

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2021 No.**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Clydeport (COP 26 etc.) Harbour Revision Order 2021**

*Made* - - - - 2021

*Coming into force* - - 2021

**CONTENTS**

**PART 1**

**PRELIMINARY**

1. Citation and commencement
2. Interpretation

**PART 2**

**DUTIES AND POWERS OF CLYDEPORT OPERATIONS LIMITED**

3. Extension of the Port Limits to include the Docks and Works
4. General functions

**PART 3**

**HARBOUR REGULATION**

5. Power to make general directions as to use of the port, etc.
6. Publication of general directions
7. Special directions
8. Failure to comply with directions
9. Enforcement of directions
10. Master's responsibility in relation to directions
11. Saving for existing directions, byelaws etc.

**PART 4**

**MISCELLANEOUS**

12. Further amendments of the 1965 Order
13. Notices
14. Saving for the Commissioners of Northern Lighthouses
15. Crown Rights

PART 5  
COP 26

16. Temporary extension of port limits for the COP 26 period
17. Incorporation of the Clydeport Act and Orders in respect of the temporary additional area
18. Saving

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 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 Clydeport Operations Limited (“the Company”) 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 and facilitating the efficient and economic transport of goods and passengers by sea and the recreational use of sea-going ships.

[The provisions of paragraph 17 of Schedule 3 to that Act(c) have been satisfied.] [No objections to the application have been made.] [All objections to the application have been withdrawn or paragraph 18(1A) of that Schedule(d) applied in respect of those objections.] [No representations under paragraph 10(2)(f)[, or 10A(4)(d),] of that Schedule have been made.]

[[In accordance with paragraph 18(1C) of that Schedule(e),] Ministers have caused an inquiry to be held under paragraph 18(1B) of that Schedule(f).]

[[In accordance with paragraph 18(1C) of that Schedule(g),] Ministers have given to a person who made an objection an opportunity of appearing before and being heard by a person appointed by Ministers under paragraph 18(1B) of that Schedule(h).]

- 
- (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 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, Schedule 3, paragraph 9.
  - (c) 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).
  - (d) Paragraph 18 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)(h).
  - (e) Paragraph 18 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)(h).
  - (f) [Paragraph 18 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)(h).]
  - (g) Paragraph 18 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)(h).
  - (h) [Paragraph 18 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)(h).]

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

- (a) any objections made and not withdrawn,
- (b) [the report of the person who held the inquiry] [the report of the person appointed for the purpose of hearing an objector under paragraph 18 of that Schedule], and
- (c) [any written representations submitted to Ministers by the applicant or any objector in elaboration of the application or, as the case may be, objection].

In accordance with paragraph 19(6) of that Schedule(b), 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 and in accordance with paragraph 21 of that Schedule(c)—

- (a) Ministers have taken such steps as appear to Ministers to be sufficient and reasonably practicable for informing the applicant and other persons likely to be concerned, and
- (b) the period which Ministers thought reasonable for consideration of, and comment upon, the proposed modifications by the applicant and those other persons has expired]].

## PART 1 PRELIMINARY

### Citation and commencement

1. This Order may be cited as the Clydeport (COP 26 etc.) Harbour Revision Order 2021 and shall come into force on the day after the day on which it is made.

### Interpretation

2.—(1) In this Order—

“the 1965 Order” means the Clyde Port Authority Order 1965(d);

“charges” means the charges, rates, tolls and dues which the Company is for the time being authorised to demand, take and recover in relation to the port undertaking;

“the Clydeport Acts and Orders 1965 to 2004” means the 1965 Order, the Clyde Port Authority Revision Order 1968(e), the Clyde Port Authority Revision Order 1969(f), the Clyde Port Authority Scheme 1991 Confirmation Order 1992(g), the Clydeport (Closure of Yorkhill Basin) Harbour Revision Order 2002(h) and the Clydeport (Closure of Govan Basin) Harbour Revision Order 2004(i);

