
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 296

**The Caledonian Maritime Assets (East
Loch Tarbert) Harbour Revision Order 2019**

PART 6

MISCELLANEOUS

Defence of due diligence

47.—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2) it shall be a defence for CMAL 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 10 (provision against danger to navigation),
- (b) article 12 (lights on tidal works during construction), and
- (c) article 13 (permanent lights on tidal works).

(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, CMAL 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

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

Crown rights

49.—(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 CMAL or any licensee 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 the 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.

Status: This is the original version (as it was originally made).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

(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.

(3) In this article, “government department” includes any part of, or any member of the staff of, the Scottish Administration (which shall have the same meaning as in section 126(6) of the Scotland Act 1998⁽¹⁾).

⁽¹⁾ 1998 c.46.