

**SCOTTISH STATUTORY INSTRUMENTS**

2004 No. [                      ]

**HARBOURS, DOCKS, PIERS AND FERRIES**

**Clydeport (Closure of Govan Graving Dock ) Harbour Revision Order 2004**

Made

Coming into force

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Whereas Clydeport Operations Limited, a company incorporated under the Companies Act 1985 [1] with the number 134759 has applied in writing for a harbour revision order under Section 14 of the Harbours Act 1964 [2];

[And whereas no objections to the application have been made pursuant to paragraph 10(2)(f) of Schedule 3 to the said Act [3]]

Now, therefore, the Scottish Ministers, in exercise of the powers conferred on them by section 14 of the said Act [4] and of all other powers enabling them in that behalf, ~~and being satisfied that the making of the order is desirable on the grounds that Govan Graving Dock is surplus to the requirements of the Company and would be capable of being put to other beneficial uses in connection with the development and regeneration of the area,~~ hereby make the following Order:

draft

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**PART I  
PRELIMINARY**

**Citation commencement and extent**

1 This Order may be cited as the Clydeport (Closure of Govan Graving Dock) Harbour Revision Order 2004 and shall come into force on [ ] 2004.

**Interpretation**

2 In this Order --

“Company” means Clydeport Operations Limited;

“deposited plan” means the plan prepared in duplicate and signed on behalf of the Scottish Ministers and marked “Plan referred to in Article 2 of the Clydeport (Closure of Govan Graving Dock) Harbour Revision Order 2004” of which one is deposited with the Scottish Ministers at the Scottish Executive, Victoria Quay, Edinburgh EH6 6QQ, and the other with the harbour office of the Company;

“port” means the port within the limits defined in section 14 (Jurisdiction of Port Authority) of the Clyde Port Authority Order 1965 [5]

“Govan Graving Dock” means the area shown coloured blue on the signed deposited plan.

*[outlined in] ?*

## PART II

### CLOSURE OF GOVAN GRAVING DOCK

#### Closure of Govan Graving Dock

3 Subject to the provisions of this Order, the Company may close Govan Graving Dock.

#### Removal of vessels from Govan Graving Dock

4 (1) Before exercising the power conferred on them by Article 3 (closure of Govan Graving Dock) of this Order to close Govan Graving Dock the Company shall –

- (a) publish a notice of its intention to do so in Lloyd's List and once in each of two successive weeks in a local newspaper published or circulating in Glasgow with an interval between the dates of publication of not less than six clear days;
- (b) display notice thereof in a conspicuous position in the port; and
- (c) give notice thereof in writing to the Scottish Ministers.

(2) Each of the notices shall:-

(a) state that the Company intends to close Govan Graving Dock to vessels; and

(b) specify a date, which shall be a date not earlier than one month after the date of the latest of the three publications, by which all vessels must be removed from Govan Graving Dock.

(3) If the master of any vessel within Govan Graving Dock does not remove the same before the date specified in accordance with paragraph 2(b) above, the harbourmaster may cause that vessel to be removed from and moored or laid in any other place where it may without injury be moored or laid.

(4) The Company may recover as a debt from the owner of any vessel removed as aforesaid all expenses incurred by it in respect of its removal.

(5) The powers conferred on the Company and the harbourmaster by this Article shall be in addition to and without prejudice to the powers as to the removal of vessels conferred upon them by sections 64 and 65 of the Harbours, Docks and Piers Clauses Act 1847[6].

#### As to vessels entering Govan Graving Dock after date of closure

5 If any vessel enters Govan Graving Dock after the date specified in accordance with paragraph (2)(b) of Article 4 (removal of vessels from Govan Graving Dock) of this Order, the harbourmaster may direct the master of such vessel forthwith to remove the vessel from Govan Graving Dock, and if the master of such vessel does not forthwith comply with such directions the provisions of paragraphs (3) to (5) inclusive of the said Article 4 shall apply to and in respect of such vessel as if such vessel had been within Govan Graving Dock before the said date.