“the Commissioners of Northern Lighthouses” means the general lighthouse authority for Scotland, a body corporate constituted by section 193 of, and Schedule 8 to, the Merchant Shipping Act 1995(j);

“the Company” means Clydeport Operations Limited;

- 
- (a) 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).
  - (b) Paragraph 19(2) of Schedule 3 was substituted by S.I. 1999/3445.
  - (c) Paragraph 21 of Schedule 3 was substituted by S.I. 1999/3445.
  - (d) 1965 ch. xlv.
  - (e) S.I. 1968/788.
  - (f) *[insert 1969 reference]*
  - (g) S.I. 1992/304.
  - (h) S.I. 2002/121.
  - (i) S.I. 2004/207.
  - (j) 1995 c.21. Schedule 8 was amended by section 55 of the Scotland Act 2016 c.11.

“COP 26” means the UN Climate Change Conference which is being held at the Scottish Event Camps in Glasgow between 1 November 2021 and 12 November 2021;

“the COP 26 period” means the 27 October 2021 to 11.59 p.m. on the 15 November 2021(a);

“the COP 26 period commencement date” means the 27 October 2021;

“the COP 26 period termination date” means 11.59 p.m. on the 15 November 2021;

“general direction” means a direction given under article 5 of this Order;

“the harbour master” means any person appointed as such by the Company, and includes the harbour master’s duly authorised deputies and assistants and any other person for the time being authorised by the Company to act, either generally or for a specific purpose, in the capacity of harbour master;

“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;

“jet bike” means any watercraft (not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a water jet engine or other mechanical means of propulsion and steered either—

(a) by means of a handlebar-operated linkage system (with or without a rudder at the stern), or

(b) by the person or persons riding the craft using their body weight for the purpose, or

(c) by a combination of the methods referred to in (a) and (b) above;

“land” includes land covered by water except where expressly stated otherwise;

“the level of high water” means the level of mean high-water spring tides;

“master”, in relation to a vessel, means any person having or taking command, charge, management or conduct of the vessel for the time being;

“the permanent port limits plan” means the plan showing the permanent port limits up to the level of high water prepared in duplicate, signed and dated with reference to this Order and marked “Signed permanent port limits plan referred to in the Clydeport (COP 26 etc.) Harbour Revision Order 2021”, one copy of which is deposited at the offices of the Scottish Government, Transport Scotland, AMFC Directorate, Victoria Quay, Edinburgh, EH6 6QQ and the other at the office of the Company [ insert address];

“port” means the port as defined in article 5(1) of the 1965 Order, the limits of which are described in article 14 of the 1965 Order;

“port facilities” includes shipping, fisheries, marine, recreational, residential, leisure, tourism and retail facilities (including buildings);

“port undertaking” means the undertaking for the time being of the Company;

“special direction” means a direction given under article 7 of this Order;

“the temporary additional area” is shown for information purposes shaded hatched blue on the temporary port limits plan and means:

(a) the area of the River Kelvin between:

(i) the east side of the bridge over the River Kelvin on Benalder Street in the City of Glasgow, and

(ii) the River Clyde; and

(b) the area of the River Clyde between the west side of Albert Bridge in the City of Glasgow and the west side of the Clyde Tidal Weir;

“the temporary port limits plan” means the plan showing the temporary port limits up to the level of high water prepared in duplicate, signed and dated with reference to this Order and

marked “Signed temporary port limits plan referred to in the Clydeport (COP 26 etc.) Harbour Revision Order 2021”, one copy of which is deposited at the offices of the Scottish Government, Transport Scotland, AMFC Directorate, Victoria Quay, Edinburgh, EH6 6QQ and the other at the office of the Company [ insert address];

“vessel” includes a ship, boat, houseboat, raft or water craft of any description, however propelled or moved, and includes non-displacement craft, a jet bike, a personal 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);

(2) All situations, points, directions, distances, lengths, dimensions, areas and other measurements stated in this Order shall be construed as if the words “or thereabouts” were inserted after each such situation, point, direction, distance, length, dimension, area or other measurement.

