council for the time being exercise jurisdiction as a harbour authority under section 3 below and includes harbour premises adjacent thereto;

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“harbour limits plans” means the plans referred to in paragraph (5) of the Preamble to this Order;

“harbourmaster” means any person appointed as such pursuant to section 3 below, and includes his deputies and assistants and any person for the time being authorised by the Council to act, either generally or for a specific purpose, in the capacity of harbourmaster;

“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 undertaking;

“hovercraft” has the same meaning as in the Hovercraft Act 1968;

“hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;

“land” includes land covered by water, and any interest in land or any servitude or right in, to or over land;

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

“licensee” means a person in whose favour a works licence, or as the case may be a dredging licence, has been granted and is in operation;

“master” in relation to a vessel, means any person for the time being having or taking the command, charge or management thereof;

“public telecommunications operator” has the meaning assigned to it by section 9 (3) of the Telecommunications Act 1984;

“the sheriff” means any of the sheriffs appointed for the sheriffdom of Grampian, Highland and Islands;

“telecommunication apparatus” has the meaning assigned to it in paragraph 1 (1) of Schedule 2 of the Telecommunications Act 1984;

“tidal work” means so much of—

- (a) any work belonging to or vested in the Council; or
- (b) any other work authorised by or under this Order;

as is on, under or over tidal waters or tidal lands below the level of high water in a harbour area;

“the undertaking” means the harbour undertaking of the Council as from time to time authorised;

“vessel” means every description of vessel, however propelled or moved, and includes—

- (a) any thing constructed or used to carry persons or goods by water;
- (b) any rig, platform or other man-made structure on or in navigable water;
- (c) a seaplane on or in the water, a hovercraft and a hydrofoil vessel;
- (d) any other structure capable of floating on water (or which would be so capable if in proper repair) and used or capable of being used for human habitation;

but does not include any houseboat constructed for or used by five or less persons;

“works” means works of every description, including, except for the purposes of sections 15 and 16 below, moorings and includes the reclamation of land reasonably required for the purpose of executing works;

“works licence” means a licence granted under section 16 below.

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## PART II

### DUTIES AND POWERS OF THE COUNCIL

#### Harbours jurisdiction

- 3 (1) The Council shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Harbours Act 1964, and the powers of the harbourmaster shall be exercisable, within the harbour areas the respective limits of which are described in Schedule 1 to this Order.
- (2) In the event of any discrepancy between the harbour limits as described in Schedule 1 to this Order and the limits shown on the harbour limits plans, the limits as described in the said Schedule shall be deemed to be correct and shall prevail.
- (3) For and incidental to the performance of their functions under this Order, the Council may employ and appoint harbourmasters.
- (4) The Council shall, within each of the harbour areas, be a local lighthouse authority within the meaning of section 634 of the Merchant Shipping Act 1894.

#### Power to dredge

- 4 (1) The Council may from time to time, as may appear to them to be necessary or desirable for the purposes of the undertaking, deepen, widen, dredge, scour and improve the bed and foreshore of a harbour area, and may blast any rock in that area.
- (2) Subject to the provisions of section 63 below, any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) taken up or collected in the course of such operations shall be the property of the Council and may be used, sold, removed, deposited or otherwise disposed of as the Council may think fit:

Provided that the Council shall not lay down or deposit any materials—

- (a) below the level of high water except in such position as the Secretary of State may approve and subject to such conditions and restrictions as he may impose; or
- (b) in such place or manner as to cover any subaqueous telecommunication apparatus belonging to or used by a public telecommunications operator or to impede in any way the inspection, maintenance, removal or renewal of any such telecommunication apparatus; or
- (c) so as to obstruct or impede any work of, or connected with, the inspection, maintenance, removal, replacement, alteration, renewal or repair of any electrical plant or electric line (as respectively defined in section 64 of the Electricity Act 1989) belonging to or used or maintained by Scottish Hydro-Electric plc, or so as to affect the efficient operation thereof, except with the consent of that company.
- (3) The Council shall give notice in writing to a public telecommunications operator as early as possible, and in any event not less than 28 days, before exercising any of the powers conferred by subsection (1) above within a distance of 50 metres, or, in the case of blasting operations, 150 metres, of any subaqueous telecommunication apparatus belonging to or used by a public telecommunications operator.

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### **Works in harbour areas**

- 5 (1) The Council may from time to time maintain, renew, alter or remove temporarily or permanently all works now or hereafter executed or acquired by them in a harbour area:

Provided that nothing in this subsection shall—

- (a) authorise the Council to deviate laterally or vertically beyond the limits of deviation prescribed by any enactment authorising the execution of those works; or
  - (b) relieve the Council from the obligation to obtain the consent of any government department, body or person to the execution of works which consent they would, but for this subsection, have been liable to obtain.
- (2) The Council shall obtain the approval of the Commissioners of Northern Lighthouses before placing in or near a harbour area a buoy, beacon, light or other device of any nature designed to assist or regulate navigation.
- (3) Any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by this section or to any of the enactments repealed by this Order shall be so constructed, erected, or laid down, and so maintained, worked and used that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction or otherwise) with—
- (a) any telecommunication apparatus belonging to or used by a public telecommunications officer or with the telecommunication by means of any such apparatus;
  - (b) any electrical plant or electric line (as respectively defined in section 64 of the Electricity Act 1989) belonging to, or used or maintained by, Scottish Hydro-Electric plc.

### **Reclamation of land**

- 6 Subject to the provisions of this Order, the Council may within any of the harbour areas fill up, raise, enclose and reclaim land from the sea and the bed and foreshore of the harbour and for that purpose may place such piles and construct such groynes, retaining walls and other works in and upon the sea, bed and foreshore as the Council deem necessary:

Provided that the Council shall not exercise the powers of this section—

- (a) in relation to any land not owned by them unless they first obtain a consent in writing of the owner thereof; or
- (b) in relation to any part of the harbour in front of or adjoining land belonging to Her Majesty in right of Her Crown or to a government department or held in trust for Her Majesty for the purposes of a government department and protected by section 63 below of this Order, without the consent in writing of the Crown Estate Commissioners or, as the case may be, that government department.

### **Power to sell or lease works**

- 7 (1) The Council may, with the consent in writing of, and upon such terms, conditions and restrictions (and in the case of a lease for such period) as may be approved by, the Secretary of State, sell or lease works in a harbour area.

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- (2) As from such sale or the commencement of such lease the purchaser, to the extent authorised by his conveyance, or the lessee during and to the extent provided in his lease, shall have and may exercise in relation to the works all or any of the powers conferred upon the Council by this Order, and shall in respect of the works be subject to all the restrictions, liabilities and obligations to which the Council are subject, and shall perform all the duties of the Council under this Order in respect of the works.
- (3) No lease made under this section shall be assignable without the previous consent in writing of the Secretary of State, and the provisions of this section with respect to such lease or the lessee shall apply to any such assignation or to the assignee respectively.

#### **Power to lease wharves, warehouses, etc**

- 8 The Council may lease or grant the use or occupation of any warehouses, buildings, wharves, yards, cranes, machines or other conveniences provided by them at such rents and upon such terms and conditions as shall be agreed upon between the Council and the persons taking the same.

#### **Power of Council in relation to harbours areas**

- 9 The following provisions shall have effect as regards any harbour area:—
  - (a) The Council may provide and supply or contract with others for the provision and supply of fuel, ice, water, chandlery and marine equipment for the bunkering and service of any vessel entering and using any harbour area;
  - (b) The Council may let upon hire (with or without the services of their employees) to such persons, at such places and on such terms as they think fit any vessel, plant, equipment or other property belonging to them;
  - (c) The Council may make arrangements for the handling, sale, storage, processing and trans-shipment of fish or fish products and other goods or cargo passing through any harbour area;
  - (d) The Council may provide warehouses, workshops, slipways and services for marine repairs and ancillary works or contract with others for the provision of such facilities or services;
  - (e) The Council may recover such reasonable charges for services and facilities provided by them in, or in connection with, the harbour as they may from time to time determine.

#### **Power to provide and operate fish markets**

- 10 (1) The Council may in relation to any harbour area provide, operate and maintain a market for the sale of fish with all such appliances and fittings as they deem necessary and suitable for the purposes thereof, and may—
  - (a) divide or allocate any parts thereof into stalls or other defined or limited places;
  - (b) in connection with such market provide and operate such services and facilities as may be requisite or expedient;
  - (c) fix and regulate the hours during which the market or any part thereof shall be open;
  - (d) recover such reasonable charges as they think fit for the use of the market and for such services and facilities.

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- (2) The Council may, for such consideration and upon such terms and conditions, subject to such restrictions and for such periods as they think fit, sell, feu, lease, excamb or otherwise dispose of the whole or any part of the lands forming a fish market or part thereof and may enter into and carry into effect agreements with respect to any offices, stalls and ancillary buildings in connection therewith.

