SCOTTISH STATUTORY INSTRUMENTS

2023 No. 167

HARBOURS, DOCKS, PIERS AND FERRIES

The Millport Harbour Revision Order 2023

Made - - - -	*30th May 2023*
Coming into force - -	*31st May 2023*

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SCHEDULE 1 — Repeal

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 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 Ministers by the North Ayrshire Council, ("the Council") being the authority engaged in improving, maintaining and managing the harbour, and

(b) (except in so far as this Order is made for achieving objects mentioned in section 14(2A) of that 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, facilitating the work to be undertaken in pursuit of the Millport Coastal Flood Protection Scheme.

In accordance with section 14(2A) of that Act, the objects for achieving which this Order is made include repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour.

In accordance with paragraph 4 of schedule 3(**c**) to that Act, the Ministers have decided that the application relates to a project which falls within Annex II to Council Directive 2011/92/EU(**d**) of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment but, taking into account the criteria set out in Annex III to that Directive, that the project is not a relevant project.

In accordance with paragraph 5 of that schedule(**e**) the Ministers have informed the Council in writing that the application relates to a project which falls within Annex II to that Directive but is not a relevant project.

(**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 was substituted by S.I. 2017/1070 and amended by S.I. 2020/460.
(**d**) O.J. L 26, 28.1.2012, p.1, as relevantly amended by Council Directive 2014/52/EU (O.J. L. 24, 25.4.2014, p. 1).
(**e**) Paragraph 5 was substituted by S.I. 2017/1070.

Notice has been published by the Council in accordance with the requirements of paragraph 10 of schedule 3 of that Act(**a**).

The provisions of paragraph 17 of that schedule have been satisfied. All objections to the application have been withdrawn or paragraph 18(1A) of that schedule applied in respect of those objections. No representations under paragraph 10(2)(f) of that schedule have been made.

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

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Millport Harbour Revision Order 2023 and comes into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order—

"the 1905 Act" means The Millport Piers and Burgh Extension Order Confirmation Act 1905(**b**),

"the 1964 Act" means the Harbours Act 1964(**c**),

"the 1965 Order" means the Clyde Port Authority Order 1965(**d**),

"the 1994 Act" means the Local Government etc. (Scotland) Act 1994(**e**),

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

(**a**) 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). Schedule 3 is also amended by S.I. 2017/170, schedule 1, paragraph 80.
(**b**) 1905 c. cv.
(**c**) 1964 c. 40.
(**d**) As confirmed by the Clyde Port Authority Order Confirmation Act 1965 c. xlv.
(**e**) 1994 c. 39.
(**f**) 1995 c. 21.

"the Clyde Navigation Acts 1858 to 1965" means the Clyde Navigation Consolidation Act 1858(**a**), the Clyde Navigation (Glasgow Harbour Tramways) Act 1864(**b**), the Forth and Clyde Navigation (Capital) Act 1866(**c**), the Clyde Navigation (Amendment) Act 1868(**d**), the Clyde Navigation (Stobcross Dock) Act 1870(**e**), the Clyde Navigation Act 1873(**f**), the Clyde Navigation Act 1878(**g**), the Clyde Navigation Act 1883(**h**), the Clyde Navigation Act 1884(**i**), the Clyde Navigation Act 1887(**j**), the Clyde Navigation Act 1890(**k**), the Clyde Navigation Act 1891(**l**), the Clyde Navigation Act 1894(**m**), the Clyde Navigation Act 1897(**n**), the Clyde Navigation Act 1899(**o**),the Clyde Navigation Act 1904(**p**), the Clyde Navigation Act 1905(**q**), the Clyde Navigation Order 1907(**r**), the Clyde Navigation Act 1911(**s**), the Clyde Navigation Order 1914(**t**), the Clyde Navigation Act 1929(**u**), the Clyde Navigation Order 1950(**v**), the Clyde Navigation Order 1957(**w**), the Clyde Navigation Order 1960(**x**), the Clyde Navigation Order 1963(**y**), the Clyde Navigation Order 1964(**z**) and the Clyde Navigation (Superannuation) Order Confirmation Act 1965(**aa**),