## PART 2

### DUTIES AND POWERS OF CLYDEPORT OPERATIONS LIMITED

#### **Extension of the Port Limits to include the Docks and Works**

3.—(1) The 1965 Order is amended as follows—

(a) in article 14(a):

(i) omit paragraph 2 and substitute:

“(2) The Port Authority and the harbour master shall exercise jurisdiction within:

(a) that part of the river and firth of Clyde between the landward limit and the seaward limits (other than the area within the jurisdiction of the Ardrossan Harbour Company Limited, as defined in section 22 (Limits of the Harbour defined) of the Ardrossan Harbour Consolidation Act 1864) and within all sea lochs and channels within that part up to the level of mean high water springs, shown for information purposes shaded pink on the deposited plan, and

(b) the docks and works.”

(b) in article 5(1) insert between the definitions of “daily fine” and “docks and works”:

“(i) “the deposited plan” means the plan deposited with the Clydeport (COP 26 etc.) Harbour Revision Order 2021 with the title ‘permanent port limits plan’”.

(2) The Company must keep, and make available for inspection at its office and on its website from the day on which this Order comes into force, an illustrative plan.

(3) The Company must update the illustrative plan to reflect any alterations to the extent of the docks and works within the period of 30 days beginning with the day on which the alterations are made.

(4) In this article—

“illustrative plan” means a plan showing, for illustrative purposes only, the port limits as described in article 14(b) of the 1965 Order (as amended).

#### **General functions**

4.—(1) The Company may, subject to the provisions of this Order, take all such steps from time to time as it considers necessary or desirable for the maintenance, operation, management and improvement of the port and the port facilities afforded therein or in connection therewith, and for

---

(a) As amended by article 4 of the Clyde Port Authority Order 1969.

(b) As amended by article 4 of the Clyde Port Authority Order 1969 and article 12(1) of this Order.

the conservation of the port's flora, fauna and geological and physiographical features of special interest.

- (2) For those purposes and without limitation to the scope of paragraph (1) the Company may—
- (a) improve, maintain, regulate, manage, mark and light the port and provide port facilities therein;
  - (b) subject to obtaining the necessary consents and rights in or over land—
    - (i) execute and place in and over the port such structures, works and equipment as are required; and
    - (ii) operate, maintain, renew, alter, extend, demolish and reconstruct structures, port facilities, works and equipment in the port (including those executed or placed pursuant to sub-paragraph (i) above); and
  - (c) do all other things which in its opinion are expedient to facilitate the operation, improvement or development of the port undertaking.
- (3) In the exercise of the powers of sub-paragraph (2)(b) above, the Company must not—
- (a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or
  - (b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus, without the consent of the statutory undertaker concerned.
- (4) This article is without limitation to the powers of the Company under or by virtue of any other enactment.

## PART 3

### HARBOUR REGULATION

#### **Power to make general directions as to use of the port, etc.**

5.—(1) Subject to paragraph (4), the Company may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland and such other persons or organisations as it considers appropriate for the purposes of the application of this provision, give general directions in order to promote or secure conditions conducive to the ease, convenience or safety of navigation, the safety of persons, or for the conservation or protection of property, fauna, avifauna and flora in the port (and during the COP 26 period, the temporary additional area) and, without limitation to the scope of the foregoing, for any of the following purposes—

- (a) designating areas, routes or fairways in the port and the approaches to the port which vessels are to use, or refrain from using, for movement, mooring or anchorage,
- (b) securing that vessels move within the port 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 within the port or the approaches leading to it during any temporary obstruction of the fairways,
- (e) regulating the admission to, and the movement within, and the departure of vessels from, the port, or the removal of vessels, and for the good order and government of vessels whilst within the port,
- (f) prohibiting entry into or movement in the port 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 port or the approaches of any vessel seeking refuge from stress of weather,
- (g) regulating the navigation, berthing, mooring and speed of vessels within the port,

