

2023 No.

HARBOURS, DOCKS AND PIERS (No. 10) (Scotland) Regulations 2023

Made - - - - 2023
Coming into force - - 2023

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

- (a) this Order is made following a written application to Ministers by Argyll and Bute Council (“the Council”) being the authority engaged in improving, maintaining or managing the harbour; and
- (b) except in so far as this Order is made for achieving objects mentioned in section 14(2A) of the Act, the Ministers are satisfied that the making of this Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner.
- (c) In accordance with need of the harbour.

In accordance with paragraph 19(6) of that schedule, Ministers have decided [to make this Order in the form of the draft submitted to them] [to make this Order with modifications [which do not appear to Ministers substantially to affect the character of the Order] [which appear to Ministers substantially to affect the character of the Order]].

PART 1

Preliminary

Citation and commenOrder]

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5.—(1) The Council may take such steps from time to time as they consider necessary or expedient for the improvement, maintenance and management of the harbour and the accommodation and facilities afforded in or connected with the harbour.

(2) For those purposes and without affecting the generality of paragraph (1), the Council may—

- (a) improve, maintain, regulate, manage, mark and light the harbour

- (a) the public right of navigation in the harbour; and
 - (b) any public rights of way affecting the harbour,
- (6) such that the Council shall not restrict such rights more than is necessary for the purpose for which the part of the harbour is appropriated or set apart.

Power to lease, etc.

8. The Council may at any time lease or grant the use or occupation of, or any right or interest in, over or relating to, any lands, works, buildings, equipment or other property forming part of the harbour for such period or periods and on such terms and conditions as may be agreed between the Council and the person taking the same.

Power to dredge

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12.—(1) The master of a vessel entering, leaving or intending to enter or leave the harbour shall, if required to do so by the harbourmaster, state the overall length and maximum draught of their vessel.

(2) The master of a vessel who in response to a requirement under section 4.9(1)(g) of the 2011 Act provides information to the harbourmaster shall be liable to a fine not exceeding 3000 euros.

(2) The Council may demand, receive and recover in respect of any vessel using any of the moorings provided by the Council under paragraph (1), or moored to land owned or leased by the Council, such reasonable charges as the Council may from time to time prescribe.

(3) The Council may compound with any person with respect to the payment of the charges prescribed under paragraph (2).

(4) 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 the harbour.

(5) Any person who, without reasonable excuse, places, lays down, maintains, renews or uses a mooring, buoy or similar apparatus for vessels within the harbour except under and in accordance with the terms and conditions of a licence granted under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Any licence granted under paragraph (4) shall be valid only for a period

(7) The Council shall not underthe

- (l) prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) into or upon the harbour;
- (m) regulating the use of cranes, weighing machines, weights and measures belonging to the Council, and the duties and conduct of weighers and meters employed by the Council;
- (n) regulating or preventing the use of fires and lights within the harbour;
- (o) the conservation of the natural beauty of all or any part of the harbour or of any of the fauna, flora or geological or physiographical features in the harbour and all other natural features and
- (p) the conservation, preservation or redevelopment of any buildings, plant or other artificial features of the harbour of historic or architectural significance.

(3) Bylaws made under this article may—

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without payment, and a copy of the byelaws shall on application be furnished to any person on request.

General directions to vessels

22.—(1) The Council may, after consultation with the Royal Yachting Association, the UK Chamber of Shipping, CMAL, the Commissioners of Northern Lighthouses, the Maritime and Coastguard Agency and such other persons as the Council considers are representative of users of the harbour, give directions for any of the following purposes—

- (a) designating areas, routes or fairways in the harbour which vessels are to use, or refrain from using for movement, mooring or anchorage;
- (b) securing that vessels move only at certain times or during certain periods;
- (c) securing that vessels make use of descriptions of aids to navigation specified in the direction;
- (d) prohibiting entry into or navigation within any of the main fairways during any temporary obstruction thereof;
- (e) requiring the master of a vessel entering, leaving or intending to enter or leave the harbour to state the length overall and draught maximum of their vessel;
- (f) prohibiting entry into or movement in the harbour by vessels at times of poor visibility due to the weather or to the presence of dust or smoke provided that no such direction shall prevent the entry into the harbour or the approaches of any vessel seeking refuge from stress of weather;
- (g) regulating the navigation, berthing, mooring and speed of vessels within the harbour;
- (h) regulating the navigation, berthing, mooring, speed and movement of vessels within the harbour engaged in regattas and other public events in the harbour;
- (i) specifying the

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Liability for charges

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

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

(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.
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- (c) in defraying any expenditure in connection with the harbour 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 harbour undertaking;
- (e) for any purpose which in the opinion of the Council is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and shall be deemed to have been given in writing where it is sent electronically.

Repeals and revocations

43. The enactments mentioned in the first and second columns of the Schedule are repealed or revoked to the extent specified in the third

SCHEDULE

Article 43

Repeals

| Number | Shorttitle | Extent of repeal |
|--------|---|---|
| c. 51 | PierandHarbourOrders ConfirmationAct 1862 | Theentiretyof theOban HarbourOrder, 1862 (containedwithin the Schedule to the Act). |
| c. 93 | PierandHarbourOrders ConfirmationAct 1864 | Section4 andtheentiretyof theObanPier andHarbour Order, 1864(containedwithin the Schedule to the Act). |
| c. 177 | PiersandHarbourOrders Confirmation(No. 5) Act, 1896 | Articles 2, 4-28, 30-59 of the ObanPiersOrder 1896 (containedwithin the Schedule to the Act) andtheFirst and SecondSchedules to the Oban PiersOrder 1896. |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order updates the existing legislation for Oban harbour in line with the current needs of Argyll and Bute Council as the harbour authority for Oban harbour and Oban harbour users from the date it comes into force.

The Order defines the harbour limits and confers updated powers on the Council, including powers to lease and powers as regards the making of byelaws and issuing of