"Clydeport" means Clydeport Operations Limited (Company number: SC134759),

"the Clydeport Acts and Orders 1965 to 2021" means the 1965 Order, the Clyde Port Authority Revision Order 1968(**bb**), the Clyde Port Authority Order 1969(**cc**), the Clyde Port Authority Order 1971(**dd**), the Clyde Port Authority (Hunterston Ore Terminal) Order 1973(**ee**), the Clyde Port Authority Scheme 1991 Confirmation Order 1992(**ff**), the Clydeport (Closure of Yorkhill Basin) Harbour Revision Order 2002(**gg**), the Clydeport (Closure of Govan Basin) Harbour Revision Order 2004(**hh**), the Clydeport Operations Limited (Greenock Ocean Terminal Cruise Berth) Harbour Revision Order 2018(**ii**) and the Clydeport (COP 26 etc.) Harbour Revision Order 2021(**jj**),

"Clydeport Harbour Master" means any person appointed by Clydeport to be the harbour master for the Clydeport jurisdictional area and includes that person's deputies and assistants and any other person for the time being authorised by Clydeport to act, either generally or for a specific purpose, in the capacity of harbour master for the Clydeport jurisdictional area,

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(**a**) 1858 c. cxlix.
(**b**) 1864 c. ccxlviii.
(**c**) 1866 c. cclvi.
(**d**) 1868 c. cxxiv.
(**e**) 1870 c. liv.
(**f**) 1873 c. cxv.
(**g**) 1878 c. xlvii.
(**h**) 1883 c. clvi.
(**i**) 1884 c. xci.
(**j**) 1887 c. viii.
(**k**) 1890 c. clvi.
(**l**) 1891 c. xxxviii.
(**m**) 1894 c. clxviii.
(**n**) 1897 c. xxxi.
(**o**) 1899 c. ccxxxix.
(**p**) 1904 c. ccxlii.
(**q**) 1905 c. xxxiii.
(**r**) As confirmed by the Clyde Navigation Order Confirmation Act 1907 c. lxi.
(**s**) 1911 c. li.
(**t**) As confirmed by the Clyde Navigation Order Confirmation Act 1914 c. clxxix.
(**u**) 1929 c. xx.
(**v**) As confirmed by the Clyde Navigation Order Confirmation Act 1950 c. xxx.
(**w**) As confirmed by the Clyde Navigation Order Confirmation Act 1957 c. xxiii.
(**x**) As confirmed by the Clyde Navigation Order Confirmation Act 1960 c. ii.
(**y**) As confirmed by the Clyde Navigation Order Confirmation Act 1963 c. i.
(**z**) As confirmed by the Clyde Navigation Order Confirmation Act 1964 c. xlii.
(**aa**) 1965 c. xliv.
(**bb**) S.I. 1968/788.
(**cc**) As confirmed by the Clyde Port Authority Confirmation Act 1969 c. xxxi.
(**dd**) As confirmed by the Clyde Port Authority Confirmation Act 1972 c. i.
(**ee**) As confirmed by the Clyde Port Authority (Hunterston One Terminal) Order Confirmation Act 1973 c. xxxv.
(**ff**) S.I. 1992/304.
(**gg**) S.S.I. 2002/121.
(**hh**) S.S.I. 2004/207.
(**ii**) S.S.I. 2018/367.
(**jj**) S.S.I. 2021/358.

