

1988 No. 904 (S.88)

HARBOURS, DOCKS, PIERS AND FERRIES

**The Scottish Transport Group (Castle Bay Pier)
Empowerment Order 1988**

<i>Made</i>	<i>21st March 1988</i>
<i>Laid before Parliament</i>	<i>30th March 1988</i>
<i>Coming into force</i>	<i>10th May 1988</i>

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The Secretary of State, in exercise of the powers conferred on him by section 16 of the Harbours Act 1964(a), and of all other powers enabling him in that behalf, and on the application of the Scottish Transport Group, hereby makes the following Order:

PART I PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Scottish Transport Group (Castle Bay Pier) Empowerment Order 1988.

(2) This Order shall come into force on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(b).

Interpretation

2.—(1) In this Order, except where the context otherwise requires—

“deposited plan and sections” means the plan and sections signed on behalf of the Secretary of State and marked “Plan and sections referred to in the Scottish Transport Group (Castle Bay Pier) Empowerment Order 1988”, of which copies are deposited at the offices of the Secretaries of State for Scotland and Transport and with Caledonian MacBrayne Limited, Harbour Office, Castlebay;

“the Group” means the Scottish Transport Group constituted under the Transport Act 1968(c);

“harbourmaster” means the harbourmaster appointed by the Group and includes his authorised deputies and assistants and any person authorised by the Group to act in that capacity;

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

“limits of deviation” means the limits of deviation shown on the deposited plan;

“the pier” means the existing pier and quay wall at Castle Bay;

“the pier premises” means the quays, piers, landing places and all other works, land (including land covered by water) and buildings for the time being vested in or

(a) 1964 c.40; section 16 and Schedule 3 were amended by the Transport Act 1981 (c.56), Schedule 6, paragraphs 3, 4 and 14.

(b) 1945 c.18 (9 & 10 Geo.6) and 1965 c.43.

(c) 1968 c.73.

occupied or administered by the Group for the purposes of the pier undertaking as from time to time authorised;

“tidal work” means so much of any work as is on, under or over tidal waters or tidal lands below the level of high water;

“work” means the work authorised by this Order, or as the case may require any part thereof, and includes any work constructed pursuant to article 7 below.

(2) Except in relation to article 7 below, all dimensions stated in any description of works or lands in this Order shall be construed as if the words “or thereabouts” were inserted after each such dimension.

(3) Any reference in this Order to a work identified by the number of that work shall be construed as a reference to the work of that number authorised by this Order.

PART II

JURISDICTION AND POWERS

Pier jurisdiction

3. The Group 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—

- (a) the area lying below the level of high water and within a distance of 200 metres from any part of the existing pier; and
- (b) the pier premises.

Power to maintain pier premises

4. Subject to the provisions of this Order, the Group may maintain the pier premises.

PART III

WORKS

Power to construct works

5.—(1) Subject to the provisions of this Order, the Group may in the Castlebay Electoral Division, parish of Barra in the Western Isles Islands Area and on the foreshore and in the sea adjoining the same in the situations and lines and within the limits of deviation and according to the levels shown on the deposited plan and sections construct, execute and maintain the works hereinafter described with all necessary works and conveniences connected therewith or incidental thereto that is to say:—

Work No. 1

A vehicle marshalling area of predominantly rectangular shape to be constructed partly by excavation and partly by infilling varying in width from 19 metres at its north-western end to 7 metres at its southern end commencing at a point 92 metres north of the north-western corner of the existing pier and extending in a south-easterly direction for a distance of 60.5 metres and then in a southerly direction for a distance of 32 metres and there terminating.

Work No. 2

A causeway providing an access way for vehicular traffic between the vehicle marshalling area (Work No. 1) via the adjustable steel link bridge (Work No. 3) and any ferry berthed at the existing pier, commencing at a point 71.5 metres north of the north-western corner of the existing pier and extending westerly through a curve to a generally southerly direction for a distance of 29 metres and there terminating, having a width at the level

of the metalled carriageway varying between 17 metres at its commencement to 5.8 metres at its termination and surrounded on both its seaward faces by protecting slopes of broken rock, of partly solid infilled construction and partly open work.

Work No. 3

An adjustable steel link bridge commencing at the termination of Work No. 2 by a hinged connection and extending in a generally southerly direction for a distance of 36 metres and there terminating to form a link between any vessel and Work No. 2 and including machinery for lifting and lowering the end adjoining the vessel, the width of the bridge being 5.8 metres at its commencement and 8.5 metres at its termination.

Work No. 4

Two fixed structures of partly solid and partly open construction for guiding the adjustable end of the steel link bridge (Work No. 3) and supporting the cables for lifting and lowering the said bridge, the centre of the western structure being situated at a point 23.8 metres north-west of the north-western corner of the existing pier, the structure having a width of 7.5 metres and a length of 6 metres, the centre of the eastern structure being situated at a point 18.8 metres north of the north-western corner of the existing pier, the structure having a width of 3 metres and a length of 6 metres.