- (h) regulating the use of ferries within the port,
- (i) regulating the use within the port of yachts, sailing boats, sailboards, rowing boats, rowing punts, jet bikes, personal watercraft, pleasure craft and other small craft,
- (j) regulating the launching of vessels within the port,
- (k) regulating the use of tugs within the port,
- (l) requiring the master of a 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) A direction under this article may apply—

- (a) to all vessels or to a class of vessels;
- (b) to persons designated in the direction;
- (c) to the whole of the port or to a part; or
- (d) at all times or at certain times or at certain states of the tide;
- (e) and every direction must specify the extent of its application in relation to the matters referred to in sub- paragraphs (a), (b), (c), and (d).

(3) The Company may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland and such other persons as the Company considers appropriate for the purposes of the application of this provision, revoke or amend any general direction.

(4) The consultation requirements in paragraphs (1) and (3) do not apply where in the interests of navigational safety, or safety of persons, the Company proposes to give, amend or revoke a general direction—

- (a) in an emergency, or relating to an intended, potential or actual activity or operation within the port or the temporary additional area which is expected to commence or occur within the COP 26 period; and
- (b) the Company considers that the giving, amending or revocation of that general direction is required, taking into account other activities or operations in the port and, during the COP 26 period, the temporary additional area, which may be affected.

(5) Any general direction made or amended without consultation will be in force only for the period of the emergency, or the COP 26 period.

(6) During the COP 26 period references to the ‘port’ in sub - paragraphs (1)(a) to 1(l) and 2(c) is extended to include the temporary additional area.

### **Publication of general directions**

**6.**—(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 Company as soon as practicable, once in one or more newspapers circulating in the locality in which the port is situated.

(2) The Company shall also make the notice available for inspection on a web-site maintained by the Company 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 Company considers appropriate.

### **Special directions**

7.—(1) The harbour master may give a special direction in respect of a vessel anywhere in the port or, during the COP 26 period, the temporary additional area for any of the following purposes—

- (a) requiring a person to comply with a requirement made in or under a general direction;
- (b) regulating or requiring the movement, anchorage, berthing, mooring or unmooring of the vessel;
- (c) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores, and the dispatch of its business at the port premises;
- (d) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (e) prohibiting or restricting the use of fires or lights;
- (f) regulating the use of ballast;
- (g) requiring the removal of the vessel from any part of the port or the temporary additional area if the vessel—
  - (i) is on fire;
  - (ii) is in such condition as to be liable to become immobilised or waterlogged, to sink or to constitute a danger to life or property;
  - (iii) is making an unlawful use of the port or interfering with the reasonable use or enjoyment of the port by other vessels or persons or the dispatch of business in the port; or
  - (iv) needs to be removed to enable maintenance or repair work to be carried out to the port premises;
- (h) requiring the vessel be removed to a place outside the port or the temporary additional area if such removal is considered by the harbour master to be necessary in order to avoid danger or potential danger to life (including wildlife) or to property.

(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.

### **Failure to comply with directions**

8.—(1) A person who fails to comply with a general direction or a special direction is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) In any proceedings for an offence under paragraph (1) it is a defence for the person charged to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

### **Enforcement of directions**

9.—(1) If a special direction is not complied with within a reasonable time, the harbour master may 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) This does not restrict the use of any other remedy available to the Company.

(3) If there is no one on board a vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with, but the harbour master shall not do so unless, after reasonable inquiry has been made, the master cannot be found.

(4) Expenses incurred by the Company in the exercise of the powers conferred by paragraph (1) are recoverable by the Company as if they were a charge of the Company in respect of the vessel.



### **Master’s responsibility in relation to directions**

10. The giving of a general or special direction does 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 the vessel, to persons on board the vessel, to the cargo or any other person or property.