### **Moorings**

- 11 (1) The Council may, as they consider necessary or desirable for the convenience of vessels, provide, place, lay down, maintain, renew, use or remove moorings, buoys and similar apparatus on land owned or leased by them or in which they hold an appropriate interest within a harbour area.

- (2) The Council may from time to time grant a licence to any person to place, lay down, maintain, renew and use moorings, buoys and similar apparatus for vessels in a harbour area:

Provided that—

- (a) nothing in any such licence shall entitle a person to place, lay down, maintain or use any mooring on land not owned or leased by him or by the Council or in which he has no appropriate interest;
- (b) the Council shall not unreasonably refuse to grant a licence to an owner or lessee of any land not leased by the Council to place, lay down, maintain or use moorings on that land and any question whether the grant of a licence has been or has not been unreasonably refused shall be determined by the Secretary of State.
- (3) Any person who, without reasonable excuse, shall place, lay down, maintain, renew or use a mooring, buoy or similar apparatus for vessels within a harbour area except under and in accordance with the terms and conditions of a licence granted under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Any licence granted under subsection (2) above shall be valid for a period of not more than 3 years commencing with the date on which it takes effect.
- (5) The Council may charge a reasonable fee for the grant of a licence under this section.
- (6) Nothing in this section shall apply to the harbour area at Portree.

### **Provision of vessels**

- 12 The Council may construct, purchase, contract for or hire, and may maintain and use, vessels required by them for carrying out their functions under this Order, including dredging, and may sell or dispose of any such vessels belonging to them.

### **Accommodation for customs officers**

- 13 The Council shall, if required by the Commissioners of Customs and Excise so to do, provide at a harbour area such accommodation for the use of officers of the customs and excise service as may be reasonably required by the said commissioners.



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## **Reserve fund**

- 14 (1) If in respect of any financial year the moneys received by the Council on account of the revenue of the undertaking exceed the moneys expended or applied by them in respect thereof, the Council may in respect of that year carry to the credit of a reserve fund in respect of the undertaking such a sum as they consider reasonable not exceeding the amount of such excess.
- (2) Moneys for the time being standing to the credit of the reserve fund may be invested in any securities in which trustees are for the time being authorised to invest trust moneys including debenture stock or other security created by the Council.
- (3) Any reserve fund provided under this section may be applied—
- (a) in making good to the regional rate fund any deficiency at any time arising in the income of the Council from the undertaking;
  - (b) in meeting any extraordinary claim or demand at any time arising against the Council in respect of the undertaking;
  - (c) in defraying any expenditure in connection with the undertaking for which capital is properly applicable or in providing money for repayment of loans;
  - (d) in defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing buildings, works, plant, vessels, equipment or articles forming part of the undertaking; or
  - (e) for any other purpose which in the opinion of the Council is desirable in the interests of securing the improvement, maintenance or management of a harbour area in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea to or from a harbour area.

## **PART III**

### **REGULATION OF HARBOUR AREAS**

## **Restriction of works and dredging**

- 15 (1) No person other than the Council shall in a harbour area—
- (a) alter, renew or maintain any works; or
  - (b) dredge;
- unless he is licensed so to do, in the case of works by a works licence and in the case of dredging licence, nor except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of section 16 or, as the case may require, section 17 below.
- (2) Any person who contravenes this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) The Council may by notice require a person who contravenes this section to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates, and to restore the site thereof to its former condition; and if he fails to comply with the notice the Council may carry out the works so required and may recover the cost of so doing from that person.
- (4) Nothing in this section shall affect the powers of a public telecommunications operator under the Telecommunications Act 1984.

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### **Licensing of works**

- 16 (1) The Council may upon such terms and conditions as they think fit grant to any person a licence to maintain, alter or renew works within a harbour area on, under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with public rights of navigation or other public rights by such works as maintained, altered or renewed.
- (2) Application for a works licence shall be made in writing to the Council and shall—
- (a) be accompanied by plans, sections and particulars of the works to which the application relates;
  - (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken or to be taken to enable him to obtain such rights if the licence is granted; and
  - (c) be accompanied by a copy of a notice published in a newspaper circulating in the Highland Region stating that it is intended to make the application, containing a general description of the nature of the works for which application is being made and of the land affected thereby, specifying a place where a copy of the plans, sections and particulars of the proposed works may be inspected at all reasonable hours and stating that any person who desires to object to the Council to the grant of the application should do so in writing stating the grounds of his objection before the expiration of the period of 28 days from the date of the publication.
- (3) In deciding whether or not to grant a works licence or as to the terms and conditions to be included in the licence the Council shall take into consideration any objection made to them in accordance with subsection (2)(c) above (hereinafter in this section and in section 18 below referred to as a competent objection) and in granting a licence the Council may require modifications in the plans, sections and particulars submitted to them by the applicant.
- (4) If the Council decide to grant a works licence they shall give notice of their decision to the applicant and to any person who has made a competent objection and has not withdrawn it.
- (5) If within 3 months from the date of the making of an application under subsection (2) above the Council do not notify to the applicant their decision whether to grant a works licence, they shall be deemed to have refused the application.
- (6) The Council may charge a reasonable fee for the grant of a licence under this section.
- (7) The grant of a licence under this section has effect for the purposes of section 15 above and confers no other authority for the carrying out of the operations covered by the licence.
- (8) In the execution of any works to which a works licence relates, the licensee shall not damage or injuriously affect any electrical plant or electric line (as respectively defined in section 64 of the Electricity Act 1989) belonging to, or used or maintained by, Scottish Hydro-Electric plc or, without the consent of that company, interfere with or adversely affect the operation of any such line or work.

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### **Licence to dredge**

- 17 (1) The Council may upon such terms and conditions as they think fit grant to any person a licence to dredge in any part of a harbour area.
- (2) Application for a dredging licence shall be made in writing to the Council and shall be accompanied by—
- (a) plans, sections and particulars defining the nature, extent and manner of the operations in respect of which application is made; and
  - (b) a copy of a notice published in a newspaper circulating in the Highland Region stating that it is intended to make the application, containing a general description of the position, nature, extent and manner of those operations specifying a place where a copy of the plans, sections and particulars of the proposed operations may be inspected at all reasonable hours and stating that any person who desires to object to the Council to the grant of the application should do so in writing stating the grounds of his objection before the expiration of the period of 28 days from the date of publication of the notice.
- (3) In deciding whether or not to grant a dredging licence or as to the terms and conditions to be included in the licence the Council shall take into consideration any objection made to them in accordance with subsection (2)(b) above (hereinafter in this section and in section 18 below referred to as a competent objection) and in granting a licence the Council may require modifications in the plans, sections and particulars submitted to them by the applicant.
- (4) If the Council decide to grant a dredging licence they shall give notice of their decision to the applicant and to any person who has made a competent objection and has not withdrawn it.
- (5) If within 3 months from the date of making an application under subsection (2) above the Council do not notify the applicant of their decision whether to grant a dredging licence they shall be deemed to have refused the application.
- (6) Unless otherwise agreed between the Council and the licensee any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1894) taken up or collected by means of dredging in pursuance of a dredging licence shall, in so far as they are not the property of the Council before being taken up or collected, but subject to the provisions of section 62 below, become the property of the Council, and the provisions of subsection (2) of section 4 above shall apply to such materials which are or become the property of the Council.
- (7) The Council may charge a reasonable fee for the grant of a licence under this section.
- (8) The grant of a licence under this section has effect for the purposes of section 15 above and confers no other authority for the carrying out of the operations covered by the licence.
- (9) In the execution of any works to which a dredging licence relates the holder of the licence shall not damage or injuriously affect any electrical plant or electric line (as respectively defined in section 64 of the Electricity Act 1989) belonging to or used or maintained by, Scottish Hydro-Electric plc or, without the consent of that company, interfere with or adversely affect the operation of any such line or work.

### **Appeals in respect of works or dredging licence**

- 18 (1) Where—

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- (a) the Council have refused to grant a works licence or a dredging licence and the applicant for the licence is aggrieved by the refusal, or
- (b) the Council have granted such a licence and any person who has made a competent objection and has not withdrawn it is aggrieved by the grant, or
- (c) the Council have granted such a licence upon terms or conditions or have required modifications to be made in the plans, sections and particulars submitted by the applicant, and the applicant or any such person is aggrieved by the Council's decision as to such terms or conditions, or as to such modifications,

the person aggrieved may within 28 days from the date on which the Council give notice of their decision or the date on which they are under subsection (5) of section 16 or of section 17 above deemed to have refused the application, as the case may be, appeal to the Secretary of State.

