
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 471

The Lerwick Harbour Revision Order 2010

PART III

MISCELLANEOUS AND GENERAL

Defence of due diligence

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

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

- (a) Article 9 (lights on tidal works during construction);
- (b) Article 10 (permanent lights on tidal works); and
- (c) Article 12 (provision against danger to navigation).

(3) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the Authority shall not, without leave of the court, be entitled to rely on that defence unless, within a period of 7 clear days before the hearing, it has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in its possession.

Environmental requirements

16.—(1) No works shall be commenced until the Scottish Ministers have, following consultation with the Scottish Environment Protection Agency, approved an environmental management plan for the works.

(2) Subject to paragraph (3), in constructing the works, the Authority shall act in accordance with—

- (a) the commitments given in the Environmental Statement being the Environmental Statement dated 12th October 2009 together with the Non-technical Summary and the Appendices (lettered A to J) to the Environmental Statement, a copy of which was submitted with the application made for this Order to the Scottish Ministers and a further copy which has been deposited at the principal office of the Authority situated at the port; and
- (b) the approved environmental management plan for the works.

(3) Nothing in paragraph (2) shall exempt the Authority from fulfilling any requirement imposed on the Authority by any rule of law or which arises from any commitment which is binding on the Authority.

Amendment of The Lerwick Harbour Confirmation Order Act 1974

17. Section 10(4)(b) of the Lerwick Harbour Confirmation Act 1974(1) shall be amended by the deletion of the words “three months” occurring in the first line thereof and the substitution therefore of the words “six months”.

Amendment of The Lerwick Harbour Revision (Constitution) Order 2003

18. Article 5(2) of the Lerwick Harbour Revision (Constitution) Order 2003(2) shall be amended as follows—

- (a) in the first line thereof by the insertion after the word “shall” of a comma and the deletion of the word “meet”;
- (b) in the second line of said Article the word “to” shall be deleted.

Partial repeal of The Lerwick Harbour Revision (Constitution) Order 2003

19. Article 9(4) of the Lerwick Harbour Revision (Constitution) Order 2003 shall cease to have effect.

Saving for Commissioners of Northern Lighthouses

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

Saving for other consents etc.

21. The carrying out of any works or operations pursuant to this Order is subject to the Authority obtaining any consent, permission or licence required under any other enactment.

Crown Rights

22.—(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 that generality nothing contained in the Order shall authorise the Authority to take, use, enter upon or in any manner interfere with any land or interest in 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 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) may be given unconditionally or subject to terms and conditions.

(1) 1974 c.xx.
(2) S.S.I. 2003/211.