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STATUTORY INSTRUMENTS

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**1991 No. 1082 (S.107)**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Caledonian MacBrayne Limited (Gott Bay Pier) Harbour Revision Order 1990**

<i>Made</i>	- - - -	<i>17th December 1990</i>
<i>Laid before Parliament</i>		<i>14th January 1991</i>
<i>Coming into force</i>	- -	<i>25th February 1991</i>

The Secretary of State, in exercise of the powers conferred on him by section 14 of the Harbours Act 1964<sup>(1)</sup>, and of all other powers enabling him in that behalf, on the application of Caledonian MacBrayne Limited, and being satisfied that the making of the Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, hereby makes the following Order:

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1.—(1) This Order may be cited as the Caledonian MacBrayne Limited (Gott Bay Pier) Harbour Revision Order 1990 and this Order and the Gott Bay Pier Orders 1908 and 1959 may be cited together as the Gott Bay Pier Orders 1908 and 1990.

(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<sup>(2)</sup>.

**Interpretation**

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

“the Company” means Caledonian MacBrayne Limited being a company incorporated under the Companies Acts;

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

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(1) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4 and 14.  
(2) 1945 c. 18; 1965 c. 43.

“the Orders of 1908 and 1959” mean respectively the Gott Bay Pier Order 1908(3) and the Gott Bay Pier Order 1959(4);

“the pier premises” means the quays, piers, landing places and all other works, land and buildings for the time being vested in or occupied or administered by the Company for the purposes of the pier undertaking as from time to time authorised;

“the pier undertaking” means the undertaking hitherto carried on by the Regional Council at Gott Bay on the island of Tiree including the works together with all lands, buildings, plant and conveniences connected therewith and now vested in the Company by virtue of article 3 below;

“the Regional Council” means Strathclyde Regional Council;

“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.

(2) Reference points specified in this Order shall be construed as references to Ordnance Survey National Grid reference points.

(3) The Orders of 1908 and 1959 shall be incorporated with and form part of this Order.

## Part II

### JURISDICTION AND POWERS

#### **Transfer of pier undertaking**

3.—(1) On the coming into force of this Order there shall be transferred to and vested in the Company (subject to the other provisions of this Order) all the powers of the Region Council in relation to the pier undertaking vested in them pursuant to the Orders of 1908 and 1959, the Harbours Act 1964 and section 154 of the Local Government (Scotland) Act 1973(5) together with all property heritable and moveable and all rights pertaining thereto vested in the Regional Council and held by them solely for the purposes of the pier undertaking.

(2) To enable the Company to complete a title to any property transferred to and vested in it by virtue of this article by notice of title or otherwise, this Order shall have effect if it were a general disposition or assignment, as the case may be, of such property granted by the Regional Council in favour of the Company on the coming into force of this Order.

#### **Contracts to be binding**

4. All purchases, sales, conveyances, deeds, contracts and agreements entered into made by the Regional Council and in force at the commencement of this Order shall so far as they relate to the pier undertaking be as binding and of as full force and effect in every respect against or in favour of the Company as they have heretofore been against or in favour of the Regional Council and may be enforced as fully and effectively as if, instead of the Regional Council, the Company had been a party thereto.

#### **Proceedings not to abate**

5. All legal and other proceedings begun before the commencement of this Order and relating to any property or liabilities transferred to the Company under this Order may be carried on with the

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(3) See the [Pier and Harbour Orders Confirmation \(No. 2\) Act 1908 c.cxxxvi](#); the Order of 1908 was amended by the Gott Bay Pier (Amendment) Order 1928 (see Schedule to the [Pier and Harbour Orders Confirmation Act 1928 c.lxviii](#)) and the Schedule to S.I. 1953/522.

(4) S.I. 1960/106.

(5) S.I. 1973 c. 65.

substitution of the Company as a party to the proceedings in lieu of the authority from whom the property or liabilities was or were transferred and any such proceedings may be amended in such manner as may be necessary for that purpose.

### **Power to make agreements**

6. Nothing in this Order shall affect the right of the Regional Council and the Company to enter into an agreement for the purpose of regulating the responsibility as between themselves for any liabilities or obligations transferred to the Company by article 4 or 5 of this Order.

### **Limits of harbour**

7. The Company 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 bounded by a line commencing at a point at NM 04194593 at the level of high water westwards of the existing pier and extending in an arc with a radius of 750 metres from the north eastern extremity of the pier head at a point at NM 04914570 and terminating southwards of the said pier at a point at NM 04734495 at the level of high water; and
- (b) the pier premises.

### **Byelaws**

8. In addition to the byelaws which may be made by the Company under section 83 of the Harbours, Docks, and Piers Clauses Act 1847<sup>(6)</sup> and otherwise, the Company may, in relation to the pier undertaking, from time to time make such byelaws as it thinks fit with reference to all or any of the following matters:—

- (a) for regulating the types of vehicles which may enter or be on the pier premises and the use, placing, loading or unloading, and driving of such vehicles, and giving powers to officers or servants of the Company in relation to such regulation;
- (b) the management, control and regulation of the pier premises and of goods, wares and merchandise using or passing over the pier premises;
- (c) safety precautions to be observed by persons using or being on the said pier premises.

### **Confirmation of byelaws**

9.—(1) The provisions of subsections (4) to (8), (10) and (12) of section 202 and section 203 of the Local Government (Scotland) Act 1973 shall apply to any byelaws made by the Company under the Harbours, Docks, and Piers Clauses Act 1847 or this Order as if the Company were a local authority, and in the application of the provisions of the said Act of 1973 the Secretary of State shall be the confirming authority and all byelaws and regulations which are in force at the pier undertaking at the date of this Order coming into force shall be deemed to be byelaws and regulations of the Company and shall continue in force until altered.