- (2) An appeal under this section shall be made by notice in writing, stating the grounds of the appeal.
- (3) A person who appeals to the Secretary of State under this section shall at the same time send a copy of his statement of appeal to the Council and the Council shall as soon as practicable thereafter furnish the Secretary of State with all relevant documents, and may within 28 days from the receipt of the statement of appeal furnish the Secretary of State with their observations on the appeal.
- (4) On an appeal under this section the Secretary of State may confirm, vary or revoke the decision appealed against and may require any consequential amendments to be made, including amendment of the terms and conditions or modification of the plans, sections and particulars.
- (5) The Council shall give effect to any decision or requirement given or made by the Secretary of State under subsection (4) above.

### **Removal of obstructions**

- 19 (1) Without prejudice to their powers under any other enactment (including one contained in this Order) the Council may remove anything which is causing or likely to become an obstruction or impediment to the proper use of any part of a harbour area other than—
- (a) a vessel or vehicle; or
  - (b) wreck within the meaning of Part IX of the Merchant Shipping Act 1894.
- (2) (a) If anything removed by the Council under subsection (1) above is known to the Council to be, or is so marked as to be readily identifiable as, the property of any person, the Council shall within one month of its coming into their custody give notice, in accordance with subsection (5) of this section, to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period vest in the Council.
- (b) If the ownership of anything removed by the Council under subsection (1) above which is not so known or marked is not within 3 months of its coming into the custody of the Council proved to their reasonable satisfaction, it shall vest in the Council.
- (3) The Council may at such time and in such manner as they think fit dispose of anything which is of a perishable or obnoxious nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the

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Council under this section, and if it is sold the proceeds of sale shall be applied by the Council in payment of the expenses incurred by them under this section in relation to the thing, and any balance—

- (a) shall be paid to any person who within 3 months from the time when the thing came into custody of the Council proves to their reasonable satisfaction that he was the owner thereof at that time; or
- (b) if within the said period no person proves ownership at the said time, shall vest in the Council.

(4) If anything removed under this section—

- (a) is sold by the Council and the proceeds of sale are insufficient to reimburse them for the amount of the expenses incurred in the exercise of their powers of removal; or
- (b) is unsaleable;

the Council may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner when the thing removed came into the custody of the Council or who was the owner at the time of its abandonment or loss.

(5) A notice given under subsection (2) (a) above shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Council possession may be retaken at a place specified in the notice within the time specified therein, being not less than 14 days after the date when the notice is served.

(6) The Council shall not under the powers of this section move anything placed or constructed by any person under the provisions of any enactment or of a consent or licence given or issued by the Council thereunder.

### **Removal of unseaworthy vessels**

20 If any vessel in a harbour area is unseaworthy the harbourmaster may require the owner or master thereof to remove it from that area, and if the requirement is not complied with within a reasonable time may cause the vessel to be so removed and the Council may recover from the owner or master the expenses reasonably incurred in effecting such removal.

### **Removal of vehicles at harbour premises**

21 (1) If a vehicle is left without permission of the Council—

- (a) in a parking place provided by the Council within the harbour premises for a longer period than 24 hours; or
- (b) in any part of the harbour premises where the parking of vehicles is prohibited by notice erected by the Council; or
- (c) in any place within the harbour premises where it is likely to obstruct or interfere with the use of the harbour premises;

the Council may cause it to be removed to a place of safe custody.

(2) Any such notice as is referred to in subsection (1) above shall be conspicuously posted in or in proximity to the place to which it relates.

(3) Where the Council in exercise of the powers of this section cause a vehicle to be removed the expenses of and incidental to its removal and safe custody shall be recoverable by the Council from the person responsible.

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- (4) If the Council in exercise of the powers of this section cause a vehicle to be removed, they shall, if and as soon as is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1964, at his last known address, his registered address, or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this section and of the place to which the vehicle has been removed.
- (5) A notice stating the general effect of subsection (1) above shall be displayed in a prominent position at each entrance to any parking place provided by the Council and at each place where a road accessible to vehicles enters any part of the harbour premises, and shall be endorsed on any tickets issued to persons leaving vehicles in such parking place or elsewhere at the harbour premises.
- (6) In subsection (3) above “person responsible”, in relation to a vehicle, means—
- (a) the owner of the vehicle at the time when it was put in the place from which it was so removed, unless he shows that he was not concerned in and did not know of its being put there;
  - (b) any person by whom it was put in the place aforesaid;
  - (c) any person convicted of an offence under section 2 of the Refuse Disposal (Amenity) Act 1978 in consequence of the putting of the vehicle in the place aforesaid.

#### **Powers with respect to disposal of wrecks**

- 22 (1) In their application to the Council, sections 530 and 532 of the Merchant Shipping Act 1894 shall have effect—
- (a) subject to the provisions of section 23 below; and
  - (b) in relation to a vessel sunk, stranded or abandoned before as well as after the making of this Order.
- (2) Subject to subsection (3) below, and to any enactment for the time being in force limiting his liability, the Council may recover from the owner of any vessel in relation to which they have exercised their powers under the said section 530 or the said section 532 any expenses reasonably incurred by them under those sections in relation to that vessel which are not reimbursed out of the proceeds of sale (if any) within the meaning of those sections.
- (3) Except in a case of emergency, subsection (2) above shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530, other than the power of lighting and buoying, the Council have given to the owner of the vessel not less than 48 hours' notice of their intention to do so; and if before the notice expires the Council receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under subsection (2) (b) of the said section 23, he shall be at liberty to do so, and the Council shall not exercise the powers aforesaid in relation to that vessel until the expiration of 7 days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Council.

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- (4) Notice under subsection (3) above to the owner of any vessel may be served by the Council either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom or, if the owner or any such place of business or abode is not known to the Council or is not in the United Kingdom, by displaying the notice at the office of the harbourmaster for the period of its duration.
- (5) In this section the expression “owner” in relation to any vessel means the present owner or, as the case may require, the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof.

### **Protection of Crown interest in wrecks**

- 23 (1) Without prejudice to section 741 of the Merchant Shipping Act 1894, the powers conferred on the Council by sections 530 and 532 of that Act shall not be exercisable—
- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
  - (b) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in paragraph (b) of subsection (2) below, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—
    - (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
    - (ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty’s ships of war.
- (2) The Council shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Transport of any decision of the Council to exercise in relation to any vessel referred to in paragraph (b) of subsection (1) above any of the powers aforesaid other than the power of lighting and buoys and, except in a case which is in the opinion of the Council a case of emergency, shall not proceed with the exercise thereof—
- (a) except with the consent of the Secretary of State for Defence and the Secretary of State for Transport, before the expiration of a period of 14 days from the giving of the notice; or
  - (b) if before the expiration of the said period there is served on the Council a direction by the Secretary of State for Defence or the Secretary of State for Transport that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where in any such case the Council proceed to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and if, before the expiration of that period such a direction is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of section 22 above:

Provided that—

- (i) the Council shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under

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- paragraph (b) of subsection (1) above, but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the said section 22 to have been duly served under paragraph (b) of this subsection;
- (ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Secretary of State for the purposes of this proviso.
- (3) Without prejudice to the power of sale conferred on the Council by the said section 530, the Council shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894, raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section in accordance with such directions (if any) as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property the Council shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Council under that section.
- (4) Any limitation on the powers of the Council in relation to any vessel arising by virtue of subsection (1) or subsection (2) above shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Commissioners of Northern Lighthouses by section 531 of the said Act of 1894.

#### **Power to appropriate lands and works for particular trades, etc**

- 24 (1) Notwithstanding anything in this or any other statutory provision of local application, the Council may from time to time set apart or appropriate any lands, works, buildings, machinery, equipment or other property of the Council in a harbour area for the exclusive, partial or preferential use or accommodation for any particular trade, person, vessel or class of vessels or goods, subject to the payment of such reasonable charges and to such terms and conditions as the Council think fit.
- (2) No person or vessel shall, otherwise than in accordance with the setting apart or appropriation, make use of any lands, works, buildings, machinery, equipment or other property so set apart or appropriated without the consent of the harbourmaster or other duly authorised officer of the Council, and the harbourmaster or, as the case may be, such officer may order any person or vessel making use thereof without such consent to leave or be removed.

#### **Power to hire out plant**

- 25 The Council may let upon hire (with or without the services of their employees) on such terms and conditions as they think fit any vessel, plant, equipment or other property belonging to them and forming part of the undertaking.

#### **Licensing of tugs**

- 26 (1) It shall not be lawful for any person, except in an emergency, to operate a vessel exceeding 5 tons gross for fee or reward for the purpose of moving or controlling the movement of any other vessel within a harbour area except under and in accordance with the terms and conditions of a licence granted by the Council in that behalf.
- (2) The Council may charge a reasonable fee for the grant of any licence under this section.



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- (3) Any person who contravenes subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Declaration of draught, etc., of vessel**

- 27 (1) The master of a vessel entering, leaving or intending to enter or leave a harbour area shall, if required to do so by the harbourmaster, state the length overall and draught maximum of his vessel.
- (2) The master of a vessel who in response to a requirement under subsection (1) above without reasonable excuse gives incorrect information shall, without prejudice to any right of the Council to compensation for loss or damage occasioned thereby, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) For the purpose of this section “draught” in relation to a hovercraft or hydrofoil vessel means its draught when afloat and not supported on a cushion of air or on foils or by any other means and in relation to a seaplane means its draught when afloat.