### **Saving for existing directions, byelaws etc.**

11. Any harbour direction, special direction, byelaw, regulation, licence, lease, consent or other agreement made, issued, entered into or granted by the Company in relation to the port undertaking and in force immediately on or before the date on which this Order comes into force, shall, notwithstanding the amendments set out in articles 3 and 12 of this Order, continue to have effect.

## **PART 4**

### **MISCELLANEOUS**

#### **Further amendments of the 1965 Order**

12.—(1) The 1965 Order is amended as follows—

(a) omit article 5(2) and substitute:

“(2) In this Order and in the provisions of the Harbours, Docks and Piers Clauses Act 1847, as incorporated with this Order “vessel” includes any ship, lighter, keel, barge, raft, pontoon, or water craft of any description, however propelled or moved, and includes a non-displacement craft, a jet bike, a personal 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).”

(b) in article 67 omit “a floating dock” and substitute “any dracone or floating dock, crane, rig, drilling rig, or floating platform or any other vessel not being a ship as defined in section 57 of the Harbours Act 1964”

#### **Notices**

13.—(1) Except where this Order expressly provides otherwise a notice or other document required or authorised to be given for the purposes of this Order, must be in writing and must be sent by first class post.

(2) Where the person to whom a notice or other document is to be sent for the purposes of this Order is a body corporate, the notice or document is duly given if it is given to the secretary or clerk of that body.

(3) Where a person on whom a notice or other document is to be given has agreed in writing that notices may be given by email, or other electronic means, the Company may provide notices by that means until such time as the person informs it in writing that they are no longer willing to receive notices or documents by email or by such other electronic means.

(4) For the purposes of section 7 of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of a person in relation to the giving of a notice or document under paragraph (1) is, if they have given an address for service that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and

(b) in any other case, their last known address at the time of notice is given,

---

(a) 1978 c.30.

(5) Where for the purposes of this Order a notice or other document is required or authorised to be given on a person whose name and address cannot be ascertained after reasonable inquiry—

- (a) in the case of a notice or document to be served on a person as having an interest in or as the occupier of, any land, it may be given by—
  - (i) addressing it to them by name or by the description of “owner”, or as the case may be occupier”, of the land (describing it), and
  - (ii) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land,
- (b) in the case of a notice or document relating to a vessel (including a wreck), it may be given by exhibiting it in a conspicuous position on or near the vessel (unless it would not be reasonably practicable to exhibit the notice or document in this manner or if the notice or document would not be likely to be seen if it were so exhibited) or by handing it to a member of the crew, and
- (c) in the case of any other notice or document or a notice or document that is not capable of being given pursuant to sub-paragraph (b) it may be given by displaying it at the office of the harbour master for the period of its duration.

### **Saving for the Commissioners of Northern Lighthouses**

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

### **Crown Rights**

15.—(1) Nothing in this Order—

- (a) prejudicially affects any estate right, power, privilege, authority or exemption of the Crown, or
- (b) authorises the Company or any licensee to take, use, enter upon or in any manner interfere with any land or interests in land or any rights of whatsoever description (including any part of the shore or bed of the sea or of any river, channel, creek, bay or estuary) belonging to—
  - (i) Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners without the prior consent in writing of those Commissioners, or
  - (ii) 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)(b) may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.

## **PART 5**

### **COP 26**

#### **Temporary extension of port limits for the COP 26 period**

16.—(1) On the COP 26 period commencement date, the Company shall become the harbour authority for the temporary additional area.

(2) Subject to article 18, on the COP 26 period termination date, the Company shall cease to be the harbour authority for the temporary additional area and shall cease to have any duties, powers, rights, privileges or authorities in respect of it as harbour authority under this Order.

(3) On the COP 26 period termination date the Company continues to be the harbour authority for the port.

(4) On the COP 26 period termination date the Company continues to have jurisdiction for the purposes of pilotage under Part 1 of the Pilotage Act 1987(a) in the port.

