



Highland Regional Council (Wester Bridge) Order Confirmation Act 1993

1993 CHAPTER xii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Highland Regional Council (Wester Bridge).
[27th July 1993]

WHEREAS the Provisional Order set forth in the Schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Confirmation of Order in Schedule

The Provisional Order contained in the Schedule hereunto annexed is hereby confirmed.

2 Short title

This Act may be cited as the Highland Regional Council (Wester Bridge) Order Confirmation Act 1993.

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SCHEDULE

HIGHLAND REGIONAL COUNCIL (WESTER BRIDGE)

Provisional Order to authorise The Highland Regional Council to acquire lands; to construct and maintain a new bridge at Wester in Caithness being part of the A9 Wick to John O'Groats road and to construct other related works; to confer power to close the bridge to traffic; and for other purposes.

“WHEREAS—

- (1) Under the Local Government (Scotland) Act 1973 The Highland Regional Council (hereinafter referred to as “the Council”) are the local authority vested with the functions of a regional council for the area of Highland Region and by virtue of section 133 of the said Act the Council are vested with all the functions of a local roads authority for the said area:
- (2) It is expedient that the Council should be authorised to close the A9 Wick to John O'Groats road at Wester Bridge to the public when necessary to facilitate the operations of Rockwater Limited or their successors from time to time as operators of the pipeline bundle fabrication site at Wester in Caithness district and for that purpose to construct a new bridge and related works as aforesaid and to exercise the other powers conferred on the Council by this Order:
- (3) It is one of the Council’s functions to promote and give assistance to industry, and thus to preserve and further the welfare and prospects of employment of the Region’s inhabitants:
- (4) It would be of great social and economic benefit to the community if the powers contained in the Order were granted:
- (5) It is expedient that the various powers sought by the Council should be taken and considered together:
- (6) Estimates have been prepared of the cost of acquisition of lands and servitudes for, and the execution of, the works authorised by this Order and such estimates are as follows:—

| | |
|----------------------------------|-----------|
| Purchase of lands and servitudes | £ 10,000 |
| Works | £900,000: |

- (7) It is expedient that other powers should be conferred on the Council in relation to the works and the other provisions hereinafter contained should be enacted:
- (8) Plans and sections showing the lines, situations and levels of the works to be constructed under the powers of this Order, with a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands and other property required or which may have to be taken for the purposes or under the powers of this Order, have been deposited with the sheriff clerk of the sheriff court district of Wick and such plans, sections and book of reference are respectively referred to as the deposited plans, the deposited sections and the deposited book of reference:
- (9) The purposes aforesaid cannot be effected without an Order confirmed by Parliament under the Private Legislation Procedure (Scotland) Act 1936:

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Now, therefore, in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

PART I

PRELIMINARY

Short title

- 1 This Order may be cited as the Highland Regional Council (Wester Bridge) Order 1993.

Interpretation

- 2 (1) In this Order, except where the context otherwise requires—
- “A9 road” means the A9 Wick to John O’Groats road;
 - “Council” means The Highland Regional Council;
 - “deposited plans” and “deposited sections” mean respectively the plans and sections deposited in connection with this Order showing the lines, situations and levels of the works to be constructed under the powers of this Order;
 - “level of high water” means the level of mean high-water springs;
 - “limits of deviation” means the limits of deviation shown on the deposited plans;
 - “new bridge” means the new bridge to be constructed and more particularly described in Work No. 2;
 - “sheriff” means any of the sheriffs appointed for the Wick sheriff court district;
 - “sheriff clerk” means the sheriff clerk of the Wick sheriff court district;
 - “tidal work” means so much of any work authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;
 - “works” means the works authorised by this Order, or, as the case may require, any part thereof; and
 - “footpath”, “footway”, “road”, “traffic” and “telecommunication apparatus” have the same meanings respectively as in the Roads (Scotland) Act 1984.
- (2) All directions, distances, lengths and widths stated in any description of works, powers or lands other than in section 18 (Power to deviate) of this Order shall be construed as if the words “or thereby” were inserted after each such direction, distance, length and width.

Incorporation of Acts

- 3 (1) The following Acts, so far as they are applicable for the purposes of and are not varied by or inconsistent with the provisions of this Order, are incorporated with this Order, that is to say:—
- the Lands Clauses Acts (except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845).

