

**2012 No. 350**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Port of Cairnryan Harbour Revision Order 2012**

*Made* - - - - *13th December 2012*

*Coming into force* - - *14th December 2012*

The Scottish Ministers (the “Ministers”) make the following Order in exercise of the powers conferred by section 14(1), (2A) and (3) of the Harbours Act 1964(a) and all other powers enabling Ministers to do so.

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

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

- (a) this Order is made following a written application to Ministers by Port of Cairnryan Limited 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, 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 and of facilitating the efficient and economic transport of goods or passengers by sea.

In accordance with section 14(2A) of that Act, the objects for achieving which this Order is made include repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour and consolidating any statutory provisions of local application affecting the harbour.

In accordance with paragraph 4 of Schedule 3 to that Act(c), Ministers have decided that the application relates to a project which falls within Annex II to Council Directive 85/337/EEC(d) as relevantly amended by Council Directive 97/11/EC(e) and Council Directive 2003/35/EC(f) on the

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(a) 1964 c.40; Section 14 was relevantly amended by the Transport Act 1981 (c.56), Schedule 6, paragraphs 2, 3, 4(1) and 14 and Schedule 12 and the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 1. See section 14(7) and 57(1) of the Harbours Act 1964 for the definitions of “the appropriate Minister” and “the Minister”. The functions of the Minister of the Crown were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) Schedule 2 was relevantly amended by the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 9.

(c) Paragraph 4 of Schedule 3 was substituted by S.I. 1999/3445.

(d) O.J. L 175, 5.7.1985 p.40.

(e) O.J. L 73, 14.3.1997 p.5.

(f) O.J. L 156, 25.6.2003 p.17.

assessment of the effects of certain public and private projects on the environment and, taking into account the criteria set out in Annex III to that Directive, that the project is a relevant project.

In accordance with paragraph 6 of that Schedule(a), Ministers have—

- (a) informed the applicant of that decision, and the reasons for it; and
- (b) given an opinion to the applicant about the extent of the information referred to in Annex IV to that Directive which the applicant would be required to supply in the environmental statement and –
  - (i) in giving that opinion Ministers have taken into account the matters in subparagraph (3) of that paragraph; and
  - (ii) before giving that opinion Ministers have consulted the applicant and such bodies with environmental responsibilities as Ministers thought appropriate.

In accordance with paragraph 8 of that Schedule(b), Ministers have directed the applicant to supply them with an environmental statement and as required by paragraph 9 of that Schedule(c) the applicant has complied with that direction.

Notices have been published by the applicant in accordance with the requirements of paragraphs 10 of that Schedule(d).

In accordance with paragraph 15 of that Schedule(e), Ministers have—

- (a) consulted; and
- (b) sent the environmental statement to,

such bodies who were likely to have an interest in the project by reason of their environmental responsibilities as Ministers thought appropriate.

The provisions of paragraph 17 of that Schedule(f) have been satisfied.

In accordance with paragraph 19(1) of that Schedule(g), Ministers have considered—

- (a) the environmental statement;
- (b) the result of the consultations under paragraph 15 of that Schedule; and
- (c) any representations made under paragraph 10(2)(f) of that Schedule.

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(a) Paragraph 6 of Schedule 3 was substituted by S.I. 1999/3445.  
(b) Paragraph 8 of Schedule 3 was substituted by S.I. 1999/3445.  
(c) Paragraph 9 of Schedule 3 was substituted by S.I. 1999/3445.  
(d) Paragraph 10 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(b) and (c).  
(e) Paragraph 15 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(e).  
(f) Paragraph 17 of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(g).  
(g) Paragraph 19(1) of Schedule 3 was substituted by S.I. 1999/3445 and is amended by the Transport (Scotland) Act 2005 (asp 12), section 46 and the Transport and Works (Scotland) Act 2007 (asp 8), section 25(5)(i).

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

### **Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Port of Cairnryan Harbour Revision Order 2012 and comes into force on the day after the day on which it is made.

(2) This Order and the Port of Cairnryan Harbour Empowerment Order 2007(b) may be cited together as the Port of Cairnryan Orders 2007 to 2012.

(3) In this Order, “the 2007 Order” means The Port of Cairnryan Harbour Empowerment Order 2007.