(5) The Clydeport Acts and Orders 1965 to 2004 remain in force at all times for the purposes of the Company exercising jurisdiction as a harbour authority during the COP 26 period in respect of—

- (a) the port, and
- (b) the temporary additional area,

subject to the provisions of the Clydeport Acts and Orders 1965 to 2004 and this Order.

(6) On the COP 26 period commencement date, for the purposes of the provisions of the Clydeport Acts and Orders 1965 to 2004 applied by article 17 to the temporary additional area, the definition of “the port” in the Clydeport Acts and Orders 1965 to 2004 is extended to include the temporary additional area until the COP 26 period termination date.

(7) The powers of the harbour master may be exercised within the temporary additional area during the COP 26 period.

### **Incorporation of the Clydeport Act and Orders in respect of the temporary additional area**

**17.**—(1) The Clydeport Act and Orders 1965 to 2004 except article 16 of the 1965 Order (power to dredge), so far as applicable to the purposes of this Order, shall apply to the temporary additional area during the COP 26 period subject to the modification in article 16(5).

(2) The application of the Clydeport Act and Orders 1965 to 2004 to the port remain unaffected by articles 16 and 17 of this Order.

### **Saving**

**18.**—(1) No proceedings or inquiries, whether commenced or continued during or after the COP 26 period, in respect of any situation, matter, thing, happening, act, refusal, neglect or failure occurring during that period so far as relating to the port or the temporary additional area, or any part or parts of those areas, including, but not limited to proceedings—

- (a) for an offence committed or penalty incurred; or
- (b) for the recovery of expenses, rates, dues, fees or charges incurred;

during the COP 26 period, shall be affected by any article of this Order or any general directions or special directions ceasing to have effect on the COP 26 period termination date.

(2) Any proceedings or inquiries mentioned in paragraph (1) may be commenced, continued and concluded, and any decision, judgment or ruling may be enforced, as if any article of this Order, and any general directions and special directions, had not ceased to have effect.

(3) Any period of time current in relation to any proceedings or inquiries mentioned in paragraph (1) when this Order ceases to have effect is not affected by its ceasing to have effect and may continue to run as if this Order, and any general directions and special directions, had not ceased to have effect.

A member of the staff of the Scottish Ministers

St Andrew's House,

---

(a) 1987 c.21.

Edinburgh

2021

## **EXPLANATORY NOTE**

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

This Order empowers the Clydeport Operations Limited (“the Company”) as harbour authority for Clydeport to extend the limits of the port to include the docks and works (article 3). An illustrative plan (defined in article 3) showing the port limits (including the docks and works) may be inspected during working hours at the main office of the Company at the [ ] and on its website.

This Order confers on the Company and the harbour master powers of general and special direction for the regulation and management of the port (articles 5 to 10).

This Order creates an offence of failing to comply with special or general directions, the penalty for which is a fine on summary conviction not exceeding level 4 on the standard scale (article 8).

A defence of due diligence is available to a person charged under article 8 (article 8(2)).

The Order amends the definition of vessel contained in article 5(2) of the 1965 Order to modernise the definition of vessel contained within it so that it applies to all vessels. It also amends the charging power in article 67 of the 1965 Order (article 12).

The Company will temporarily become the harbour authority for the additional area (defined in article 2) and the Clydeport Acts and Orders 1965 to 2004, excluding powers to dredge, will apply to the temporary additional area (article 16 during the COP 26 period (27 October to 11.59pm of the 15 November 2021)). The temporary additional area plan referred to in article 2 may be inspected during working hours at the office of the Company [ ].

An impact assessment has not been prepared for this Order as there is no, or no significant, impact predicted on businesses, charities, voluntary bodies or the public sector.

An Explanatory Memorandum is available alongside the instrument on the UK legislation website, [www.legislation.gov.uk](http://www.legislation.gov.uk)