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- (2) In construing, for the purposes of this Order the enactments incorporated with this Order—
- (a) this Order shall be deemed to be the special Act;
 - (b) the Council shall be deemed to be the promoters of the undertaking or the company, as the case may be.

PART II

LANDS

Power to take lands

- 4 Subject to the provisions of this Order, the Council may enter upon, take and use all or any of the lands shown on the deposited plans and described in the deposited book of reference which they may require for the purposes of the works, including the improvement and development of any lands fronting or abutting on or adjacent to any road or for the purposes of recoupment, reinstatement or exchange or for any other purposes of this Order.

Power to acquire servitudes compulsorily in certain cases

- 5 Notwithstanding anything in this Order or in any Act wholly or partly incorporated herewith, the Council may, instead of acquiring any land that they are authorised to acquire compulsorily under this Order, purchase and acquire compulsorily such servitudes or rights over or in any such lands as they may require for the purpose of constructing, maintaining, renewing and using or removing the works or for the purpose of obtaining access to the works without the Council being obliged or compelled to purchase any greater interest in, under or over the same, and the provisions of the Lands Clauses Acts shall extend and apply to such servitudes and rights as if the same were lands within the meaning of those Acts.

Persons under disability may grant servitudes, etc

- 6 (1) Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may, if they think fit, subject to the provisions of those Acts and of this Order, grant to the Council any servitude, right or privilege, (not being a servitude, right or privilege of water in which persons other than the grantors have an interest) required for any of the purposes of this Order in, over or affecting any such lands.
- (2) The provisions of the said Acts with respect to lands and feu duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes, rights and privileges as aforesaid respectively.

Extinction of rights of way over lands acquired

- 7 (1) All rights of way and rights of access over any lands which may under the powers of this Order be acquired compulsorily shall as from the date of such acquisition whether compulsorily or by agreement be extinguished.
- (2) The Council shall make compensation to all parties interested in respect of any such rights.

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- (3) Such compensation, in the case of difference, shall be determined in accordance with the provisions of the Land Compensation (Scotland) Act 1963.

Power of entry on lands compulsorily acquired

- 8 Subject to the provisions of this Order, where the Council are by this Order authorised to purchase land compulsorily then at any time after notice to treat has been served, they may, after giving to the owner and occupier of the land not less than 14 days' notice in writing enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with provisions of sections 83 to 88 of the Lands Clauses Consolidation (Scotland) Act 1845, but subject to payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable had those provisions been complied with.

Set-off of betterment against compensation

- 9 In determining the amount of compensation or purchase money payable to any person in respect of his interest in land acquired under this Order in a case where—
- (a) he has an interest in any other land contiguous with or adjacent to the land so acquired, and
 - (b) the value of his interest in any such contiguous or adjacent land is enhanced by reason of the execution of the works authorised by this Order or any of them,
- the amount of the enhancement in value shall be set off against the compensation or purchase money.

Agreements with owners of property

- 10 Notwithstanding anything in this Order, the Council may, subject to the provisions of this Order, in connection with the powers granted to them thereby, enter into and carry into effect agreements with any owners of property or other persons interested in lands or property any part of which is shown on the deposited plans, with respect to the purchase by the Council of any such lands or property or any rights or servitudes in, over or affecting the same for such consideration, being a sum of money in gross or a grant of land or partly money and partly land, as may be agreed upon between the Council and such owners or other persons.

Period for compulsory purchase of lands

- 11 (1) The powers of the Council under section 4 (Power to take lands) of this Order for the compulsory purchase of lands for the purposes of this Order shall cease to be exercisable at the expiry of the period of five years beginning with the commencement of this Order.
- (2) The powers of the Council for the compulsory acquisition of lands and servitudes shall, for the purposes of this section, be deemed to have been exercised before the expiry of the period of five years beginning with the commencement of this Order if notice to treat has been served in respect of those lands and servitudes within that period.

Power as to acquisition and utilisation of additional lands

- 12 (1) In addition to the lands which the Council are authorised to acquire by section 4 (Power to take lands) of this Order the Council may acquire, by agreement, any lands required for the purposes of the works.