Work No. 5

Re-fendering the west face and the north and south roundheads of the existing pier in open work construction commencing at a point 3 metres east of the north-western corner of the existing pier and terminating at a point 51 metres south-south-east of the north-western corner of the existing pier having a length of 61.5 metres and a width of 1.5 metres.

- (2) The Group may within the limits of deviation reconstruct, renew and alter temporarily or permanently the works.
- (3) The works shall be deemed for all purposes to be within the Western Isles Islands Area.

Power to deviate

6. Subject to the provisions of this Order, in the construction or execution of the works the Group may deviate laterally from the lines or situations thereof shown on the deposited plan to the extent of the limits of deviation, and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to any extent downwards.

Subsidiary works

7. Subject to the provisions of this Order, the Group, for the purposes of or in connection with the works authorised by article 5 above, may within the limits of deviation construct, execute and maintain all such subsidiary or incidental works and conveniences as may be necessary or expedient for or in connection with those works.

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

8.—(1) A tidal work shall not be constructed, reconstructed, executed, renewed or altered 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, reconstructed, executed, renewed or altered in contravention of this article—

- (a) the Secretary of State may by notice in writing require the Group 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 Group 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 Group.

Survey of tidal works

9. 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 and execute the work and any expenditure incurred by him in such survey and examination shall be recoverable from the Group.

Lights on tidal works during construction

10.—(1) The Group shall at or near a tidal work during the whole time of the construction, reconstruction, execution, renewal, or alteration thereof exhibit every night from sunset to sunrise such lights, if any, 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 Group fail to comply in any respect with a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 and on conviction on indictment to a fine.

Permanent lights on tidal work

11.—(1) After the completion of a tidal work the Group shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, 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 Group fail to comply in any respect with a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

12.—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Group 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 article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Group, 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 Group.

Provision against danger to navigation

13.—(1) In the case of injury to or destruction or decay of a tidal work or any part thereof the Group 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 Group fail to notify the Commissioners of Northern Lighthouses as required by this article or to comply in any respect with a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 and on conviction on indictment to a fine.

PART IV

SAVINGS

Saving for certain enactments, etc.

14.—(1) Nothing in this Order affects the operation of—

- (a) the Prevention of Oil Pollution Act 1971(a);
- (b) the Control of Pollution Act 1974(b);
- (c) the Offshore Petroleum Development (Scotland) Act 1975(c);
- (d) Part II of the Food and Environment Protection Act 1985(d).

(2) Nothing in this Order shall exempt the Group from the provisions of Part I of the Coast Protection Act 1949(e).

(3) Nothing in this Order shall affect prejudicially the jurisdiction or authority of the Commissioners of Northern Lighthouses.

Saving for town and country planning

15.—(1) The Town and Country Planning (Scotland) Act 1972(f) 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 the development thereof is or may be authorised or regulation by or under this Order.

(2) In their application to development authorised by this Order, article 3 of, and Class X in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1981(g) (which permit development authorised by any local or private Act or by any Order approved by both Houses of Parliament, or by any Order made under section 14 or section 16 of the Harbours Act 1964, being an Act or Order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Order were limited to development begun within ten years of the coming into force of this Order.

Repeals

16. The enactments specified in columns (1) and (2) of the Schedule to this Order are hereby repealed to the extent mentioned in column (3) thereof.

Crown rights

17.—(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 Group 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 paragraph (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

(a) 1971 c.60.

(b) 1974 c.40.

(c) 1975 c.8.

(d) 1985 c.48.

(e) 1949 c.74.

(f) 1972 c.52.

(g) S.I. 1981/830; as relevantly amended by S.I. 1983/1620.

Costs of Order

18. The costs, charges and expenses of and incidental to the preparing for and obtaining of this Order or otherwise in relation thereto (other than costs, charges and expenses which any person is lawfully ordered to pay by the Secretary of State or a Joint Committee of both Houses of Parliament or any costs incurred in opposing this Order) shall be paid by the Group.

New St. Andrew's House, Edinburgh
21st March 1988

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

SCHEDULE

Article 16

ENACTMENTS REPEALED

(1) <i>Chapter and S.R. & O. number</i>	(2) <i>Title or short title</i>	(3) <i>Extent of repeal</i>
1880 c. lxxxv.	Pier and Harbour Orders Confirmation Act 1880	The Castle Bay Pier Order 1880
1942/865	Castle Bay Pier Order 1942	The whole Order
1976 c. xxxviii.	Scottish Transport Group (Castle Bay Pier) Order Confirmation Act 1976	The whole Act and the scheduled Order

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers jurisdiction as a harbour authority on the Scottish Transport Group in respect of the Castle Bay Pier undertaking and defines the area within which the powers of the harbourmaster may be exercised.

The Order also empowers the Group to maintain the pier premises.

The Group are also empowered to construct works to enable roll-on/roll-off facilities to be provided at Castle Bay.

The Order also provides for the repeal of spent legislation affecting the pier undertaking.

The Order being subject to special parliamentary procedure, the provisions of the Statutory Orders (Special Procedure) Acts of 1945 and 1965 determine the date upon which it comes into force.

The applicants for this Order are the Scottish Transport Group, Carron House, 114/116 George Street, Edinburgh EH2 4LX.

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