SCOTTISH STATUTORY INSTRUMENTS

2025 No. 246

HARBOURS, DOCKS, PIERS AND FERRIES

The Caledonian Maritime Assets (Port Ellen Works) Harbour Revision Order 2025

Made - - - - *4th September 2025*

Coming into force - - *5th September 2025*

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The Scottish Ministers ("the Ministers") make the following Order in exercise of the powers conferred by section 14(1) and (3) of the Harbours Act 1964(**a**) and all other powers enabling them to do so.

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

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

(a) this Order is made following a written application to the Ministers by Caledonian Maritime Assets Limited ("the applicant") being the authority engaged in improving, maintaining or managing the harbour, and

(b) 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, facilitating the efficient and economic transport of goods or passengers by sea and the recreational use of sea-going ships.

In accordance with paragraph 4 of schedule 3 of that Act(**c**), the Ministers have decided that the application relates to a project which falls within Annex II to Directive 2011/92/EU(**d**), of the European Parliament and of the Council on the 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, the 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 the Ministers have taken into account the matters in sub-paragraph (3) of that paragraph, and

(ii) before giving that opinion the Ministers have consulted the applicant and such bodies with environmental responsibilities as the Ministers thought appropriate.

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

Notices have been published by the applicant in accordance with the requirements of paragraph 10 of that schedule.

In accordance with paragraph 15 of that schedule, the Ministers have—

(a) consulted, and

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

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

(**c**) Schedule 3 was substituted by S.I. 1999/3445 and relevantly amended by the Transport (Scotland) Act 2005 (asp 12), section 46, the Transport and Works (Scotland) Act 2007 (asp 8) section 25(5), S.I. 2017/1070 and S.I. 2020/460.

(**d**) OJ No. L 26, 28.1.2012, p. 1. Directive 2011/92/EU was amended by Directive 2014/52/EU (OJ No. L 124, 25.4.2014).

(b) sent the environmental statement, and any further information falling within paragraph 15 of that schedule, to,

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

In accordance with paragraph 18A(1) of that schedule, the Ministers have considered—

(a) the environmental statement,

(b) the result of the consultations under paragraph 15 of that schedule,

(c) any objections made and not withdrawn,

(d) any representations made under paragraph 10, or 10A of that schedule.

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

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Caledonian Maritime Assets (Port Ellen Works) Harbour Revision Order 2025 and comes into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order—

"the 1846 Act" means An Act for improving and maintaining the Harbour of Port Ellen in the County of Argyll 1846(**a**),

"the 1995 Act" means the Merchant Shipping Act 1995(**b**),

"the 1975 Order" means the Scottish Transport Group (Port Ellen Harbour) Order 1975(**c**),

"the 2011 Order" means the Caledonian Maritime Assets (Port Ellen) Harbour Revision Order 2011(**d**),

"CMAL" means Caledonian Maritime Assets Limited a company incorporated in Scotland with registered number SC001854, having its principal place of business at Municipal Buildings, Fore Street, Port Glasgow, Renfrewshire PA14 5EQ,

"the Commissioners of Northern Lighthouses" means the general lighthouse authority for Scotland, a body corporate constituted by section 193 and schedule 8 of the 1995 Act(**e**),

"deposited plans, sections and elevations" means "The Caledonian Maritime Assets (Port Ellen Works) Harbour Revision Order 2025 Plans, Sections and Elevations" signed with reference to this Order and which are deposited at the offices of the Scottish Government at Victoria Quay, Edinburgh EH6 6QQ and at the registered office of CMAL, and a reference to a numbered sheet is a reference to that numbered sheet bound in the deposited plans, sections and elevations,

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(**a**) 1846 c. 94.
(**b**) 1995 c. 21.
(**c**) Confirmed by the Scottish Transport Group (Port Ellen Harbour) Order Confirmation Act 1975 (c. xvi).
(**d**) S.S.I. 2011/283.
(**e**) 1995 c. 21. Schedule 8 was amended by section 55 of the Scotland Act 2016 (c. 11).