### **Boarding vessels**

- 28 Any duly authorised officer of the Council may, on producing if so required his authority, enter and inspect a vessel in a harbour area—
- (a) for the purposes of any enactment relating to the Council or of any byelaw of the Council, including the enforcement thereof; or
  - (b) to prevent or extinguish fire;
- but, except in an emergency, no entry shall be made under this section without notice first having been given to the owner or the person appearing to have charge of the vessel; and the notice shall have annexed to it a copy of this section.

### **Power to give directions**

- 29 (1) The harbourmaster may give special directions to the master of a vessel for any of the following purposes:—
- (a) For regulating the time at which and the manner in which any vessel shall enter into, leave or lie in a harbour area and its berthing, mooring or unmooring whilst therein;
  - (b) For regulating the loading, discharging, storing and safeguarding of a vessel’s cargo, fuel, water or stores and the embarking or disembarking of passengers or its taking in or delivering ballast at harbour premises;
  - (c) For regulating the manner in which any vessel entering a harbour area shall be dismantled, as well for the safety of such vessel as for preventing injury to other vessels and to harbour premises, and the moorings therein;
  - (d) For removing unserviceable vessels and other obstructions from a harbour area and keeping the same clear;
  - (e) For regulating the quantity of ballast or dead weight in the hold which each vessel in or at harbour premises shall have during the delivery of its cargo or after having discharged the same;
  - (f) For regulating the use of the motive power of a vessel whilst within a harbour area;
  - (g) For prohibiting or restricting the use of fires or lights at harbour premises;

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- (h) For requiring the removal from a harbour area or any part of it of a vessel if—
  - (i) it is on fire; or
  - (ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink; or
  - (iii) its removal is necessary to enable maintenance or repair work to be carried out to harbour premises or to premises adjacent thereto; or
  - (iv) its removal is considered by the harbourmaster to be necessary in order to avoid danger to life (or to wildlife) or to property.
- (2) In an emergency, the harbourmaster may give general directions applicable to all vessels or to a particular class of vessels for any of the purposes mentioned in subsection (1) above.
- (3) Any special directions given under this section may be given by the harbourmaster orally or otherwise communicated to the master of the vessel on any occasion when it is not reasonably practicable for a written notice to be served on the master; and any general directions shall be communicated in the manner which is appropriate to the emergency.

#### **Failure to comply with directions**

- 30 (1) The master of a vessel who fails to comply with a direction given under section 29 above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Without prejudice to any other defence, it shall be a defence to a charge made pursuant to subsection (1) above that the master had reasonable ground for believing that to comply with the direction in question would have endangered life or imperilled the safety of any vessel or its cargo, or that for any other reason such compliance was impracticable.

#### **Enforcement of directions**

- 31 (1) Without prejudice to any other remedy available to the Council, if a direction given under paragraph (g) or (h) of section 29 (1) above is not complied with within a reasonable time, the harbourmaster may put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.
- (2) If there is no master on board a vessel to attend to a direction, the harbourmaster may proceed as if the direction had been given and not complied with:
 

Provided that the powers of this subsection shall not be exercised—

  - (a) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or
  - (b) in relation to a lighter unless it is obstructing or interfering with navigation.
- (3) Expenses incurred by the Council in the exercise of the powers conferred by subsection (1) above shall be recoverable by them as if they were a charge of the Council in respect of the vessel.

#### **General byelaws**

- 32 (1) The Council may make byelaws for the efficient management and regulation of a harbour area and of the undertaking.

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- (2) Without prejudice to the generality of subsection (1) above, byelaws made under this section may provide for—
- (a) regulating the use, operation and superintendence of a harbour area and the docks, berths, wharves, quays, piers, jetties, staithes, warehouses, sheds, landing places, locks, sluices, equipment, works and conveniences (including moorings) in such area;
  - (b) regulating the admission to, and the movement within, and the departure of vessels from, a harbour area, or the removal of vessels, and for the good order and government of vessels whilst within such area;
  - (c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods, including marine creatures of any type, within a harbour area;
  - (d) regulating the navigation, berthing and mooring of vessels within a harbour area and their speed and the use of tugs within such area;
  - (e) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within a harbour area;
  - (f) regulating the conduct of all persons in a harbour area not being members of a police force or officers or servants of the Crown whilst in the execution of their duties;
  - (g) regulating the placing and maintenance of moorings within a harbour area;
  - (h) preventing and removing obstructions or impediments within a harbour area;
  - (i) prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) in or into a harbour area;
  - (j) regulating the use of ferries within a harbour area;
  - (k) regulating in a harbour area the use of yachts, sailing boats, sailboards, rowing boats, rowing punts, pleasure craft and other small craft;
  - (l) regulating the holding of regattas and other public events in a harbour area;
  - (m) regulating or prohibiting the activities in a harbour area of divers, surfers, water skiers and other persons engaged in similar recreational pursuits but not so as to prohibit the use of navigation of the vessels referred to in paragraph (k) above;
  - (n) regulating the launching of vessels within the harbour area;
  - (o) prohibiting persons working or employed in or entering a harbour area, or any part thereof, from smoking therein;
  - (p) regulating the use of fires and lights within a harbour area, and within any vessel within a harbour area;
  - (q) regulating traffic on railways within a harbour area and the use of locomotives thereon;
  - (r) regulating the movement, speed and parking of vehicles within a harbour area;
  - (s) regulating the use of any fish market provided by the Council and the conduct of persons working therein or resorting thereto, and for preventing nuisance or annoyance thereat;
  - (t) regulating the exercise of the powers vested in the harbourmaster;
  - (u) making the carrying out of specified harbour operations, or the conduct of persons in a harbour area, subject to the approval (with or without conditions), control or direction of the harbourmaster, and for authorising him to take such action as may be reasonably required in default of compliance with any such condition, control or direction.

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- (3) Byelaws made under this section may—
- (a) provide for imposing upon persons offending against them, or against any condition, requirement or direction imposed, made or given thereunder, fines not exceeding level 3 on the standard scale;
  - (b) relate to the whole of a harbour area or any part thereof;
  - (c) make different provisions for different harbour areas, or for different parts of any such area, or in relation to different classes of vessels.
- (4) Where the Secretary of State proposes to exercise the power conferred on him under subsection (10) of section 202 of the Local Government (Scotland) Act 1973 to confirm with modifications any byelaws submitted by the Council for confirmation and a 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.

#### **Special responsibility for damage by vessel**

- 33 Where any damage is done to a work in a harbour area by a vessel, or by any person employed in connection therewith, the owner of the vessel, and the master (if it was through his intentional act or failure to act that the damage was done), shall be liable to make good the damage, and the Council may detain the vessel until sufficient security has been given for the amount of the damage:

Provided that nothing in this section shall prejudice any right of recovery of the owner or master from any person whose act or failure to act gave rise to the damage.

#### **Obstruction of officers, etc**

- 34 Any person who intentionally obstructs an officer of the Council or other person acting in execution of this Order or of any byelaws made thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### **Power to detain vessels, etc., in certain circumstances**

- 35 If any person contravenes any of the provisions of this Order or of any byelaw made thereunder by the Council and any damage is occasioned thereby to the property of the Council, they may, in addition to any right they have to recover from any such person the cost of repairing or making good any such damage, detain any vessel or other property belonging to or in charge of such person or belonging to his employers until the cost has been paid or until reasonable security therefor has been given to the Council.

#### **Repair of piers, landing places, etc**

- 36 (1) The Council may by notice require the owner or occupier of a pier, landing place or embankment which in the opinion of the Council is, or is likely to become, by reason of its insecure condition or want of repair—
- (a) dangerous to persons or vessels using a harbour area; or
  - (b) a hindrance to the navigation of a harbour area;

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to remedy its condition to the satisfaction of a duly authorised officer of the Council within a reasonable time specified in the notice.

- (2) If a person to whom notice is given under this section fails to comply with it within the time stated in the notice or, if he appeals and the appeal is not allowed, within the time stated in the notice or such other time as the court may substitute therefor—
  - (a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale; and
  - (b) the Council may carry out the works they consider necessary to remedy the condition of the pier, landing place or embankment in question, and may recover the expenses of so doing from the person on whom the notice was served.
- (3) A notice under subsection (1) above shall have annexed to it a copy of this section.
- (4) A person aggrieved by a notice served by the Council under subsection (1) above may appeal under section 50 of the Sheriff Courts (Scotland) Act 1907 to the sheriff by way of summary application and the sheriff may confirm, vary or quash the notice as he thinks just, and make such order in the matter as he considers equitable, and the determination of the sheriff on any such appeal shall be binding on all parties, and shall be final.