**Rights of navigation on Govan Graving Dock extinguished**

- 6 (1) After the date specified in accordance with paragraph 2(b) of Article 4 any right of navigation on Govan Graving Dock shall be extinguished.
- (2) After the date specified in accordance with paragraph 2(b) of Article 4 any obligation upon the Company to maintain Govan Graving Dock for the purposes of navigation shall be extinguished.

[ ]

~~A member of the staff of the Scottish Executive~~

~~Authorized to sign by the Scottish Minister~~

Victoria Quay, Edinburgh

[Date]

**EXPLANATORY NOTE**

(This Note is not part of the Order)

This Order empowers Clydeport Operations Limited to close Govan Graving Dock, extinguishes any right of navigation thereon and extinguishes any obligation on Clydeport Operations Limited to maintain Govan Graving Dock for the purposes of navigation.

**Notes:**

[1] 1985 c.6

[2] 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 and by the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 1.

[3] Paragraph 10(2)(f) was inserted by the Harbour Works (Environmental Impact Assessment) Regulations (SI 1999/3445), Regulation 15(4) and Schedule 3.

[4] The Scottish Ministers are the "appropriate Minister" under section 14(7) of the Harbours Act 1964 (c.46).

[5] Schedule to 1965 c. xlv

[6] 1847 c. 27

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Notes

# McGrigorDonald

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21 November 2003

Dear Derek

### **Clydeport Operations Limited Govan Graving Dock - Harbour Revision Order**

I thank you for your letter dated 19 November and note that you have asked your solicitor to comment on the proposal. I await hearing from you in that regard together with the procedure you wish me to follow in this case.

As requested, I attach a further copy of the plan submitted with the draft Order.

With regard to your query relating to the adjacent dry docks I attach a copy of a plan showing the overall scheme for the development. You will note that dry docks one and three will be filled in and development constructed thereon. It is proposed that dry dock two will be used for the purposes of mooring houseboats. My understanding is that these proposals have all been approved by Glasgow City Council under the master plan.

I would emphasise that these dry docks relate to the shipyard which was formally located on this site and they do not constitute part of the harbour area that lies within the jurisdiction of Clydeport Operations Ltd. Furthermore, the entire area, including that of the dry docks, is in a dilapidated state and in need of rehabilitation. I am sure that a site visit will leave you in no doubt about that!

I hope that this information is helpful and if you do require any further detail please do not hesitate to let me know. If it would help, I would be more than happy to discuss matters with you on the telephone.

Yours sincerely



ALAN BOYD  
Director, Public Law

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## SCOTTISH EXECUTIVE

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Your ref: AXB/JNS/CL0896.000009  
Our ref: 2SPP/2/14

19 November 2003

Dear Alan

### **CLYDEPORT OPERATIONS LIMITED: GOVAN GRAVING DOCK – HARBOUR REVISION ORDER**

I refer to your letter of 12 November to Charlie Smith.

I note that your letter and draft Order are to be considered as an informal application at this time. I have asked our solicitor to comment on the proposal and shall therefore write again with more detailed comments. I can confirm that the fee for this Order will be £4,000 and I shall provide in due course the requested information about the procedure to be followed in this case.

In the meantime I would be grateful if you could provide a further copy of the plan submitted with the Order. It would also be helpful if you could clarify what impact, if any, the proposed Order and related development will have on the adjacent drydocks.

Yours sincerely

DEREK WILLIS  
Ports and Harbours Team





Caroline Lyon  
OSSE: C2  
G-B  
VQ

## **CLYDEPORT OPERATIONS LIMITED: GOVAN GRAVING DOCK – HARBOUR REVISION ORDER**

1. I would welcome your views on the attached initial draft Harbour Revision Order which has been submitted by a solicitor acting on behalf of Clydeport Operations Limited. Clydeport is the harbour authority for that part of the Clyde that includes the Govan Graving Dock, and it intends to seek the Order to close the Dock and to extinguish rights of navigation thereon.