"harbour" means Port Ellen Harbour the limits of which are defined in article 13 of the 1975 Order and includes the works authorised by this Order,

"harbour facilities" includes, but is not limited to, shipping, fisheries, marine, energy, fuel and alternative power, recreational, residential, leisure, tourism and retail facilities (including buildings),

"hovercraft" means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle,

"the level of high water" means the level of mean high water spring tides,

"the Port Ellen Harbour Acts and Orders 1846 to 2011" means the 1846 Act, the 1975 Order and the 2011 Order,

"tidal work" means so much of any of the work as is on, under or over tidal waters or tidal land below the level of high water,

"undertaking" means the undertaking carried on by CMAL at and in connection with the harbour authorised by this Order and the Port Ellen Harbour Acts and Order 1846 to 2011,

"vehicle" includes any vehicle propelled on rails, any machinery on wheels or caterpillar tracks, trailers, caravans, bicycles, and mobile homes and includes a hovercraft or any other amphibious vehicle,

"vessel" includes a ship, boat, houseboat, raft or craft of any description, however propelled or moved, and includes non-displacement craft, a watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily),

"watercraft" means a "watercraft" as defined in article 3 of the Merchant Shipping (Watercraft) Order 2023(**a**),

"work" means the works authorised by this Order, or as the case may require, any part thereof and includes any work constructed pursuant to article 3 (power to construct works) or article 5 (subsidiary works).

(2) In this Order, all areas, directions, distances, lengths, widths, heights and grid references as stated in any description of works, powers or lands other than article 4 (power to deviate) shall be construed as if the words "or thereabouts" were inserted after each such area, direction, distance, length, width, height and grid reference.

(3) Any reference in this Order to a work identified by a number is a reference to the work of that number authorised by this Order.

(4) Any reference in this Order to a numbered sheet is a reference to that numbered sheet in the deposited plans, sections and elevations.

PART 2

Works

Power to construct works

3.—(1) CMAL may in the lines and situations and upon the lands delineated on sheets 1 to 7 for each work, and within the limits of deviation shown on them and according to the levels shown on the deposited plans, sections and elevations for each work, construct and maintain the following works, with all necessary works and conveniences connected with them—

Work No. 1 — the reclamation and infilling of an area of fundus and the levelling of that area together with the levelling of the adjoining land to provide access to Works Nos. 2,

(**a**) S.I. 2023/35.

3, 4 and 5 and for general quayside working space, parking of vehicles, and for the site of Work No. 5, and ticket kiosks not exceeding 6 metres in height and lighting columns not exceeding 15 metres in height and grain unloading equipment not exceeding 10 metres in height, to be retained on the seaward limits in part by rock armoured revetments and, as to the remainder, by solid faced quay walls, including berths for vessels, of total area 2.01 hectares. The location of which is shown outlined black on sheet 2 and the sections of which are shown on sheet 2.

Work No. 2 — an open piled quay structure connecting to Work No. 1 and providing access to Work Nos. 3 and 4, extending in part over the rock armoured revetment forming part of Work No. 1, incorporating fixed and adjustable passenger access gangways, berthing equipment, and incorporating lighting columns not exceeding 15 metres in height and cable handling equipment for shore power not exceeding 10 metres in height. The location of which is shown outlined black on sheet 3 and the section of which is shown on sheet 3.

Work No. 3 — a mechanically operated single deck linkspan, providing access to and from vessels, extending from Work No. 1, supported on a piled bankseat and by lifting frames with supporting piled dolphin structures, and incorporating lighting columns not exceeding 15 metres in height, and a linkspan control building on a piled suspended deck adjacent to the linkspan. The location of which is shown outlined black on sheet 4, the section of which is shown on sheet 4, and the floor plan and elevations of which are shown on sheet 5.

Work No. 4 — an open piled structure forming a fixed ramp, providing access to and from vessels, extending from Work No. 1, and incorporating lighting columns not exceeding 15 metres in height. The location of which is shown outlined black on sheet 6 and the section of which is shown on sheet 6.

Work No. 5 — a single storey terminal building to be constructed Work No. 1, comprising passenger and baggage handling, sales areas, management offices, staff welfare facilities and store areas. The location of which is shown outlined blue on sheet 1 and the floor plan and elevations of which are shown on sheet 7.