#### **Tidal works to be deemed within district**

- 37 Tidal works from time to time under the ownership or control of the Council in a harbour area shall be deemed for all purposes to be in the district nearest to those works.

#### **Access to harbour areas**

- 38 Upon payment of the charges payable in relation to any harbour area, and subject to the provisions of this or any other enactment relating thereto, the harbour areas shall be open to all persons for the shipping and unshipping of goods, and the embarking and landing of passengers.

### **PART IV**

#### **CHARGES**

#### **Charges other than ship, passenger and goods dues**

- 39 (1) The Council may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig or floating plant (not being a ship as defined by section 57 of the Harbours Act 1964) entering, using or leaving a harbour area such reasonable charges as they may determine, and sections 30 and 31 of that Act shall with any necessary modifications apply to the charges authorised by this subsection as they apply to ship, passenger and goods dues.
- (2) The Council may in relation to the undertaking demand, take and recover in respect of anything done or provided by them or on their behalf such reasonable charges as they may determine.

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- (3) In subsection (2) above “charges” does not include ship, passenger and goods dues as defined by section 57 of the said Act of 1964 or charges authorised by subsection (1) above.

### **Liability for charges**

- 40 (1) Charges payable to the Council on or in respect of—
- (a) a vessel, shall be payable by the owner or master thereof;
  - (b) goods, shall be payable by the owner, consignee or shipper thereof.
- (2) Where a charge payable to the Council may be recovered from more than one person, the persons from whom it is recoverable shall be jointly and severally liable.

### **Account of goods**

- 41 (1) When goods are to be unshipped within a harbour area the master of the vessel containing them shall, within 12 hours of the arrival of the vessel within the area, deliver to the harbourmaster the name of the consignee of the goods and a copy of the bill of lading or manifest or, if part only of the cargo is to be unshipped, a sufficient account in writing of the goods to be unshipped; and every such master shall, if required so to do by the harbourmaster, give to him 12 hours' notice of the time at which any such goods are to be unshipped.
- (2) Before any person ships goods on board of a vessel within a harbour area he shall give to the harbourmaster a true account signed by him, of the kinds, quantities and weights of the goods.
- (3) If any difference arises between the harbourmaster and a master or the owner of goods or consignee concerning the weight or quantities of goods in respect of which charges may be payable, the harbourmaster may cause the goods to be weighed or measured and may detain a vessel containing such goods until the goods have been so weighed or measured.

### **Repair of piers, landing places, etc**

- 42 (1) The master of every vessel which has been engaged in fishing shall on arrival in a harbour area forthwith report the arrival to the harbourmaster and shall if so required by the harbourmaster furnish him with a true statement of the catch (if any) on board and the value of the catch if it is landed and sold, and of the names and addresses of the persons to whom the catch is to be delivered, and shall not leave the harbour area until all charges payable in respect of the catch have been paid or arrangements agreed with the harbourmaster for the payment thereof.
- (2) Any person who contravenes or fails to comply with the provisions of subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Recovery of charges by seizure, etc**

- 43 (1) If default is made in the payment of any charge in respect of a vessel or its cargo the harbourmaster may, on producing if so required his authority, board the vessel with such assistance as he deems necessary and take, seize or arrest the vessel and the tackle and cargo thereof, and if the charge remains unpaid for 7 days after the seizure or arrestment

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may cause any of the matters so seized or arrested to be sold, and the surplus (if any) of the proceeds of sale over the amount of the charge and over the expenses of taking, keeping, appraising and selling the matters aforesaid shall be paid to the master on demand.

- (2) If any dispute arises as to the amount of charge due, or of the expenses of seizure or arrestment by virtue of this section, the harbourmaster may detain the matters so seized or arrested until the amount aforesaid, subject to any costs of the application payable by either party, has been determined upon application to the sheriff.

### **Exemptions, rebates, etc., in respect of charges**

- 44 (1) The Council 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 Council 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 that list.

### **Security for charges**

- 45 The Council may require a person who incurs or is about to incur a charge to deposit with them, or to give security for, such sum of money as is, in the opinion of the Council, reasonable having regard to the amount or probable amount of the charge, and where such a person fails to deposit or give security for the sum of money required the Council may detain the vessel in a harbour area, 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.

### **Weighing, etc., of goods for charging purposes**

- 46 A person in possession of goods in respect of which information relating to the assessment or collection of charges has been given to the Council shall give to a duly authorised officer of the Council, on production of his authority, reasonable facilities for weighing, measuring and examining the goods and shall, if so requested, give to such an officer any information he may reasonably require for the purpose of checking or amplifying the information already given to the Council in respect of the goods.

### **Liens for charges**

- 47 (1) A person who by agreement with the Council collects charges on their behalf and who pays or gives security for the payment of charges on goods in his 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 himself liable for the payment of charges may pay or by agreement with the Council give security for charges on goods in his custody, and in that event he shall have a like lien on the goods for the amount of those charges as he would have in respect of his charges for safe custody or carriage of the goods, as the case may be.

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### **Refusal to pay charges for landing places**

- 48 The harbourmaster may prevent a vessel from using a landing place provided by the Council, if the master of the vessel refuses to pay the charges for such use.

### **Exemptions from charges**

- 49 (1) Except in so far as may be agreed between the Council and the government department or person concerned or as may be specifically laid down by statute, nothing in any enactment authorising the Council to levy charges shall extend to authorise them to levy charges in respect of—
- (a) a vessel—
    - (i) belonging to or in the service of Her Majesty or any issue of His late Majesty King George V of the United Kingdom;
    - (ii) in the service of the Commissioners of Customs and Excise and not carrying goods for reward;
    - (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) goods or stores belonging to the Secretary of State for Defence.
- (2) Officers of the Department of Transport 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—
- (a) merely passes through the limits of a harbour area without mooring or making use of any facilities therein provided by the Council; or
  - (b) is forced by stress of weather to make use of a harbour area but without breaking bulk.

### **Conditions as to payment of charges**

- 50 (1) Charges shall be payable subject to such terms and conditions as the Council may from time to time specify in their published list of charges.
- (2) Without prejudice to the generality of subsection (1) above the terms and conditions may prescribe the time when a charge falls due for payment and may require such information to be given to the Council by the owner or master of a vessel or a person using a service or facility of the Council as the Council may require in connection with the assessment or collection of a charge.



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## PART V

### MISCELLANEOUS

#### **Tidal works not to be executed without approval of Secretary of State**

- 51 (1) A tidal work shall not be constructed, renewed, altered or removed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.
- (2) If a tidal work is constructed, renewed, altered or removed in contravention of this section—
- (a) the Secretary of State may by notice in writing require the Council at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the Council, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
  - (b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;
- and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Council.

#### **Lights on tidal works during construction**

- 52 (1) The Council shall at or near a tidal work during the whole time of the construction, alteration, renewal or removal thereof exhibit every night from sunset to sunrise such lights and take such other steps for the prevention of danger to navigation, as the Secretary of State shall from time to time direct.
- (2) If the Council fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

#### **Permanent lights on tidal works**

- 53 (1) After the completion of a tidal work the Council shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.
- (2) If the Council fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

#### **Survey of tidal works**

- 54 The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work and any expenditure incurred by him in such survey and examination shall be recoverable from the Council.

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### **Provision against danger to navigation**

- 55 (1) In the case of injury to or destruction or decay of a tidal work or any part thereof the Council shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.
- (2) If the Council fail to notify the Commissioners of Northern Lighthouses as required by this section or to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

### **Abatement of works abandoned or decayed**

- 56 (1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Council at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.
- (2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.
- (3) If, on the expiration of 30 days from the date when a notice under this section is served upon the Council, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Council.

### **Provision for life-saving**

- 57 The Council shall at all times make at each harbour area such provision for life-saving, whether by means of lifebuoys and lifelines or otherwise, as appears to them to be requisite.

### **Sections of Act of 1937 disapplied**

- 58 Sections 10 and 14 of the Harbours, Piers and Ferries (Scotland) Act 1937 shall not apply to any part of the undertaking.