2. The purpose of the Order is because Citycanal Limited, which owns the solum of Govan Graving Dock, intends to undertake a mixed use residential and commercial development. A more detailed explanation is provided below. Part of the project requires the closure and infill of the Dock. The extent of the Dock that will require to be closed is shown outlined in blue on the attached plan. Clydeport has made an informal application at this time, setting out a summary of the proposals and the revision to the harbour being sought. It is their understanding that paragraph 8A of Schedule 2 of the Harbours Act 1964 as read along with section 14 (1) and 14 (2B) of that Act empowers the Scottish Ministers to make a Harbour Revision Order to achieve the object of closing part of a harbour or to reduce the facilities available in a harbour. We have been asked for initial comments in view of the fact that the project will attract ERDF funding. By way of background, the following detailed reasons for requiring the Harbour Revision Order have been given:-

- Govan Graving Dock is surplus to the requirements of the Harbour Authority. No vessels have used the dock in recent times and Clydeport has no intention of seeking to use it for harbour purposes.
- The closure of the Dock would not impede any general right of navigation on the River Clyde.
- Adjacent wharfs are in a dilapidated state and require works to be undertaken in accordance with the regeneration proposed for the general area. The wharfs are in private ownership and there is no public access to them at this time.
- The reclaimed area is capable of being put to other beneficial uses in connection with the development and regeneration of the area. It will represent a strategic development site for the development proposed by Citycanal. The proposed development is a mixed use of housing and commerce. The proposal has the support of the local authority and ERDF structural funding support has been earmarked for the project.

3. This has been presented as an informal application summarising the project, in order that we can consider the matter in principle to allow commencement of the formal process and submission of a proper draft Harbour Revision Order in due course. I would welcome any comments which you may have on the draft Order at this time.

*Derek Willis*

DEREK WILLIS

ETLLD: TD4/3

2F North

Victoria Quay

☎ 47878

19 November 2003

Mr Willis

**CLYDEPORT OPERATIONS LTD**  
**GOVAN GRAVING DOCK: PROPOSED HARBOUR REVISION ORDER**

1. The attached draft Harbour Revision Order and covering letter from Alan Boyd refer. Given my imminent departure, I should be grateful if you would take this one on. I have a vague recollection that this subject was raised with us some time ago by Citycanal Ltd.

2. I have had a look at the draft Order which seeks the powers to close Govan Graving Dock and I think the provisions are similar to those in the Yorkhill Basin HRO we dealt with a couple of years ago. I would suggest you look out that file as a general guide to the procedure to be followed here. Can you send Alan Boyd the usual acknowledgement and copy the Order and plan to Caroline Lyon for comment. I assume from the plan that it is the area enclosed in blue that is being closed off to navigation and that the other graving docks (1 to 3) shown in the plan are not affected. Might be worthwhile to seek clarification at this stage what impact, if any, the proposed Order and related development will have on the adjacent drydocks as background information in case this question comes up at a later stage.

3. I see no reason to disagree with Alan's view that as the proposed Order does not entail any works there is no need to seek comments from the environmental bodies to consider whether an Environmental Statement is required. As he says the environmental impact assessment aspects will be a matter for the developers at a later stage once the details of the works to be undertaken have been finalised. He mentions that SNH and SEPA have been involved in connection with the planning application.

4. Happy to discuss.

CHARLIE SMITH

18 November 2003

# McGrigorDonald

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12 November 2003

Dear Charlie

### **Clydeport Operations Limited Govan Graving Dock – Harbour Revision Order**

My clients, Clydeport Operations Ltd (“Clydeport”), are the Harbour Authority for that part of the River Clyde in Glasgow that includes Govan Graving Dock. Citycanal Ltd own the Solum of Govan Graving Dock and a substantial amount of property in the locality of that Dock. This area which lies on the south side of the River Clyde is substantially derelict and Citycanal intend to undertake a mixed use residential and commercial development. Outline planning permission has been received and a Master Plan agreed with Glasgow City Council. The funding package includes a substantial amount of European Regional Development funding (ERDF) which is being obtained with the assistance of Glasgow City Council who are generally supportive of this redevelopment project.

Part of the project requires the closure and infill of Govan Graving Dock. The extent of the Dock that will require to be closed and eventually infilled is shown outlined in blue on the attached plan.