(2) CMAL may, for the purposes of the works authorised by paragraph (1), demolish and remove the whole or part of any structures or apparatus lying within the limits of deviation and enclose and reclaim so much of the bed and foreshore of the harbour as lies within the limits of deviation and may hold and use the same as part of the undertaking and so much of the bed and foreshore of the harbour as may be reclaimed shall be deemed to be operational land within the meaning of section 215 of the Town and Country Planning (Scotland) Act 1997(**a**).

(3) Without affecting the general power conferred under paragraph (2), CMAL may in connection with the construction of the works on any land owned or leased by it, demolish and remove so much of—

(a) an existing single storey terminal office building comprising passenger and baggage handling, sales areas, management offices, staff welfare facilities and store areas, and adjacent redundant above ground oil tanks and foundations,

(b) the existing ferry linkspan and boat steps comprising piled substructures with steel or concrete superstructures,

(c) the existing ferry fixed ramp comprising piled substructures with concrete superstructure,

(d) the existing pier comprising infilled quay walls with concrete superstructure, and

(e) the existing grain handling equipment,

as may be required.

(**a**) 1997 c. 8; "operational land" is defined in section 215 to which there are amendments not relevant to this Order, which section is subject to section 216.

(4) CMAL may, within the limits of deviation, reconstruct, extend, enlarge, replace, or relay the works authorised by paragraph (1) and may maintain the same as reconstructed, extended, enlarged, replaced or relaid.

Power to deviate

4. In carrying out the works authorised by article 3 (power to construct works) CMAL may deviate laterally from the lines or situations of those works to any extent not exceeding—

(a) in respect of Work No. 1, the limits of deviation shown on sheet 2 by a dashed line coloured black,

(b) in respect of Work No. 2, the limits of deviation shown on sheet 3 by a dashed line coloured black,

(c) in respect of Work No. 3, the limits of deviation shown on sheet 4 by a dashed line coloured black,

(d) in respect of Work No. 4, the limits of deviation shown on sheet 6 by a dashed line coloured black,

(e) in respect of Work No. 5, the limits of deviation shown on sheet 1 by a dashed line coloured blue,

and may deviate vertically from the levels of the works as shown on the deposited plans, sections and elevations to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

Subsidiary works

5.—(1) CMAL may from time to time within the limits of deviation provide and operate such harbour facilities, together with works ancillary to those facilities, as may be necessary or convenient for the construction of the works or the operation of the harbour, and for this purpose CMAL may construct and maintain roads, covered walkways, buildings, sheds, offices, workshops, depots, walls, foundations, fences, gates, tanks, pumps, conduits, pipes, drains, wires, mains, cables, electrical substations, signals, conveyors, cranes, lifts, hoists, lighting columns, weighbridges, stairs, ladders, stages, platforms, dolphins, mooring posts and bollards, fenders, pontoons, catwalks, equipment, signage, machinery and appliances and such other works and conveniences (including levelling of surfaces) as may be necessary or expedient.

(2) Without affecting paragraph (1) CMAL may within the limits of deviation carry out and maintain such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance or use of the works including—

(a) works for the accommodation or convenience of vessels or for the loading and unloading of goods and the embarking and loading of passengers, and

(b) works to alter the position of apparatus, including mains, sewers, drains, pipes, conduits, cables, electrical substations, electrical lines and telecommunications apparatus.

Power to dredge

6.—(1) Without affecting any other powers which may be exercisable by CMAL within the harbour CMAL may, for the purposes of constructing and maintaining the works and of affording access to the works by vessels from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the sea as lie within the limits of the harbour and may use, appropriate or dispose of the materials (other than wreck within the meaning of section 255 of the 1995 Act (interpretation), from time to time dredged by it.

(2) No such materials shall be laid down or deposited—

(a) in contravention of the provisions of any enactment as respects the disposal of waste, or

(b) in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Ministers.

Obstruction of works

7. Any person who intentionally obstructs any person acting under the authority of CMAL in setting out the lines of or constructing the works or who damages, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and will in addition be liable to repay to CMAL as a debt any expenses incurred by CMAL in making good any damage resulting from such obstruction, moving or removal.

