
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 422

The Campbeltown Harbour Revision Order 2011

PART 3

MISCELLANEOUS AND GENERAL

Environmental requirements

18.—(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 Council shall act in accordance with the approved environmental management plan for the works.

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

Defence of due diligence

19.—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2) it shall be a defence for the Council 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—

- article 13 (provision against danger to navigation);
- article 15 (lights on tidal works during construction); and
- article 16 (permanent lights on tidal works).

(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 Council 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 as was then in its possession that would identify, or assist in the identification of, that other person.

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 Council obtaining any consent, permission or licence required under any other enactment.

Crown rights

22.—(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 the generality of the foregoing, nothing in this Order authorises the Council or any licensee thereof 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 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; or
- (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 the management of that land; 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.