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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 27**

**The Port Babcock Rosyth Harbour Empowerment Order 2009**

**PART V**

**MISCELLANEOUS**

**Defence of due diligence**

**35.**—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2) it shall be a defence for the Company to prove that they 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—

- (a) article 12 (Lights on tidal works); and
- (b) article 13 (Provision against danger to navigation).

(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 Company 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, they have served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in their possession.

**Saving for Commissioners of Northern Lighthouses**

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

**Crown rights**

**37.**—(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 Company to take, use, enter upon or in any manner interfere with, any land or interest in land (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not under the management of the Crown estate, without the consent in writing of the government department having 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.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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**Saving for other consents**

**38.** The carrying out of any works or operations pursuant to this Order is subject to the Company obtaining any consent, permission or licence required under any other enactment.