
STATUTORY INSTRUMENTS

1995 No. 1527

The Fraserburgh Harbour Revision Order 1995

PART V

MISCELLANEOUS

Power to divert, etc., Bisset's Quay, Balaclava Pier, etc.

19. The Commissioners may in the execution of the works and for the purposes thereof and so far as necessary temporarily cross, alter, stop up, divert, raise and lower or otherwise interfere with Bisset's Quay, Balaclava Pier, Steamboat Quay, Bailie Dickson's Jetty, Provost Park's Jetty, Provost Anderson's Jetty, Abernethy Jetty and North Pier, providing when possible a proper temporary substitute before interrupting the traffic on the said quays, jetties or piers.

For protection of Scottish Hydro-Electric PLC

20. For the protection of Scottish Hydro-Electric PLC the following provisions shall, save to the extent that the company may release the Commissioners therefrom, apply and have effect:—

(1) In this article 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(1); 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.

- (a) (2) (a) Nothing in this Order shall relieve the Commissioners from liability for damage caused by them to any apparatus in the exercise of the powers conferred on them by this Order and the Commissioners 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 Commissioners 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 Commissioners;
- (b) If in consequence of the exercise by the Commissioners of the powers of this Order the access to any apparatus is materially obstructed, the Commissioners shall provide an alternative means of access to such apparatus.

(3) If the Commissioners in exercise of the powers of articles 3, 5, 14, or 19 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 Commissioners 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 article.

(4) Alternative apparatus, if provided under this article, shall be constructed in such manner and in such line or position as may be agreed between the Commissioners and the company, and no apparatus shall be removed, altered or interfered with until any 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.

- (a) (5) (a) Any difference arising between the Commissioners and the company under this article 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 article 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 Commissioners to execute within the limits of deviation 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.

Crown rights

21.—(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 Commissioners or any licensee of the Commissioners 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 paragraph (1) above may be given unconditionally or subject to terms and conditions.