"Clydeport jurisdictional area" means the port as defined in section 5(1) of the 1965 Order, the limits of which are described in section 14 of the 1965 Order,

"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,

"the Council" means The North Ayrshire Council, a local authority established by the 1994 Act and having its principal place of business at Cunninghame House, Irvine KA12 8EE,

"deposited plan" means the drawing numbered PC1683-RHD-ZZ-ZZ-DR-C-1952 entitled "Millport Coastal Flood Protection Scheme, Harbour Revision Order Extent of Works" signed with reference to this Order, of which one is deposited with the Ministers at the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ and the other deposited at the principal office of the Chief Executive, The North Ayrshire Council, Cunninghame House, Irvine KA12 8EE,

"general direction" means a direction given under article 12,

"the Greenock Port and Harbour Acts 1913 to 1957" means the Greenock Port and Harbour Consolidation Act 1913(**a**), the Greenock Improvement Order 1919(**b**), the Greenock Port and Harbours Order 1920(**c**), the Greenock Port and Harbours Order 1922(**d**), the Greenock and Port Glasgow Tramways Company Act 1928(**e**), the Greenock Port and Harbours Order 1943(**f**), and the Greenock Port and Harbours Order 1957(**g**),

"harbour" means the harbour of Millport as defined in the 1905 Act and represented by a dash and dotted purple line on the deposited plan, which line is indicative only of the harbour limits,

"harbour limits" means the limits of the harbour, as defined in the 1905 Act,

"harbour master" means any person appointed as such by the Council and includes that person's deputies and assistants and any other person for the time being authorised by the Council to act, either generally or for a specific purpose, in the capacity of harbour master,

"limits of deviation" means the limits of deviation shown on the deposited plan,

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

"personal watercraft" means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull,

"sections" means the drawing numbered PC1683-RHD-ZZ-ML-DR-C-1973 entitled "Millport Coastal Flood Protection Scheme, Rock Revetment Sections" signed with reference to this Order, of which one is deposited with the Ministers at the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ and the other deposited at the principal office of the Chief Executive, The North Ayrshire Council, Cunninghame House, Irvine KA12 8EE,

"special direction" means a direction given under article 14,

"UK Chamber of Shipping" means the trade association for the United Kingdom shipping industry, incorporated under that name as a company limited by guarantee,

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

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(**a**) 1913 c. xlii.
(**b**) As confirmed by the Greenock Improvement Order Confirmation Act 1919 c. cxii.
(**c**) As confirmed by the Greenock Port and Harbours Order Confirmation Act 1929 c. clxiii.
(**d**) As confirmed by the Greenock Port and Harbours Order Confirmation Act 1922 c. cii.
(**e**) 1928 c. lxxxii.
(**f**) As confirmed by the Greenock Port and Harbours Order Confirmation Act 1943 c. vii.
(**g**) As confirmed by the Greenock and port Harbours Order Confirmation Act 1957 c. xxii.

"works" means the works authorised by this Order, or as the case may require, any part thereof and includes any work constructed under article 3 (power to construct works) or article 6 (subsidiary works).

(2) In this Order, all areas, directions, distances, lengths, widths and heights as stated in any description of the works, powers or lands shall be construed as if the words "or thereabouts" were inserted after each such area, direction, distance, length, width and height and any reference in a description of works to a point shall be a reference to that point on the deposited plan.

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

PART 2

Works

Power to construct works

3. The Council may in the lines and situations and within the limits of deviation and according to the levels shown on the deposited plan and sections construct and maintain the following works—

Work No. 1 – Construct a new rock revetment over the existing rock foreshore, over that area coloured pale green, located within the harbour limit, defined on the deposited plan by a purple dash and dotted line and labelled "new rock revetment" to the seaward side of Clyde Street for a total length of 150 metres which rock revetment will extend into the harbour by a length of 30 metres, with the base of the revetment measuring up to 20 metres. The rock revetment will be constructed with rock armour of between 3 and 6 tonnes.