### **For protection of Scottish Hydro-Electric plc**

- 59 For the protection of Scottish Hydro-Electric plc the following provisions shall, except as may be otherwise agreed in writing between the Council and the company, apply and have effect:—

- (1) In this section unless the subject or context otherwise requires—
- “apparatus” means—
- (a) any electrical plant or electric line as respectively defined in section 64 of the Electricity Act 1989; and

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- (b) any meter used for ascertaining the quantity of electricity supplied to any premises, not being a meter which is under the control of a consumer;  
“the company” means Scottish Hydro-Electric plc;  
“in” in a context referring to apparatus includes under, over, across, along or upon;  
“plan” includes a section and description;  
“position” includes depth.
- (2)
  - (a) Nothing in this Order shall relieve the Council from liability for damage caused by them to any apparatus in the exercise of the powers conferred on them by this Order and the Council shall indemnify the company against all claims, demands, costs, damages and expenses made or taken against or recovered from or incurred by the company by reason or in consequence of the exercise of any powers in this Order, or any act or omission of the Council in or in connection with such exercise;
  - (b) If in consequence of the exercise by the Council of the powers of this Order the access to any apparatus is materially obstructed, the Council shall provide an alternative means of access to such apparatus.
- (3)
  - (a) Before exercising the powers of section 4 above at, over, under, or near to any apparatus the Council shall give to the company not less than 28 days' notice in writing of their intention so to do, stating the position of the proposed operation and shall furnish such further particulars with respect thereto as the company may reasonably require;
  - (b) If within 21 days of receipt of such notice as is provided for by the preceding paragraph the company notify the Council in writing of the need to take measures of which the company shall be sole judge to protect apparatus from possible harm caused by the proposed operation and specify the reasonable requirements subject to which the proposed operation may be carried out, the Council shall—
    - (i) carry out such operation only in accordance with such requirements;
    - (ii) pay to the company the expenses reasonably incurred by them in and in connection with the carrying out of any of the said protective measures.
- (4) If the Council in exercise of the powers of section 5 or 6 above require to carry out any work at, over or near any apparatus, the Council shall—
  - (a) give to the company not less than 28 days' prior notice in writing of such requirement or (as the case may be) of their intention to exercise such powers, together with a plan of the work proposed, and shall execute the work only in accordance with such plan and in accordance with such reasonable requirements as may within 21 days of the receipt of the plan be made by the company, and the company may under such requirements alter or otherwise protect the apparatus or provide alternative apparatus adequate to enable them to fulfil their statutory functions not less efficiently than before (hereinafter referred to as “alternative apparatus”);
  - (b) afford to the company, where possible, any necessary facilities and rights for the construction, use, maintenance, repair, renewal and inspection of any alternative apparatus;
  - (c) pay to the company the expenses reasonably incurred by them in and in connection with removing, re-laying, replacing, altering or protecting the apparatus or providing alternative apparatus less (in a case where alternative

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- apparatus is provided) the value of any apparatus removed pursuant to this section.
- (5) Notwithstanding anything in paragraph (4) above, if the company at any time before the commencement of any work specified in that paragraph give notice in writing that they desire to carry out the work themselves, such work, in lieu of being carried out by the Council, shall be carried out by the company with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the Council, and all expenses reasonably incurred by the company in carrying out such works shall be repaid by the Council.
- (6) (a) Sections 15, 16 and 17 above shall not apply to the alteration, maintenance or renewal by the company of any apparatus or make unlawful the carrying out by the company of any works not authorised by the said sections 16 or 17;
- (b) If the company carry out any such works or any such dredging they shall inform the Council as soon as practicable of the works or dredging being carried out.
- (7) (a) Before granting to any person a works licence or a dredging licence to carry out works or dredging at, over, under or near to any apparatus, the Council shall submit to the company particulars of the proposed works or dredging, as the case may be, and furnish them with such particulars with respect thereto as the company may reasonably require and, if so required by the company, the Council shall include in such licence conditions requiring the licensee to comply with such of the provisions of this section as the company think fit as if for the references therein to the Council there were substituted references to the licensee;
- (b) Upon the grant of a licence in respect of which notice of the application is required to be given under paragraph (a) above, the Council shall supply to the company a copy of the licence and of any conditions subject to which it is granted.
- (8) Alternative apparatus, if provided under this section, shall be constructed in such manner and in such line or position as may be agreed between the Council and the company, and no apparatus shall be removed, altered or interfered with until any protective works required have been carried out or until alternative apparatus required has been provided and is operating to the reasonable satisfaction of the company.
- (9) (a) Any difference arising between the Council and the company under this section shall be referred to and determined by an arbiter to be mutually agreed upon, or failing such agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Electrical Engineers.
- (b) In determining any difference under this section the arbiter shall have regard to any duties or obligations which the company may be under in respect of any apparatus and may if he thinks fit require the Council to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

### **For protection of British Telecommunications plc**

- 60 For the purposes of this Order the Council or a licensee is a “relevant undertaker” and any works carried out by the Council or the licensee, as the case may be, under this Order are “undertaker’s works” as defined in paragraph 23 (10) of Schedule 2 to the

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Telecommunications Act 1984 and the provisions of the said Schedule shall apply to the Council or the licensee, as the case may be, accordingly.

### **Saving for certain enactments, etc**

- 61 (1) Nothing in this Order affects prejudicially the operation of—
- (a) the Prevention of Oil Pollution Act 1971;
  - (b) the Control of Pollution Act 1974;
  - (c) the Offshore Petroleum Development (Scotland) Act 1975;
  - (d) Part II of the Food and Environment Protection Act 1985;
  - (e) Part I of the Coast Protection Act 1949, or the operation of sections 34 and 36 of that Act in their application to operations carried out by virtue of section 17 above;
  - (f) any of the relevant statutory provisions as defined in section 53 of the Health and Safety at Work etc. Act 1974.
- (2) Subsection (1) of section 80 (repeal or modification of certain provisions by regulations) of the Health and Safety at Work etc. Act 1974 shall apply to any provision of this Order and to any regulation and byelaw made under it as it applies to any provision to which it relates.
- (3) Nothing in this Order shall affect the jurisdiction or authority of the Commissioners of Northern Lighthouses.

### **Saving for town and country planning**

- 62 The Town and Country Planning (Scotland) Act 1972 and any orders, regulations, rules, schemes and directions made or given thereunder and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that development thereof is or may be authorised by this Order.

### **Crown rights**

- 63 (1) Nothing in this Order affects 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 in this Order authorises the Council or any licensee to take, use, enter upon or in any manner interfere with any land or interests in land 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 subsection (1) above may be given unconditionally or subject to terms and conditions.

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## Repeals

- 64 (1) The enactments specified in Schedule 2 to this Order are hereby repealed.
- (2) Section 2 of the Dingwall and Skye Railway Act 1865 shall be read and have effect as if the word “and” which appears after the words “section 25” were deleted and the number “33” were inserted after the number “26”.

# SCHEDULES

## SCHEDULE 1

Section 3.

### HARBOUR AREAS

#### *Armadale*

All waters below the level of high water commencing at a point 46 metres west-south-west of Armadale Estates Pier on the level of high water latitude 57° 03·964' N, longitude 5° 53·770' W; thence in a south-south-easterly direction for a distance of 53 metres to a point latitude 57° 03·941' N, longitude 5° 53·733' W; thence in an east-north-easterly direction for a distance of 128 metres to a point latitude 57° 03·976' N, longitude 5° 53·627' W; thence in an east-south-easterly direction for a distance of 145 metres to a point latitude 57° 03·943' N, longitude 5° 53·498' W; thence in a south-south-easterly direction for a distance of 113 metres to a point latitude 57° 03·904' N, longitude 5° 53·448' W; thence in a west-south-westerly direction for a distance of 180 metres to a point latitude 57° 03·849' N, longitude 5° 53·606' W; on the level of high water 60 metres south-south-east of the Armadale Pier.

#### *Aultbea*

All waters below the level of high water commencing at a point 50 metres north of the slipway at a point latitude 57° 50·408' N, longitude 5° 35·752' W; thence in a south-westerly direction for a distance of 145 metres to a point latitude 57° 50·368' N, longitude 5° 35·871' W; thence in a south-easterly direction for a distance of 200 metres to a point latitude 57° 50·273' N, longitude 5° 35·722' W; thence in an east-south-easterly direction for a distance of 928 metres to a point latitude 57° 50·078' N, longitude 5° 34·913' W; on the level of high water 240 metres south-west of Aultbea Church.

#### *Balintore*

All waters below the level of high water commencing at a point 140 metres south of the caravan park latitude 57° 45·214' N, longitude 3° 54·726' W; thence in an east-south-easterly direction for a distance of 315 metres to a point latitude 57° 45·171' N, longitude 3° 54·477' W; thence in a north-north-easterly direction for a distance of 215 metres to a point latitude 57° 45·279' N, longitude 3° 54·397' W; thence in a north-westerly direction for a distance of 180 metres to a point latitude 57° 45·335' N, longitude 3° 54·490' W; on the level of high water 50 metres north-east of the Quay.

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### *Broadford*

All waters below the level of high water commencing at a point 55 metres north of the pier latitude  $57^{\circ} 14.927' N$ , longitude  $5^{\circ} 54.397' W$ ; thence in an east-south-easterly direction for a distance of 310 metres to a point latitude  $57^{\circ} 14.857' N$ , longitude  $5^{\circ} 54.123' W$ ; thence in a southerly direction for a distance of 660 metres to a point latitude  $57^{\circ} 14.504' N$ , longitude  $5^{\circ} 54.064' W$ ; on the level of high water 120 metres east of the south pier.

