
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 76

The Stornoway Port Authority Harbour Revision Order 2019

PART 5

MISCELLANEOUS AND GENERAL

Defence to proceedings in respect of statutory nuisance

28.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79 (1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made under section 82(2) of that Act if the defender shows—

- (a) that the nuisance relates to premises used by the Authority for the purposes of or in connection with the exercise of the powers conferred by this order with respect to the construction or maintenance of the work, and
- (b) that the nuisance is—
 - (i) attributable to the carrying out of works which are being carried out in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974, or
 - (ii) a consequence of the construction, maintenance or use of the work and that it cannot be reasonably avoided.

(2) Section 61(9) (Prior consent for work on construction sites) of the Control of Pollution Act 1974 shall not apply where the consent relates to the use of premises by the Authority for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to the construction or maintenance of the work.

Commencement Information

II Art. 28 in force at 1.3.2019, see [art. 1\(1\)](#)

Borrowing powers

29. The Authority may from time to time borrow, by any methods and on such terms as it sees fit, such sums of money as it thinks necessary for the purposes of meeting its obligations in carrying out its statutory powers, duties and functions; and where moneys are borrowed by the Authority under this article, the Authority may, if it sees fit, borrow those moneys upon the security of some or all of its assets or of some or all of its revenues or of some or all of both its assets and revenues; and the Authority may effect such arrangements as it sees fit to mitigate against any financial risk incurred for the purposes of meeting such obligations.

Commencement Information

I2 Art. 29 in force at 1.3.2019, see [art. 1\(1\)](#)

Saving for Commissioners of Northern Lighthouses

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

Commencement Information

I3 Art. 30 in force at 1.3.2019, see [art. 1\(1\)](#)

Crown rights

31.—(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 that generality, nothing in this Order authorises the Authority to take, use, enter upon or in any manner interfere with any 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,
- (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 management of that land or (as the case may be) the relevant person, 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.

Commencement Information

I4 Art. 31 in force at 1.3.2019, see [art. 1\(1\)](#)

The Stornoway Harbour Order Confirmation Act 1976

32.—(1) The 1976 Act is amended as follows.

(2) In section 11(2) for “not exceeding £1,000” substitute “ not exceeding level 3 on the standard scale ”.

(3) In section 28(1) the words “until the fund amounts to £100,000, and if it at any time falls below that amount the Commission may carry to the fund so much of any such receipts as is required to restore the fund to that amount.” are repealed.

(4) In section 34(2) for “not exceeding £100” substitute “ not exceeding level 3 on the standard scale ”.

Commencement Information

I5 Art. 32 in force at 1.3.2019, see [art. 1\(1\)](#)

Repeals and Revocations

33. On the new constitution date the Stornoway Harbour Act and Orders 1976 to 2008 shall be repealed or revoked to the extent specified in the third column of schedule 3 of this Order.

Commencement Information

I6 Art. 33 in force at 1.3.2019, see [art. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Stornoway Port Authority Harbour Revision Order 2019, PART 5.