Works to be deemed part of the harbour

8. The works shall be deemed for all purposes to be harbour land and part of the harbour and the Port Ellen Harbour Acts and Orders 1846 to 2011 and this Order together with all byelaws, directions, rules and regulations of CMAL for the time being in force relating to the harbour shall apply to the works and may be enforced by CMAL accordingly.

Survey of tidal works

9. The Ministers may at any time if they deem it expedient order a survey and examination of a tidal work or a site upon which it is proposed to construct the work and any expense incurred by them in such a survey and examination shall be recoverable from CMAL.

Provision against danger to navigation

10.—(1) In the case of injury to, or destruction or decay of, a tidal work or any part thereof, CMAL must—

(a) as soon as practicable notify the Commissioners of Northern Lighthouses and the UK Hydrographic Office, and

(b) 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 CMAL fails to comply in any respect with the provisions of this article, CMAL 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

11.—(1) Where a tidal work is abandoned or allowed to fall into decay the Ministers may by notice in writing require CMAL at its own expense either to repair and restore the tidal work or any part of it, or to remove the tidal work and restore the site thereof to its former condition, to such an extent and within such limits as the Ministers think proper.

(2) Where a work authorised by this Order and consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or allowed 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 Ministers may include that part of the work or any portion of it, 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 CMAL it has failed to comply with the requirements of the notice, the Ministers may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from CMAL as a debt.

Lights on tidal works during construction

12.—(1) During the whole time of the demolition, construction, renewal, reconstruction or alteration of a tidal work CMAL shall at the outer extremity thereof every night from sunset to

sunrise exhibit such lights, if any, and take such other steps for the prevention of danger to navigation, as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If CMAL fails to comply in any respect with a direction given under this article CMAL 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

13.—(1) After completion of a tidal work CMAL shall at the outer extremity thereof every night from sunset to sunrise exhibit such lights, if any, and take such other steps for the prevention of danger to navigation, as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If CMAL fail to comply in any respect with a direction given under this article CMAL 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.

Period for completion of works

14.—(1) Subject to paragraph (2), if the works authorised by this Order are not substantially completed within ten years from the coming into force of this Order or such extended time as the Ministers may on the application of CMAL allow, then on the expiration of that period or such extended time (as the case may be) the powers by this Order granted to CMAL for making and maintaining the works shall cease except as to so much of those works as are then substantially commenced.

(2) Nothing in paragraph (1) shall apply to any works carried out under article 5 (subsidiary works) or under article 3(4).

Works to be within area of Argyll and Bute

15. The works authorised by this Order shall, to the extent that they lie outside the area of Argyll and Bute Council, be annexed to and incorporated within that area.

PART 3

Miscellaneous

Defence of due diligence

16.—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2) it shall be a defence for CMAL to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) The provisions referred to in paragraph (1) are—

(a) article 10 (provision against danger to navigation),

(b) article 12 (lights on tidal works during construction), and

(c) article 13 (permanent lights on tidal works).

(3) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, CMAL shall not, without leave of the court, be entitled to rely on that defence unless, within a period of seven clear days before the hearing, it has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in their possession.

Saving for the Commissioners of Northern Lighthouses

17. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of the Commissioners of Northern Lighthouses.

Crown rights

18.—(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 that generality, nothing in this Order authorises the Authority to take, use, enter upon or in any manner interfere with any land or any rights of whatsoever description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to His Majesty in right of the Crown and forming part of the Crown estate without the consent in writing of the Crown Estate Commissioners,

(b) belonging to His Majesty in right of the Crown and not forming part of the Crown estate without the consent in writing of the government department having management of that land or (as the case may be) the relevant person, or

(c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(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.

CHRIS WILCOCK
A member of staff of the Scottish Ministers

St Andrew's House,
Edinburgh
4th September 2025

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made on the application of the Caledonian Maritime Assets Limited, empowers CMAL to construct, maintain and operate in the Isle of Islay and on land at Port Ellen, harbour works and harbour related facilities at the harbour.

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