### *Brora*

All waters below the level of high water commencing at the rail bridge over the river Brora and following the mark of the level of high water via the north shore of the river Brora to a point latitude  $58^{\circ} 00.783' N$ , longitude  $3^{\circ} 50.436' W$ ; thence in a south-south-easterly direction for a distance of 150 metres to a point latitude  $58^{\circ} 00.716' N$ , longitude  $3^{\circ} 50.357' W$ ; thence in a south-south-westerly direction for a distance of 450 metres to a point latitude  $58^{\circ} 00.486' N$ , longitude  $3^{\circ} 50.492' W$ ; thence in a north-westerly direction for a distance of 200 metres to a point latitude  $58^{\circ} 00.547' N$ , longitude  $3^{\circ} 50.657' W$ ; on the level of high water and thence following the level of high water via the south shore of the mouth of the river Brora to again meet with the rail bridge over the river Brora.

### *Culkein Drumbeg*

All waters below the level of high water forming Lochan na Leobaig commencing at a point Rubha Creag Iomhair latitude  $58^{\circ} 15.214' N$ , longitude  $5^{\circ} 13.986' W$ ; thence in a north-north-easterly direction for a distance of 280 metres to a point latitude  $58^{\circ} 15.346' N$ , longitude  $5^{\circ} 13.847' W$ ; thence in an east-north-easterly direction for a distance of 245 metres to the northernmost point on Eilean na Coille latitude  $58^{\circ} 15.405' N$ , longitude  $5^{\circ} 13.628' W$ ; thence in an east-south-easterly direction for a distance of 146 metres to the northernmost point on Eilean nan Airbhe latitude  $58^{\circ} 15.371' N$ , longitude  $5^{\circ} 13.492' W$ ; and continuing in the same direction for a distance of 333 metres to a point latitude  $58^{\circ} 15.290' N$ , longitude  $5^{\circ} 13.193' W$ ; on the level of high water.

### *Dunbeath*

All waters below the level of high water commencing at a point on the level of high water north-east of Singing Rock latitude  $58^{\circ} 14.578' N$ , longitude  $3^{\circ} 25.629' W$ ; thence in an east-north-easterly direction for a distance of 530 metres to a point latitude  $58^{\circ} 14.628' N$ , longitude  $3^{\circ} 25.097' W$ ; thence in a north-easterly direction for a distance of 105 metres to a point latitude  $58^{\circ} 14.678' N$ , longitude  $3^{\circ} 25.041' W$ ; on the level of high water at Port Ormin Head.

### *Elgol*

All waters below the level of high water commencing at a point 60 metres west-south-west of the pier latitude  $57^{\circ} 08.734' N$ , longitude  $6^{\circ} 06.458' W$ ; thence in a north-westerly direction for a distance of 80 metres to a point latitude  $57^{\circ} 08.769' N$ , longitude  $6^{\circ} 06.505' W$ ; thence in a north-north-easterly direction for a distance of 233 metres to a point latitude  $57^{\circ} 08.885' N$ , longitude  $6^{\circ} 06.424' W$ ; on the level of high water.

### *Gairloch*

All waters below the level of high water commencing at Seana-chreag latitude  $57^{\circ} 42.609' N$ , longitude  $5^{\circ} 41.345' W$ ; thence in an east-south-easterly direction for a distance of 515 metres

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to Goban Innis a Ghobhainn latitude 57° 42·562' N, longitude 5° 40·829' W; on the level of high water north-east of east pier.

*John O'Groats*

All waters below the level of high water commencing at a point 160 metres west of the pier latitude 58° 38·680' N, longitude 3° 04·249' W; thence in a northerly direction for a distance of 270 metres to a point latitude 58° 38·822' N, longitude 3° 04·249' W; thence in an easterly direction for a distance of 240 metres to a point latitude 58° 38·822' N, longitude 3° 04·000' W; thence in a southerly direction for a distance of 253 metres to a point latitude 58° 38·688' N, longitude 3° 04·000' W; on the level of high water 80 metres east of the pier.

*Helmsdale*

All waters below the level of high water commencing from the A9 bridge over the river Helmsdale and following the level of high water via the north shore to a point latitude 58° 06·888' N, longitude 3° 38·585' W; thence in a south-westerly direction for a distance of 290 metres to a point latitude 58° 06·765' N, longitude 3° 38·757' W; thence in an east-north-easterly direction for a distance of 470 metres to a point latitude 58° 06·865' N, longitude 3° 39·186' W; on the level of high water thence following the level of high water to meet with the A9 road bridge over the river Helmsdale.

*Keiss*

All waters below the level of high water commencing at a point 70 metres west of Eig Geo at a point latitude 58° 31·902' N, longitude 3° 07·000' W; thence in a south-easterly direction for a distance of 190 metres to a point latitude 58° 31·815' N, longitude 3° 06·897' W; thence in an east-north-easterly direction for a distance of 280 metres to a point latitude 58° 31·836' N, longitude 3° 06·613' W; thence in a north-north-easterly direction for a distance of 90 metres to a point latitude 58° 31·875' N, longitude 3° 06·572' W; thence in a north-westerly direction for a distance of 180 metres to a point latitude 58° 31·953' N, longitude 3° 06·683' W; on the level of high water 80 metres south of Keiss Broch.

*Kinlochbervie*

All waters below the level of high water forming the approaches to Loch Clash, Loch Inchard, Loch Bervie, Loch Sheigra and Achriesgill Bay within the boundary commencing at a point latitude 58° 27·087' N, longitude 5° 04·603' W; thence in a west-north-westerly direction for a distance of 15 metres to the easternmost point of Eilean Dubh latitude 58° 27·093' N, longitude 5° 04·616' W; thence in a northerly direction for a distance of 705 metres to the westernmost point of Rubha na Leacaig latitude 58° 27·470' N, longitude 5° 04·631' W; thence in a north-north-easterly direction for a distance of 823 metres to the easternmost point of Eilean A'Chonaidh latitude 58° 27·904' N, longitude 5° 04·474' W; and thence in a north-north-easterly direction for a distance of 210 metres to a point latitude 58° 28·014' N, longitude 5° 04·435' W; on the level of high water.

*Kyleakin*

All waters below the level of high water commencing 235 metres west of the western slipway at a point latitude 57° 16·403' N, longitude 5° 43·797' W; thence in a north-north-easterly direction for a distance of 370 metres to a point latitude 57° 16·597' N, longitude 5° 43·723' W; thence in an easterly direction for a distance of 595 metres to a point latitude 57° 16·616' N, longitude



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5° 43·131' W; thence in a south-south-easterly direction for a distance of 510 metres to a point latitude 57° 16·359' N, longitude 5° 42·957' W; on the level of high water east of the remains of Ciasteal Mool.

#### *Kyle of Lochalsh*

All waters below the level of high water commencing 65 metres south of the westernmost end of Lochalsh Road at a point latitude 57° 16·793' N, longitude 5° 43·271' W; thence in a south-south-easterly direction for a distance of 412 metres to a point latitude 57° 16·591' N, longitude 5° 43·104' W; thence in an easterly direction for a distance of 620 metres to a point latitude 57° 16·614' N, longitude 5° 42·492' W; thence in a north-easterly direction for a distance of 310 metres to a point latitude 57° 16·745' N, longitude 5° 42·297' W; thence in a northerly direction for a distance of 180 metres to a point latitude 57° 16·840' N, longitude 5° 42·307' W; on the level of high water south of Creag Loisgte.

#### *Kylesku*

All waters below the level of high water forming Camas na Cusgaig commencing 330 metres north-west of Vamh Ruaidhridh at a point latitude 58° 15·375' N, longitude 5° 0·721' W; thence in a north-westerly direction for a distance of 420 metres to a point latitude 58° 15·537' N, longitude 5° 01·015' W; thence in a south-south-westerly direction for a distance of 95 metres to a point latitude 58° 15·492' N, longitude 5° 01·064' W; on the level of high water 75 metres north-west of the ferry slipway.

#### *Lochinver*

All waters below the level of high water forming the approaches to Lochinver Bay, B'agh an t Sraithain and Lady Constance Bay with the boundary commencing at the westernmost point on the east side of Loch Bad nam Ban latitude 58° 08·291' N, longitude 5° 16·322' W; thence in a north-north-westerly direction for a distance of 130 metres to the westernmost point of Sgeir Bhuidhe latitude 58° 08·355' N, longitude 5° 16·378' W; thence in a north-north-westerly direction for a distance of 1,080 metres to Rubha nam Fad latitude 58° 08·924' N, longitude 5° 16·635' W; on the level of high water.