### **Amendment of the 2007 Order**

2.—(1) In the definition of “deposited plans”, “deposited sections” and “deposited elevations” in Article 2(1) of the 2007 Order for “this Order” substitute “The Port of Cairnryan Harbour Revision Order 2012”.

(2) In Article 2(2) of the 2007 Order for “thereabouts” substitute “thereby”.

(3) Article 4 of the 2007 Order is amended as follows:

(a) for paragraph (1) substitute—

“(1) Subject to the provisions of this Order, the Company may in the lines and situations and upon the lands delineated on the deposited plans and within the limits of deviation shown thereon and according to the levels shown on the deposited sections and deposited elevations, construct and maintain in the district of Dumfries & Galloway the works hereinafter described, with all necessary works and conveniences connected therewith—

Work No. 1 – A rock armoured revetment with steel piling for parts of its length extending into Loch Ryan and enclosing an area of 14,100sqm/1.41ha of the bed of Loch Ryan and incorporating part of an existing revetment and shown on sheet number 2 on the deposited plans; and the enclosed area to be used for access to the double-deck linkspan comprising Work No. 2 and as hard standing for marshalling and parking vehicles.

Work No. 2 – A double-deck linkspan adjustable in level at its seaward end including foundation structures on driven piles and a sloped approach with associated piled foundations and shown on sheet number 2 and sheet number 3 on the deposited plans.

Work No. 3 – A row of fender support structures running approximately north-south and situated to the west of existing Berth 1 as shown on sheet number 2 on the deposited plans; the support structures inter-connected and connected to the existing Berth 1 quay wall by a series of pedestrian walkways.

Work No. 4 – Security fences having a height not exceeding 3.5 metres to be constructed along the lines shown on sheet number 2 on the deposited plans.

Work No. 5 – A two storey building shown on sheet number 4 on the deposited plans; to be used as a workshop with accommodation for maintenance staff and offices.”; and

(b) omit paragraph (4).

(4) In Article 5(2) of the 2007 Order for “13” substitute “4”.

(5) In Article 7(1) of the 2007 Order for “5” substitute “2”.

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(a) Paragraph 19(2) of Schedule 3 was substituted by S.I. 1999/3445.

(b) S.S.I. 2007/308.

(6) In Article 16(1) of the 2007 Order for “coming into force of this Order” substitute “coming into force of the Port of Cairnryan Harbour Revision Order 2012”.

(7) In Article 18(2) of the 2007 Order for “sheet 13” substitute “sheet number 5”.

(8) For the Schedule to the 2007 Order substitute the Schedule to this Order.

*JOHN NICHOLLS*

A member of the staff of the Scottish Ministers

St Andrew’s House,  
Edinburgh  
13th December 2012

## SCHEDULE

Article 2(8)

### PART 1

#### Environmental Statement

In constructing the works, the Company shall act in accordance with the commitments given in the Environmental Statement being the Environmental Statement dated June 2012 together with the Non-technical Summary and Appendices 1-15 thereto which were submitted with the application made for this Order to the Scottish Ministers.

### PART 2

#### Restrictions as to dredging

The Company shall not carry out any dredging for the purposes of the construction of Works Nos. 1 to 3 in any year during the period commencing 7th June and ending 17th August or such other period as may be agreed in writing between the Company and the Scottish Environmental Protection Agency.

### PART 3

#### Vehicular Access

During the construction of Works Nos. 1 to 5, the Company shall, subject to obtaining any consent which may be required to be given by the roads authority pursuant to section 56 of the Roads (Scotland) Act 1984<sup>(a)</sup>, secure that a temporary access from the A77 trunk road to the site of those works is provided and located within the vicinity of the area marked in red on sheet number 2 on the deposited plans.

### PART 4

#### General

Nothing in this Schedule shall exempt the Company from fulfilling any requirement imposed on the Company by any rule of law or which arises from any commitment which is binding on the Company.

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(a) 1984 c.54.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order empowers Port of Cairnryan Limited to construct and maintain amended works and port facilities to those authorised by the Port of Cairnryan Harbour Empowerment Order 2007.

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SCOTTISH STATUTORY INSTRUMENTS

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