(2) Where the Secretary of State proposes to exercise the power of modification conferred on him by subsection (10) of the said section 202 and the modification appears to him to be substantial, he shall inform the Company and require it to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Company and by other persons who have been informed of it.

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(6) 1847 c. 27.

## PART III

### MISCELLANEOUS

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

**10.**—(1) A tidal work shall not be erected, constructed, renewed, extended, enlarged, or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.

(2) If a tidal work is erected, constructed, renewed, extended, enlarged or altered in contravention of this article or of any condition or restriction imposed under this article—

- (a) the Secretary of State may by notice in writing require the Company at its 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 Company, it has 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 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 Company.

#### **Provision against danger to navigation**

**11.**—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Company shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take other steps for preventing danger to navigation as those Commissioners shall from time to time direct.

(2) If the Company fails 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, it 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**

**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 Company at its 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 may think 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 Company, it has 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 the Secretary of State in so doing shall be recoverable from the Company.

### **Survey of tidal works**

13. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work constructed by the Company or of the site upon which it is proposed to construct the work and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Company.

### **Lights on tidal works during construction**

14.—(1) The Company shall at or near a tidal work during the whole time of the erection, construction, renewal, extension, enlargement or alteration thereof exhibit every night from sunset to sunrise, such lights, if any, and take such other steps for the prevention of danger of navigation as the Secretary of State shall from time to time direct.

(2) If the Company fails to comply in any respect with a direction given under this article it 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**

15.—(1) After the completion of a tidal work, the Company shall at the outer extremity 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 Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Company fails to comply in any respect with a direction given under this article it 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.

### **Amendments and repeals**

16.—(1) The provisions of the Orders of 1908 and 1959 referred to in column (1) of Schedule 1 to this Order shall have effect subject to the amendments specified in column (2) of that Schedule.

(2) In the Orders of 1908 and 1959 for the words “County Council” or “the Trustees” wherever the same shall appear there shall be substituted the words “the Company”, and wherever the words “Board of Trade” or “Minister of Transport” shall appear the words “Secretary of State” shall be substituted therefor.

(3) The enactments specified in Schedule 2 to this Order are hereby repealed to the extent specified in column (3) of that Schedule.

### **Crown rights**

17.—(1) Nothing in this Order shall affect 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 herein contained shall authorise the Company to take, use, enter upon or in any manner interfere with, any land or hereditaments 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 terms and conditions.

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**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 Company.

St. Andrew's House,  
Edinburgh  
17th December 1990

*James Douglas-Hamilton*  
Parliamentary Under Secretary of State

## SCHEDULE 1

Article 16(1)

## AMENDMENTS

Section or article (1)	Amendment (2)
35	The Gott Bay Pier Order 1908 Leave out from “recover” to the end of the section and insert “reasonable charges therefor.”.
40(3)	Leave out “shall for each offence be liable to a penalty not exceeding one pound.” and insert “shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.
47(3)	Leave out “shall be liable to a penalty not exceeding ten pounds for every month during which the failure continues.” and insert “shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale”.
12	The Gott Bay Pier Order 1959 Leave out “five pounds” and insert “level 1 on the standard scale”.

## SCHEDULE 2

Article 16(3)

## REPEALS

Chapter or number (1)	Short title (2)	Extent of repeal (3)
<a href="#">1908 c.cxxxvi</a>	Gott Bay Pier Order 1908	In section 3 the definitions of “The Works”, “Office”, “Elector” and “County Council”.  Sections 4, 14, 26, 27, 30 and 34.  In section 36 the words “not exceeding the rates specified in the Schedule to this Order”.  Sections 37 and 39.  In section 43 the words “for any term not exceeding seven years”.

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Chapter or number (1)	Short title (2)	Extent of repeal (3)
		Sections 63 and 64. The Schedule.
<a href="#">1928 c.lxviii.</a>	Gott Bay Pier (Amendment) Order 1928.	The whole Order.
<a href="#">S.I.1953/522</a>	Gott Bay Pier Order 1953	The extant provisions:— sections 1 and 5(1).
<a href="#">S.I. 1960/106</a>	Gott Bay Pier Order 1959	Article 4 (except the definition of “The Works”), articles 5, 6(1) and (2), 7 to 9, 13, 16, 21, 23 and the Schedule.

### EXPLANATORY NOTE

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

This Order transfers to and vests in Caledonian MacBrayne Limited the Gott Bay Pier undertaking on the Island of Tiree together with all rights, interests and privileges presently vested in or used by Strathclyde Regional Council in relation to that undertaking. Strathclyde Regional Council are the present undertakers at Gott Bay by virtue of section 154 of the Local Government (Scotland) Act 1973 which transferred the pier undertaking from Argyll County Council. Provision is made for all conveyances, contracts, agreements or deeds entered into by Strathclyde Regional Council in relation to that undertaking to remain binding and in full force against or in favour of the Company and for all legal or other proceedings in relation to that undertaking to be carried on with the substitution of the Company as a party to the proceedings in lieu of Strathclyde Regional Council. This Order also provides for an increase in harbour limits. The Order also provides that sections 202 and 203 of the Local Government (Scotland) Act 1973 shall apply to byelaws for the pier undertaking made by the Company and that byelaws and regulations in force when this Order comes into operation shall continue in force.

This 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 Caledonian MacBrayne Limited, The Ferry Terminal, Gourock, PA19 IQP.