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- (2) The Council may be authorised by the Secretary of State to purchase compulsorily any lands for the purposes mentioned in subsection (1) of this section and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this section had been contained in a public general Act in force immediately before the commencement of that Act.
- (3) The Council may utilise any lands acquired by them in pursuance of the provisions of subsection (1) or (2) of this section, or any other land vested in them, for such purposes and for the purposes of section 17 (Subsidiary works) of this Order.

Power to retain, sell, etc., lands

- 13 (1) Notwithstanding anything to the contrary contained in the Lands Clauses Consolidation (Scotland) Act 1845, the Council may retain, hold and use for such time as they think fit, or may from time to time sell, feu, lease, excamb or otherwise dispose of any land vested in or belonging to them for the purpose of the works or that may be acquired under the provisions of this Order and that on such terms, conditions, reservations and restrictions as regards its use (not inconsistent with any condition, restriction or obligation binding on the Council and their successors in title) as to the Council may seem fit.
- (2) The proceeds of the sale of any lands by the Council shall be applied only to purposes to which capital is properly applicable including the redemption of debt.

Correction of errors in deposited plans and book of reference

- 14 (1) If the deposited plans, or the deposited book of reference are inaccurate in their description of any land or in their statement or description of the ownership or occupation of any land, the Council, after giving not less than 10 days' notice to the owner, lessee or occupier of the land in question, may apply to the sheriff for the correction thereof.
- (2) If on any such application it appears to the sheriff that the misstatement or wrong description arose from mistake, he shall certify the fact accordingly and shall in his certificate state in what respect any matter is misstated or wrongly described.
- (3) This certificate shall be deposited in the office of the Clerk of the Parliaments and a copy thereof in the Private Bill Office, House of Commons, the Scottish Office, London, the office of the Secretary of State for Scotland, Edinburgh, the office of the Health and Safety Executive, Edinburgh, and with the sheriff clerk and thereupon the deposited plans and deposited book of reference shall be deemed to be corrected according to this certificate and it shall be lawful for the Council to take the land and execute the works in accordance with the certificate.
- (4) A person with whom a certificate or copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

Service of notices, etc

- 15 Paragraph 19 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply and have effect with respect to any notice or document required or authorised to be served under or by virtue of this Order as if such notice or other document were required or authorised to be served under that Schedule.

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PART III

WORKS

Power to execute works

- 16 (1) Subject to the provisions of this Order, the Council may, in the Caithness district in the Highland Region and in the lines and situations and upon the lands delineated on the deposited plans and within the limits of deviation and according to the levels shown on the deposited plans and the deposited sections, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith or incidental thereto:—

Work No. 1 A vertical re-alignment and surfacing of a former section of the A9 road, 5.5 metres wide and forming a loop some 400 metres long to the north-west of the present route, commencing at the west side of the south intersection with the A9 road and terminating at the west side of the north intersection, including the provision of a fixed steel bridge over existing rail tracks at a distance of 250 metres from the commencement point.

Work No. 2 The removal of the existing Wester bridge deck structure some 39 metres long; partial demolition, modifications and reconstruction at a raised level of the existing south, central and north abutments to the bridge; construction of a further abutment at a distance of 6 metres to the north-east of the existing north abutment; the provision of replacement deck structure some 10 metres wide commencing at the south corner of the south abutment and extending 45 metres in a north-east direction and there terminating, the new deck to have a fixed span to the south half and lifting bascule type deck to the north span.

Work No. 3 A vertical re-alignment and surfacing of a section of the A9 road some 6 metres wide commencing at the south side of the intersection of the old A9 route and extending a distance of 220 metres to the south-east corner of the Wester bridge.

Work No. 4 A vertical re-alignment and resurfacing of a section of the A9 road some 6 metres wide commencing at the north-east end of the Wester bridge and extending a distance of 90 metres and there terminating.

- (2) Subject to the provisions of this Order, the Council may within the limits of deviation renew, replace or otherwise alter temporarily or permanently the works.

Subsidiary works

- 17 (1) Subject to the provisions of this Order, the Council may, within the limits of deviation, in carrying out the works erect, construct and maintain, whether temporarily or permanently, all such subsidiary or incidental works and conveniences as may be necessary or expedient for the purposes of, or in connection with, the construction of the works.