Work No. 2 – In pursuit of the Millport Coastal Flood Protection Scheme, construct new offshore rock armour breakwaters, also coloured pale green on the deposited plan and labelled "new rock armour breakwaters" the construction and location of which dictates a requirement for a new navigation channel. The Council will mark the new navigation channel between the Leug and the shore by (a) removing certain existing lights, located on Millport Pier and Stuart Street, Millport and the seasonal light on the Eileans and (b) installing new lights and buoys, all as located and labelled on the deposited plan.

Power to renew, etc. works

4. The Council may, within the limits of deviation renew, reconstruct, replace, extend, enlarge, or relay or otherwise alter temporarily or permanently the works authorised by article 3 and may maintain the same as reconstructed, extended, enlarged or re-laid.

Power to deviate

5. In the construction or execution of the works, the Council may deviate laterally from the lines or situations of those works shown on the deposited plan and sections to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the works shown on the deposited plan and sections to any extent not exceeding 2 metres upwards and to such extent downwards, as may be necessary or convenient.

Subsidiary works

6.—(1) The Council may from time to time within the harbour limit construct, maintain and operate, whether temporarily or permanently, such other works as may be necessary or convenient for the purposes, 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 landing of passengers,

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

(c) works to remove, demolish or decommission the works as the Council deems appropriate,

(d) carrying out and maintaining works for the benefit or protection of persons or subjects affected by the works, and

(e) such other works as the Council may deem necessary or desirable to mitigate any adverse effects of the construction, installation or maintenance of the works.

(2) In the course of constructing, erecting, laying down, placing, removing and replacing the works, the Council may carry out construction activity, including the temporary placing of plant and equipment within the tidal waters adjoining the harbour limit.

Rights of navigation to be interfered with

7. On the day on which this Order comes into force, any rights of navigation within the harbour shall be extinguished to the extent only that the exercise of such rights would be prevented or hindered by the construction, presence, use or maintenance of the works authorised by article 3 (power to construct works).

Obstruction of works

8. Any person who intentionally obstructs any person acting under the authority of the Council 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.

Period for completion of the works

9.—(1) Subject to paragraph (2), if the works are not substantially completed within 3 years from the coming into force of this Order or such extended time as the Ministers may on the application of the Council allow by consent in writing, then on the expiration of that period or such extended time (as the case may be) the powers granted by this Order to the Council for constructing and maintaining the works shall cease, except as to those works as are at that time substantially commenced.

(2) Nothing in paragraph (1) shall apply to any works carried out under article 4 (power to renew) or article 6 (subsidiary works).

(3) A consent given under paragraph (1) may be given unconditionally or subject to terms and conditions.

(4) As soon as reasonably practicable after a consent is given under paragraph (1) the Council shall arrange for a notice to be published in the Edinburgh Gazette and in a local newspaper in the area where the harbour is situated and the notice shall contain a concise summary of that consent.

(5) During the period of one month beginning with the date on which any notice is published in the Edinburgh Gazette and a local newspaper under paragraph (4), a copy of the consent referred to in that notice shall be kept by the Council at the office of the Chief Executive, The North Ayrshire Council, Cunninghame House, Irvine KA12 8EE and shall be open to public inspection without payment or be made available electronically on request.

PART 3

Harbour regulations

General byelaws

10.—(1) The Council may from time to time make byelaws for the efficient management and regulation of the harbour.

(2) Without prejudice to the generality of paragraph (1), byelaws made under this article may provide for—

(a) regulating the use, operation, maintenance and superintendence of the harbour and the berths, quays, piers, warehouses, sheds, landing places, equipment, works, moorings and conveniences in the harbour,

(b) regulating the admission to, and the movement within, and the departure of vessels from, the harbour, or the removal of vessels, and for the good order and government of the harbour,

(c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the harbour,

(d) regulating the navigation, berthing, mooring and anchoring of vessels within the harbour, their speed and the use of tugs or other craft for ship or craft towage within the harbour,

(e) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour,

(f) regulating the conduct of all persons and the use and parking of all vehicles within the harbour not being members of or vehicles used by a police force or officers or servants of the Crown whilst in the execution of their duties,