It is understood that a Harbour Revision Order will be necessary to effect the closure of Govan Graving Dock and this letter should be regarded as an “informal” application setting out a summary of the proposals and the revision to the harbour being sought. The purpose of this is to enable you to consider the matter in principle so as to allow commencement of the formal process including submission of the draft Harbour Revision Order and any other papers in due course.

As with all projects that attract ERDF funding, time is of the essence and it is important that these European funds are drawn down and expended during the lifetime of the programme. Accordingly, I attach to this letter an initial draft of the proposed Harbour Revision Order for any comment you may wish to offer at this stage.

In addition to a Harbour Revision Order, a number of additional consents will be required to enable the development to be realised. These matters are outlined below. It is intended that Clydeport will

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only apply for (and hopefully obtain) a Harbour Revision Order to enable Govan Graving Dock to be closed. Citycanal Ltd will require to obtain all other consents at its own expense to enable the project to be realised and will be solely responsible for carrying out all work including any infilling and land reclamation.

Subject to any guidance you might offer to me, it is my intention to seek a Harbour Revision Order on behalf of my clients, Clydeport, to close Govan Graving Dock and to extinguish any right of navigation thereon. The attached initial draft Harbour Revision Order contains the proposed clauses. It is my understanding that paragraph 8A of schedule 2 of the Harbours Act 1964 as read along with section 14(1) and 14(2B) of that Act empowers the Scottish Ministers to make a Harbour Revision Order to achieve the object of closing part of a harbour or to reduce the facilities available in a harbour. As mentioned above the title to the area which is to be the subject of the Harbour Revision Order lies wholly within the ownership of Citycanal although Govan Graving Dock does fall within the operational jurisdiction of Clydeport Harbour Authority. The area which is the subject of the application for the Harbour Revision Order is no longer used for the operational purposes of the harbour. As indicated above, the quayside is, in any event, in the ownership of Citycanal Ltd and Clydeport have no control over this area.

The specific reasons for requiring the Harbour Revision Order are as follows: -

- 1 Govan Graving Dock is surplus to the requirements of the Harbour Authority. No vessels have used this dock in recent times and Clydeport has no intention of seeking to use it for harbour purposes.
- 2 The closure of Govan Graving Dock would not impede any general right of navigation on the River Clyde.
- 3 Adjacent wharfs are in a dilapidated state and require works to be undertaken in accordance with the regeneration proposed for the general area. The wharfs are in private ownership and there is no public access to them at this time.
- 4 The reclaimed area is capable of being put to other beneficial uses in connection with the development and regeneration of the area. It will represent a strategic development site for the development proposed by Citycanal. The proposed development is a mixed use of housing and commerce. The proposal has the support of the Local Authority and ERDF structural funding support has been earmarked for the project.

The granting of a Harbour Revision Order along the lines requested will not include any permission to undertake works. After closure has been advertised and achieved the works will be undertaken in accordance with a works licence granted by Clydeport under its private legislation along with such other statutory consents as are needed to enable the development to proceed. Accordingly an environmental impact assessment will not be required in connection with the Harbour Revision Order and will be a matter for the project developers at a later stage once the details of the works to be undertaken have been finalised. It is understood that the environmental bodies, SEPA and SNH have been involved in connection with the planning application. The developers are also aware of the

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likelihood that a licence will be required under the Food and Environment Act 1985 relating to the proposed works and any dredging of the solum of Govan Graving Dock that might be needed.

I would be grateful if you would consider this "informal" application and let me know the extent of any further information that might be needed. Please confirm to me the processes you wish undertaken in connection with the formal application for a Harbour Revision Order including the parties that will require to be notified in terms of schedule 3 to the Harbours Act 1964. Perhaps you would also confirm to me the amount of the fee that requires to be paid to the Scottish Executive for this matter which I understand will amount to £4,000.

If an initial discussion would be of assistance please do not hesitate to telephone me. You may wish to undertake a site inspection of the area that is to be subject to the Harbour Revision Order. The site is fenced off and arrangements to inspect should be made by contacting Harry O'Donnell of Bishop Loch (Tel. 0141 353 6800).

I look forward to hearing from you once you have had an opportunity to consider this matter.

Yours sincerely



ALAN BOYD  
Director, Public Law

Enc.