- (2) In the exercise of the powers conferred by this section the Council shall—

- (a) cause as little detriment and inconvenience to any person as circumstances allow; and
- (b) make compensation to the owners and occupiers of any lands injuriously affected and to the owners of any apparatus who suffer loss by the exercise of such powers.

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- (3) Such compensation, in the case of difference, shall be determined in accordance with the provisions of the Land Compensation (Scotland) Act 1963.

Power to deviate

- 18 Subject to the provisions of this Order, in constructing the works the Council may deviate laterally from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 1 metre upwards and to such extent downwards as may be found necessary or convenient.

Power to alter roads, etc., temporarily

- 19 (1) The Council may, for the purposes and during the execution of the works and in maintaining the same and subject to the provisions of this Order, temporarily from time to time break up or cross over or under, alter or stop up, remove or otherwise interfere with, any roads, footways, footpaths, bridges or telecommunication apparatus in any of the lands shown on the deposited plans and specified in the deposited book of reference with which they may from time to time find it expedient for any of those purposes so to interfere.
- (2) The Council shall provide when possible and where practicable a proper temporary substitute before interrupting the traffic on any such road, footway, footpath, bridge or telecommunication in any such apparatus.
- (3) The Council shall make compensation to persons injuriously affected by the exercise of such powers.
- (4) Such compensation, in the case of difference, shall be determined in accordance with the provisions of the Land Compensation (Scotland) Act 1963.
- (5) Before the Council exercise the powers conferred on them by this section they shall give not less than 14 days' prior written notice to the following persons of their intention so to do:—
- (a) the police authority for the area of Highland Region; and
 - (b) the traffic commissioners for the Scottish Traffic Area constituted by section 3 of the Public Passenger Vehicles Act 1981.

As to closing of new bridge

- 20 The Council may, whenever in their opinion it is necessary so to do, close the new bridge or any portion thereof to traffic along or over the new bridge:

Provided that when the new bridge is to be wholly closed, the Council shall, except in cases of emergency, not less than seven days before closing the new bridge, inform the police authority for the area of Highland Region and, not less than one hour before closing the new bridge, place notices and diversion signs at appropriate places.

Vesting and disposing of materials

- 21 (1) All materials removed by the Council under the powers conferred on them by this Order and all materials (other than any apparatus belonging to a statutory undertaker or any telecommunication apparatus belonging to or used by the operator of a

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telecommunications code system) removed by the Council from any road or other place or otherwise obtained by them in the construction and maintenance of the works shall vest in the Council.

- (2) The Council may use all or any of the said materials for the purposes of the construction or maintenance of the works, or they may sell or otherwise dispose of the said materials as they think fit.
- (3) In this section the expression “statutory undertaker” has the same meaning as in the Town and Country Planning (Scotland) Act 1972.

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

- 22 (1) A tidal work shall not be constructed, renewed or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.
- (2) If a tidal work is constructed, renewed or altered in contravention of this section or of any condition or restriction imposed under this section—
- (a) the Secretary of State may by notice in writing require the Council at their 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 on which the notice is served upon the Council they have 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 himself 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 by him from the Council.

Survey of tidal works

- 23 The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work or of the site upon which the Council propose to construct a tidal work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable by him from the Council.

Provision against danger to navigation

- 24 (1) In any case of injury to or destruction or decay of a tidal work or any part thereof, the Council shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses may from time to time direct.
- (2) If the Council fail to comply in any respect with a provision of this section they 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.

Lights on tidal works during construction

- 25 (1) The Council shall at or near a tidal work during the whole time of the construction, renewal or alteration thereof, exhibit every night from sunset to sunrise, such lights and take such other steps for the prevention of danger to navigation as the Secretary of State may from time to time direct.

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- (2) If the Council fail to comply in any respect with a direction given under this section they 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

- 26 (1) After completion of a tidal work the Council shall at the outer extremity thereof every night from sunset to sunrise exhibit such lights and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses may from time to time direct.
- (2) If the Council fail to comply in any respect with a direction given under this section they 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

- 27 (1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Council at their 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 thinks proper.
- (2) Where a work authorised by this Order and 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 cause reasonable apprehension that it may interfere with 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 section.
- (3) If, on the expiration of 30 days from the date on which a notice under this section is served upon the Council they have 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 him in so doing shall be recoverable by him from the Council.