#### *Nairn*

All waters below the level of high water commencing at the A96 trunk road bridge over the river Nairn at Bridge Street and following the west bank of the river Nairn on the level of high water via the harbour mouth to a point latitude 57° 35·391' N, longitude 3° 52·236' W; thence in a northerly direction for a distance of 905 metres to a point latitude 57° 35·877' N, longitude 3° 52·299' W; thence in an easterly direction for a distance of 1,420 metres to a point latitude 57° 35·936' N, longitude 3° 50·874' W; thence in a southerly direction for a distance of 470 metres to a point latitude 57° 35·681' N, longitude 3° 50·846' W; on the level of high water and following the east bank of the river Nairn on the level of high water to the A96 trunk road bridge over the river Nairn at Bridge Street.

#### *Old Dornie*

All waters below the level of high water commencing 370 metres west-north-west of Old Dornie at a point latitude 58° 02·837' N, longitude 5° 25·159' W; thence in a west-north-westerly direction for a distance of 200 metres to a point latitude 58° 02·869' N, longitude 5° 25·353' W; on the level of high water at the north-east point of Isle Ristol; thence following the level of high

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water in a general south-westerly direction to Ardoch Point latitude 58° 02·474' N, longitude 5° 25·597' W; thence in a south-easterly direction for a distance of 210 metres to a point latitude 58° 02·412' N, longitude 5° 25·428' W; on the level of high water 740 metres west of Meall Dearg.

#### *Plockton*

All waters below the level of high water commencing 120 metres east-north-east of the boathouse at a point latitude 57° 20·688' N, longitude 5° 38·530' W; thence in a south-easterly direction for a distance of 530 metres to the easternmost point of Sgeir-Bavide latitude 57° 20·439' N, longitude 5° 38·207' W and again in a south-easterly direction for a distance of 220 metres to a point latitude 57° 20·331' N, longitude 5° 38·081' W; 75 metres north-east of the pier.

#### *Portmahomack*

All waters below the level of high water commencing at a point 150 metres north of the north jetty latitude 57° 50·415' N, longitude 3° 49·634' W; thence in a south-westerly direction for a distance of 320 metres to a point latitude 57° 50·283' N, longitude 3° 49·838' W; thence in a south-easterly direction for a distance of 185 metres to a point latitude 57° 50·208' N, longitude 3° 49·719' W; thence in an easterly direction for a distance of 85 metres to a point latitude 57° 50·202' N, longitude 3° 49·634' W; thence in a north-easterly direction for a distance of 45 metres to a point latitude 57° 50·219' N, longitude 3° 49·604' W on the level of high water 95 metres south of the south jetty.

#### *Portree*

All water below the level of high water in Loch Portree commencing 500 metres east-south-east of Sron a'Bhainne at a point latitude 57° 25·471' N, longitude 6° 08·980' W; thence in a south-south-easterly direction for a distance of 2,170 metres to a point 100 metres north-west of Udairn latitude 57° 24·362' N, longitude 6° 08·317' W on the level of high water.

#### *Raasay*

All waters below the level of high water commencing at a point 322 metres east-south-east of the pier at a point latitude 57° 19·880' N, longitude 6° 03·513' W; thence in a south-south-westerly direction for a distance of 430 metres to a point latitude 57° 19·672' N, longitude 6° 03·700' W; thence in a west-north-westerly direction for a distance of 628 metres to a point latitude 57° 19·816' N, longitude 6° 04·260' W; thence in a north-north-easterly direction for a distance of 740 metres to a point latitude 57° 20·188' N, longitude 6° 03·987' W on the level of high water 115 metres south of Suisnish Point.

#### *Sconser*

All waters below the level of high water commencing at a point 415 metres west of the pier at a point latitude 57° 18·855' N, longitude 6° 06·989' W; thence in a northerly direction for a distance of 275 metres to a point latitude 57° 18·983' N, longitude 6° 06·989' W; thence in an east-north-easterly direction for a distance of 555 metres to a point latitude 57° 19·085' N, longitude 6° 06·468' W; thence in a south-south-easterly direction for a distance of 395 metres to a point latitude 57° 18·904' N, longitude 6° 06·259' W on the level of high water.

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### *Shieldaig*

All waters below the level of high water commencing 130 metres east-south-east of Rubh an Roin at a point latitude 57° 31·615' N, longitude 5° 40·345' W; thence in an east-north-easterly direction for a distance of 1,198 metres via the northernmost point on Shieldaig Island to meet the eastern shore of Loch Shieldaig on the level of high water at a point latitude 57° 31·700' N, longitude 5° 39·152' W.

### *Thurso*

All waters below the level of high water commencing from the Ellan Bridge and following the level of high water via the western shore to the mouth of the Thurso River to a point latitude 58° 35·985' N, longitude 3° 30·702' W; thence in a northerly direction for a distance of 197 metres to a point latitude 58° 36·092' N, longitude 3° 30·702' W; thence in an easterly direction for a distance of 385 metres to a point latitude 58° 36·092' N, longitude 3° 30·308' W on the level of high water thence via the level of high water in a general south-westerly direction via the eastern shore to meet with the Ellan Bridge.

### *Uig*

All waters in Uig Bay commencing on the level of high water at Ru Idrigil, latitude 57° 35·109' N, longitude 6° 23·611' W; thence in a southerly direction for a distance of 1,700 metres to Ru Chorachan latitude 57° 34·199' N, longitude 6° 23·565' W on the level of high water.

## SCHEDULE 2

### ENACTMENTS REPEALED

| Chapter or number<br>(1)  | Title or short title<br>(2)                            | Extent of repeal<br>(3)   |
|---------------------------|--|---|
| 28 & 29 Vict. c. ccxxiii. | Dingwall and Skye Railway Act 1865.                    | In section 33 the words “and maintain”, in their application to the words from “Second” to “thereto;”.<br><br>Sections 54 to 56 in their application to the pier at Kyle of Lochalsh.<br><br>Schedules A and B in their application to the pier at Kyle of Lochalsh |
| 51 & 52 Vict. c. cxix.    | Pier and Harbour Orders Confirmation (No. 1) Act 1888. | The Broadford Harbour Order 1888.   |
| 53 & 54 Vict. c. xxxvii.  | Pier and Harbour Orders Confirmation (No. 1) Act 1890. | The Helmsdale Harbour Order 1890.   |

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| Chapter or number<br>(1)                         | Title or short title<br>(2)   | Extent of repeal<br>(3)  |
|--|---|--|
| 56 & 57 Vict. c. xci.                            | Highland Railway Act 1893.  | In section 4 the words “and maintain” in their application to the words from “(2) A pier” to the end of the section.<br><br>Section 13 in its application to the pier at Kyle of Lochalsh.<br><br>Section 17.<br><br>Section 19 in its application to the pier at Kyle of Lochalsh.<br><br>Section 20.<br><br>Sections 38 to 43.<br><br>Schedule A.<br><br>Schedule B. |
| 6 Edw. 7 c. cxiv.                                | Pier and Harbour Orders Confirmation (No. 2) Act 1906.  | The Loch Claish Pier Order 1906.   |
| 3 & 4 Geo. 5 c. cxlvii.                          | Pier and Harbour Orders Confirmation (No. 2) Act 1913.  | The Raasay Pier Order 1913.  |
| 4 & 5 Geo. 5 c. cxv.                             | Pier and Harbour Orders Confirmation (No. 3) Act 1914.  | The Armadale Pier Order 1914.  |
| 17 & 18 Geo. 5 c. xlii.                          | Pier and Harbour Orders Confirmation (No. 2) Act 1927.  | The Nairn Harbour Order 1927.  |
| <a href="#">S. R. &amp; O. 1940/304 (S.10)</a> . | The Broadford Pier Order 1940.  | The whole Order.   |
| 14 & 15 Geo. 6 c. v.                             | Inverness County Council (Armadale Pier and Harbour &c.) Order Confirmation Act 1950.         | The whole Act.   |
| 14 & 15 Geo. 6 c. iii.                           | Ross and Cromarty County Council (Kyle of Lochalsh Fishery Pier) Order Confirmation Act 1950. | The whole Act.   |
| <a href="#">S. I. 1957/1459 (S.72)</a> .         | The Portree Pier Order 1957.  | The whole Order.   |
| <a href="#">S. I. 1967/1735</a> .                | The Culag (Lochinver) Pier Order 1967.  | The whole Order  |

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| Chapter or number<br>(1) | Title or short title<br>(2)  | Extent of repeal<br>(3)  |
|--------------------------|--|--|
| 1979 c. vii.             | Gairloch Piers Order Confirmation Act 1979.                                  | The whole Act.   |
| 1984 c. xxix.            | Highland Regional Council (Uig Pier, Skye) Order Confirmation Act 1984.      | The whole Act.   |
| 1985 c. ii.              | Highland Region (Kinlochbervie) Order Confirmation Act 1985.                 | The whole Act except in relation to works 2, 3 and 4.                                  |
| 1987 c. xxv.             | Highland Region Harbours (Miscellaneous Powers) Order Confirmation Act 1987. | Section 4.<br><br>Section 5.<br>Section 6 (1), (4), (5) and (6).<br>Sections 8 and 9.” |

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