

# *ByrLaws*

## Governing Passage Across the Baronial Foreshore at Prestonpans by the Publick

### **Unto All Whom it May Concern Be Aware These ByrLaws are:**

*“maid and determined be Consent of Neichtbors, elected and Chosen be Common consent, in our ByrLaws courts. The quhilk me so Chosen as judges and arbitratars to the effect foresaid are called ByrLawmen [Skene 1597].”*

**Preamble:** It is the earnest wish of The Much Honoured Barons of Prestoungrange and of Dolphinstoun that all members of the public shall be able to make passage between sunrise and sunset at all times tides and weather permitting across the Baronial foreshore which lies within their Crown Baronies on the Firth of Forth between Prestongrange Road and Redburn Road at Prestonpans, precise maps of which are available for inspection at the Caput of the Baronies at all reasonable times.

In order to give proper effect to their wishes through ByrLaws in this respect the Barons together have taken advice of those in Scotland most particularly well informed upon the implications of granting such permission for passage by the public being *Scotways* – The Scottish Rights of Way Society which advice was readily given in good faith but wholly without recourse.

- 1. Proper Notice of Permission for Daylight Passage Shall Be Prominently Displayed** at both ends of the Baronial foreshore at all times and the Baron Sergeand being the ByrLawman in this respect shall ensure that this is accomplished and that it be kept in good repair.
- 2. These ByrLaws Shall be Displayed at All Times at the Caput of the Crown Baronies being The Prestoungrange Gothenburg** – this to be ensured by the ByrLawman.
- 3. The Publick Makes Passage at its Own Risk** since it is proclaimed hereby that any dangers arising when making such passage across the tidal foreshore which is extensively covered at high tide by the sea itself which can make the ground underfoot slippery and difficult to traverse, and which on occasions is affected by stormy weather- these are the *‘obvious dangers’* [after Lord Shaw in *Glasgow Corporation v Taylor (1922) 1 AC 44 @ p.60*] which the public must always assess and accept when electing to make their passage and parents or guardians the same in respect of their children or wards.
- 4. The Barons Courts Shall Ensure All Dangers That Are *Not* Obvious are Brought to the Publick’s Attention** – by the posting of Notices from time to time as may be required and *in extremis* by closing the Baronial foreshore to the public altogether with such formal Notices properly placed both at each end of the foreshore and at the Caput of these Baronies by the ByrLawman.
- 5. Access is Granted for Passage Not for Assembly.** These ByrLaws expressly forbid members of the public to loiter or pause during their passage along the Baronial foreshore [except for a reasonable time to ensure and enhance their enjoyment including the launching and recovery of their own navigable craft or viewing and studying the Barons Courts murals art] and under no circumstances are members of the public permitted to hold an assembly thereon or to fish other than by gathering shell fish therefrom [after Lord Moncrieff at 131 in *Marquis of Bute v McKirdy and McMillan 1937 SC 93*]. Any wishing to spend periods of time or to hold assemblies or conduct other activities upon the Baronial foreshore shall make proper application to the ByrLawman the reasonable approval or rejection of which shall necessarily be given in writing.
- 6. No Despoliation of or Scavenging on the Foreshore.** These ByrLaws expressly forbid the despoliation of the Baronial foreshore by the publick in any manner whatever nor may any

member remove from the foreshore any materials whatever or any trove there discovered. The discovery of any trove should be notified to the ByrLawman who in the event that considerable value is found to attach thereto will pay a commission of 25 per centum to the finder and the balance to the Scottish Charity which is established to further the work of the Barons Courts across the ancient Lands and Crown Baronies.

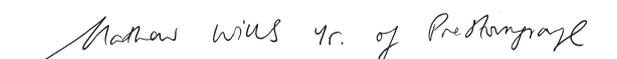
7. **No Right of Passage At Night.** The permissions accorded under these ByrLaws apply only during the hours between sunrise and sunset and at all other times the public shall not have any right of passage across the Baronial foreshore the justification for this restriction being that during such hours the *'obvious dangers'* associated with a tidal Baronial foreshore are invisible and not wisely to be entertained. The Notice granting Daylight Access displayed under 1. above shall also include detail of this restriction.
8. **Scottish Power's Responsibility for Keeping its Pipeline in a Reasonable and Safe State of Repair.** Under Deed of Servitude GRS East Lothian 6 October 1983 the Baron of Prestoungrange granted SSEB [now Scottish Power] the right to construct a pipeline 'as operational equipment' along the entire length of the Baronial foreshore to carry Ash away from Cockenzie Power Station and that pipeline is now covered with concrete. Whilst such concrete may seem to members of the public to afford a convenient foot route along the foreshore it is *not* a walkway and Scottish Power has no responsibility nor do the Barons Courts for maintaining it as such. Its condition at anytime provided it is kept in a 'reasonable and safe state of repair' is to be assessed by members of the public making their passage and to be regarded at all times as an *'obvious danger'* if slippery howsoever.
9. **Bringing Animals and Vehicles onto the Foreshore.** The permissions hereby granted to the public are intended for passage by members of the public and although there is no objection to the simultaneous passage of appropriate animals and vehicles under the care of a member of the public such animals and vehicles must always be controlled in a manner that occasions no inconvenience or damage including any excessive noise and never left unattended on the foreshore nor must any despoliation occur.
10. **Penalties for Breaches of These ByrLaws.** The ByrLawman is authorised hereby to levy penalties for breaches of these ByrLaws up to the sum of ten shillings or one daylight hour in the stocks. Determinations of the ByrLawman shall at all times be executed as given and when given but any and all who feel that their determinations were not fair or proper are at liberty to Appeal to the Barons Courts of Prestoungrange & Dolphinstoun for a binding judgement in the matter such Appeal to be submitted in writing to the Clerk to the Courts at the Caput of these Our Baronies within one week of the determination, and the Appeal shall be heard within not more than one further week by the Barons or their Bailie.
11. **Conformance with Any and All Other Laws Extant in Scotland** – The ByrLawman shall act not only in respect of these ByrLaws but also seek as best he may to ensure conformance at all times with such the other laws and regulations governing the Baronial foreshore not least in respect of applicable health, hygiene and safety requirements and the caring provision of service for those with disabilities howsoever all arising from proper risk assessments thereof.

### ***By Order of These Our Barons Courts***

Trinity Session [Elizabeth II. 53. 2004 P&D 08/02] July 27th





  
Dolphinstoun      Bailie      Prestoungrange