PART IV

MISCELLANEOUS

For protection of British Tele- communications plc.1984 c. 12

- 28 For the purposes of this Order the Council is a “relevant undertaker” and any works carried out by the Council under this Order are “undertaker’s works” as defined in paragraph 23(10) of Schedule 2 to the Telecommunications Act 1984 and the provisions of the said Schedule shall apply to the Council accordingly.

For protection of Scottish Hydro-Electric PLC

- 29 For the protection of Scottish Hydro-Electric PLC the following provisions shall, except as may be otherwise agreed in writing between the Council and the company, apply and have effect:—

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- (1) In this section unless the subject or context otherwise requires—
- “apparatus” means—
- (a) any electrical plant or electric line as respectively defined in section 64 of the Electricity Act 1989; and
 - (b) any meter used for ascertaining the quantity of electricity supplied to any premises, not being a meter which is under the control of a consumer;
- “the company” means Scottish Hydro-Electric PLC;
- “in” in a context referring to apparatus includes under, over, across, along or upon;
- “plan” includes a section and description;
- “position” includes depth.
- (2) Nothing in this order shall relieve the Council from liability for damage caused by them to any apparatus in the exercise of the powers conferred on them by this Order and the Council shall indemnify the company against all claims, demands, costs, damages and expenses made or taken against or recovered from or incurred by the company by reason or in consequence of any damage done by the Council to any apparatus or of any interruption in the supply by the company of electricity which may without the written authority of the company be in any way occasioned either by reason of the exercise of any of the powers of this Order or by the acts or defaults (in, or in connection with, such exercise) of the Council.
- (3) Section 7 of this Order shall not apply to any right of access to any apparatus and if in consequence of the exercise by the Council of the powers of this Order the access to any apparatus is materially obstructed, the Council shall provide an alternative means of access to such apparatus.
- (4) If the Council in exercise of the powers of this Order require to cross over or under, remove, alter or otherwise interfere with any apparatus, or if the exercise of such powers is likely to affect any apparatus, the Council shall—
- (a) give to the company not less than 28 days' prior notice in writing of such requirement or (as the case may be) of their intention to exercise such powers, together with a plan of the work proposed, and shall execute the work only in accordance with such plan and in accordance with such reasonable requirements as may within 21 days of the receipt of the plan be made by the company, and the company may under such requirements alter or otherwise protect the apparatus or provide alternative apparatus adequate to enable them to fulfil their statutory functions not less efficiently than before (hereinafter referred to as “alternative apparatus”);
 - (b) afford to the company, where possible, any necessary facilities and rights for the construction, use, maintenance, repair, renewal and inspection of any alternative apparatus;
 - (c) pay to the company the expenses reasonably incurred by them in and in connection with removing, re-laying, replacing, altering or protecting the apparatus or providing alternative apparatus less (in a case where alternative apparatus is provided) the value of any apparatus removed pursuant to this section.
- (5) Alternative apparatus, if provided under this section, shall be constructed in such manner and in such line or position as may be agreed between the Council and the company, and no apparatus shall be removed, altered or interfered with until any

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protective works required have been carried out or until alternative apparatus required has been provided and is operating to the reasonable satisfaction of the company.

- (6) (a) Any difference arising between the Council and the company under this section shall be referred to and determined by an arbiter to be mutually agreed upon, or failing such agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Electrical Engineers.
- (b) In settling any difference under this section the arbiter shall have regard to any duties or obligations which the company may be under in respect of any apparatus and may if he thinks fit require the Council to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

Saving for town and country planning. 1972 c. 52

- 30 The Town and Country Planning (Scotland) Act 1972 and any orders, regulations, rules, schemes and directions made or given thereunder and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Order.

Saving for certain enactments

- 31 Nothing in this Order shall—
- (a) affect the operation of the Control of Pollution Act 1974, Part II of the Food and Environment Protection Act 1985 or the Environmental Protection Act 1990; or
- (b) exempt the Council from the provisions of Part I of the Coast Protection Act 1949.

Crown rights

- 32 (1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown, and in particular without prejudice to the generality of the foregoing nothing herein contained shall authorise the Council or any licensee of the Council 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 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 subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.”