(g) preventing and removing obstructions or impediments within the harbour,

(h) prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) in or into the harbour,

(i) regulating or prohibiting the activities in the harbour of divers, swimmers, snorkelers, surfers, water skiers, kite surfers, wake boarders and parasailers and other persons engaged in similar recreational pursuits,

(j) regulating the launching of vessels within the harbour,

(k) prohibiting persons entering the harbour from smoking therein,

(l) regulating the use of fires, fireworks and lights within the harbour and within any vessel within the harbour,

(m) making the carrying out of specified harbour operations, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbourmaster, and

(n) the conservation of the fauna, avifauna and flora in the harbour.

(3) Where byelaws under this section make the carrying out of specified activities, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbour master as mentioned in paragraph (2)(m), the harbour master may take such action as may be reasonably required in default of compliance with any such approval, condition, control or direction.

(4) Byelaws made under this article may—

(a) provide for fines on summary conviction not exceeding level 3 on the standard scale for breach of any approval, condition, direction or requirement imposed under the byelaws,

(b) relate to the whole of the harbour or to any part thereof, and

(c) make different provision for different parts of the harbour or in relation to different classes of vessels or vehicles.

Confirmation of byelaws

11.—(1) Byelaws made by the Council under this Order shall not come into operation until they have been confirmed by the Ministers.

(2) Not later than one month before an application for confirmation of byelaws is made by the Council to the Ministers, notice of the intention to apply for confirmation and of the place at which and time during which a copy of the byelaws shall be open to inspection shall be published as follows—

(a) once in the Edinburgh Gazette, and

(b) once in each of two successive weeks in a newspaper circulating in the area in which the harbour is situated.

(3) Not later than the first date on which the notice under paragraph (2) is published, the Council shall send a copy of the notice to the Ministers.

(4) For a period of at least one month before an application is made for confirmation of byelaws, the Council shall keep a copy of the byelaws open to public inspection at their principal office at all reasonable hours and publish a copy of the byelaws in a prominent place on the Council's website.

(5) The Council shall supply a copy of the byelaws or of part of the byelaws to a person on request.

(6) During the period of one month beginning with the last date of publication of any notice required by paragraph (2), any person may make, in writing to the Ministers, any objection to or representation about the byelaws to which the notice relates.

(7) The Ministers may confirm the byelaws (with or without modifications) or may refuse to confirm them.

(8) Where the Ministers propose to make a modification that appears to them to substantially affect the character of the byelaws, they shall inform the Council and require it to take any steps the Ministers consider necessary for informing persons likely to be concerned with the modification.

(9) For the purposes of paragraph (8), the Ministers shall give the Council and any person who is to be informed of a proposed modification the opportunity to make representations in writing about that proposed modification during a period determined by the Ministers and the Ministers shall take such representations into account before making a decision under paragraph (7).

(10) The Council shall—

(a) keep a copy of confirmed byelaws open to public inspection at all reasonable hours, at the Council's principal office, and

(b) provide a copy of the byelaws to any person on request.

General directions to vessels

12.—(1) The Council may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland, Clydeport and such other persons as the Council considers are representative of users of the harbour and in order to promote or secure conditions conducive to the ease, convenience or safety of navigation or the safety of persons, give general directions for any of the following purposes—

(a) for designating areas, routes or channels in the harbour which vessels are to use or refrain from using, for movement or mooring,

(b) for securing that vessels move only at certain times, at certain speeds or during certain periods, or

(c) for requiring the master of any vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for the purposes of this paragraph.

(2) Directions given under paragraph (1) may apply—

(a) to all vessels or to a class of vessel designated, or the designations of which is provided for, in that direction,

(b) to the whole of the harbour or to a designated area, or the designation of which is provided for in the direction, and

(c) at all times or at times designated, or the designation of which is provide for, in the direction

and every direction given under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a) to (c).

(3) The Council may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland, Clydeport and such other persons as the Council considers are representative of users of the harbour, revoke or amend any general direction.

Publication of general directions

13.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Council as soon as practicable, once in the Edinburgh Gazette and in one or more newspapers circulating in the locality in which the harbour is situated.

(2) The Council shall also make the notice available for inspection on a web-site maintained by the Council together with, if the notice relates to the giving or amendment of a general direction, a copy of the direction or the direction as amended.

(3) If the notice relates to the giving or amendment of a general direction, the notice shall state a place at which copies may be obtained and particulars of the web-site where a copy of the direction or the direction as amended may be viewed.

(4) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Council considers appropriate.

Special directions to vessels

14.—(1) The harbour master may give a special direction—

(a) requiring a vessel anywhere within the harbour limits to comply with a requirement made in or under a general direction,

(b) for regulating the time at which and the manner in which a vessel shall enter into, go out of, or lie in or at the harbour,

(c) for securing that a vessel moves only at certain times or during certain periods,

(d) prohibiting the mooring of a vessel in any particular part or parts of the harbour,

(e) regulating or requiring the movement, berthing, mooring or unmooring of a vessel, and

(f) regulating the manner in which a vessel takes in or discharges (from ship to shore or shore to ship) passengers, cargo, fuel, water, ship's stores or ballast in the harbour.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

(3) The harbour master may revoke or amend a special direction.

Master's responsibility to be unaffected

15. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

Failure to comply with directions

16. The master of a vessel who fails without reasonable excuse to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Enforcement of special directions

17.—(1) Without prejudice to any other remedy available to the Council, if a special direction is not complied with within a reasonable period of time, the Council may, where practicable 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 one on board the vessel to comply with a special direction, the Council may proceed as if the direction had been given and not completed with, but it shall not do so unless after reasonable enquiry has been made, the master cannot be found.

(3) Expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Council from the owner of the vessel.

Precedence of Clydeport and the Clydeport Harbour Master over the Clydeport jurisdictional area

18. In relation to the Clydeport jurisdictional area, if there is a conflict between a special direction given by the Clydeport Harbour Master, a general direction given or byelaw made by Clydeport, or other regulation applying to the Clydeport jurisdictional area, and—

(a) any special direction given by the harbour master,

(b) any general direction given by or byelaw made by the Council, or

(c) any regulation in this Order

the special direction of the Clydeport Harbour Master, general direction given or byelaw made by Clydeport, or other regulation applying to the Clydeport jurisdictional area, will take precedence.

PART 4

Miscellaneous and general

Saving for Commissioners of Northern Lighthouses

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

Saving for Clydeport

20. Nothing in this Order or in any byelaws, special directions or general directions made under it shall alter, prejudice, derogate or affect the jurisdiction of, or any rights, powers, privileges or authorities conferred on or vested in or enjoyed by Clydeport or the Clydeport Harbour Master under any enactment, including the Clydeport Acts and Orders 1965 to 2021, and the unrepealed provisions of the Clyde Navigation Acts 1858 to 1965 and the Greenock Port and Harbour Acts 1913 to 1957.

Crown rights

21.—(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 Council 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 Her 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 Her 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 Her 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.

Repeal

22. The enactment mentioned in the first and second columns of schedule 1 is repealed to the extent specified in the third column of that schedule.

DARIO DALLA COSTA
A member of the staff of the Scottish Ministers

St Andrew's House,
Edinburgh
30th May 2023

SCHEDULE

Article 22

Repeal

Number	*Short Title*	*Extent of Repeal*
c. cv	The Millport Piers and Burgh Extension Order Confirmation Act 1905	Section 38

EXPLANATORY NOTE

(This note is not part of the Order)

This Order empowers the Council to construct and maintain works in Millport Harbour and to mark and regulate a new navigation channel, all as required to support the Millport Coastal Flood Protection Scheme.

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